

City of Delray Beach

100 NW 1st Avenue - Delray Beach, Florida 33444
Phone: (561) 243-7000 - Fax: (561) 243-3774
www.mydelraybeach.com



Minutes - Draft

Monday, August 24, 2020

11:30 AM

Special Meeting at 11:30 AM

Virtual Meeting

City Commission

Mayor Shelly Petrolia
Vice Mayor Ryan Boylston
Deputy Vice Mayor Shirley Ervin Johnson
Commissioner Adam Frankel
Commissioner Juli Casale

Pursuant to Executive Order 20-69, during the COVID-19 State of Emergency, City Commission meetings may be held virtually. Members of the public wishing to view City Commission meetings should log into the City's website, <https://www.delraybeachfl.gov/i-want-to/watch/city-meetings>, where the meeting will be live-streamed for the public.

Pursuant to Section 3.12 of the Charter of the City of Delray Beach the Mayor has instructed me to announce a Special Meeting of the City Commission to be held for the following purposes:

The Special Meeting was called to order at 11:30 a.m.

The roll call was taken by City Clerk Katerri Johnson. The following were present:

Present: 5 - Mayor Shelly Petrolia, Deputy Vice Mayor Shirley Ervin Johnson, Commissioner Adam Frankel, Vice-Mayor Ryan Boylston, and Commissioner Juli Casale

SP.1. ADOPT WRITTEN CHARGES OF GEORGE GRETSAS

Sponsors: City Attorney Department

Attachments: [Gretsas Written Charges 8-24-2020](#)

[PersonnelPolicies](#)

[PurchasingDepartmentPolicy](#)

[\(IT-1\) Reporting Computer Hardware and/or Software Issues](#)

[\(IT-2\)Use of Hardware, Software, and Data Resources](#)

[\(IT-3\) Hardware and Software Approval](#)

[\(IT-4\)Password Security](#)

[\(IT-5, Rev. 2\) Electronic Systems Communications Tools](#)

[\(IT-6, Rev. 1\) Accessing the City's Internet Account](#)

[\(IT-7 Rev 1\) Social Media Policy Regarding City-Sponsored Social Media Sites](#)

[ITP0001AccessingtheCitysIn](#)

[ITP0002UseofHardwareSoftwa](#)

[ITP0003UseofPrintersCopier](#)

[ITP0004ITPasswordSecuritytm](#)

[ITP0005ElectronicSystemsan](#)

[ITP0006InformationSecurity](#)

[ITP0007RemoteAccessPolicy](#)

[PD CJIS GO 363 Criminal Justice Systems](#)

[Gretsas FINAL 10-2019](#)

[Gretsas Written Charges 8-22-2020](#)

The Special Meeting was called to order at 11:30 a.m.

The roll call was taken by City Clerk Katerri Johnson. The following were present:

Present: 5 - Mayor Shelly Petrolia, Deputy Vice Mayor Shirley Ervin Johnson, Commissioner Adam Frankel, Vice Mayor Ryan Boylston, and Commissioner Juli Casale

Others present:

Interim City Manager, Jennifer Alvarez

City Attorney, Lynn Gelin

City Clerk, Katerri Johnson

Mayor Petrolia notified her colleagues that they would review written charges regarding George Gretsas.

City Attorney Gelin asked if Mr. Gretsas or his counsel were online. Ms. Carmen Rodriguez confirmed that she was present to represent Mr. Gretsas.

City Attorney Gelin provided the following timeline of Mr. Gretsas' case:

- October 8, 2019: Mr. Gretsas' employment contract was signed.
- June 24, 2020: The Commission voted to provide Mr. Gretsas preliminary notice to terminate with cause.
- July 7, 2020: The Commission appointed Dr. Davidyan to conduct an investigation.

City Attorney Gelin advised the Commission that their next step in the procedural agreement would address the written charges against Mr. Gretsas. She further explained that the Commissioners have the discretion to adopt all, some, or none of the charges after reviewing the documents provided, which would be supported through evidence and testimony at the public hearing. She informed the Commissioners that they would need to set a public hearing date for Mr. Gretsas before the end of the meeting and that the public hearing would need to take place within the next 60 days.

City Attorney Gelin gave an overview of the following written charges against Mr. Gretsas. She stated the misconduct is based on Florida Statute Chapter 443.036, Subsection 29. The investigation found the five following violations that constitute misconduct:

1. Allegedly Mr. Gretsas violated Chapter 119 of public records law through a program called Basecamp. Mr. Gretsas managed it without authorization from the City's IT Department.
2. The investigators learned that a private network was installed in Mr. Gretsas' office without the IT Department or the City Clerk having the ability to obtain, monitor, or review any activity on the network or access any documents on devices connected to the network.
3. The City of Delray Beach has a policy to keep termination matters private. Mr. Gretsas sent a notice of intent to terminate Suzanne Fisher to all of the department heads.

Additionally, he shared Ms. Fisher's confidential information with employees. Her private information was also released to the media.

4. Florida law enforcement requires CJIS clearance for any individuals who can access criminal data belonging to the City. Mr. Edkin was hired in February 2020 and installed the private network without CJIS credentials, therefore violating Florida Statute 443.036 and Chapter 119. Additionally, Mr. Gretsas paid Mr. Edkin \$64,000 to provide an IT Department assessment and never ensured that it had been completed.
5. The City of Delray Beach requires memorandums/documentation for purchases. Mr. Gretsas spent City funds to create a TV studio and refused to submit the proper paperwork, violating purchasing policies. Additionally, he used purchasing cards for recurring purposes, which violated the City's regulations. Mr. Gretsas improperly hired Joshua Padgett to be his videographer for the studio. Mr. Gretsas offered pay grades exceeding the City's standard pay for the positions and never provided the required explanation for increased salaries. Mr. Padgett's timesheets were not reviewed by Mr. Gretsas, which directly violated the City's policies.

The initial investigation conducted by Allen Norton & Blue found Mr. Gretsas' testimony to be truthful. However, after speaking with staff, it was learned that certain aspects of Mr. Gretsas' testimony was untruthful.

City Attorney Gelin stated for the record that Mr. Gretsas' employee contract provided him the opportunity to refute the basis of misconduct. He was invited on several occasions to meet with staff members, Dr. Davidyan and Kelly Brandon. Mr. Gretsas refused all meetings. City Attorney Gelin provided the Commissioners the second memorandum of charges consisting of the following:

- Dissemination of false statements: on July 31, 2020, Mr. Gretsas submitted a written complaint to the Commission and provided factual inaccuracies and allegations against the City, which were disproven by City records.
- Mr. Gretsas sent a written complaint to City residents. Mr. Gretsas and his counsel were asked to provide the emails regarding these complaints to the Commission for the City's public records. Mr. Gretsas and his representation refused to comply with the Commissioner's request.
- Recurring policy violations related to IT policies, purchasing policies, hiring policies, and directing staff to disregard City policies and State policies directly violate Florida Statute 443.036, Subsection 29.

City Attorney Gelin concluded the second memorandum charges. She advised the Commission to discuss the charges. Ms. Gelin explained the Commission decides which charges to adopt, the City will memorialize them in a letter to Mr. Gretsas and his counsel.

Dr. Davidyan said that she is available for questions related to the matter.

Vice Mayor Boylston asked for clarification regarding the direction provided for the investigation.

Dr. Davidyan explained that she was directed to review the staff interviews provided by Allen Norton & Blue. Based on those exhibits, Dr. Davidyan began the investigation and found that several policies were violated.

Vice Mayor Boylston questioned how the interviews led to learning about department violations and the move to terminate Mr. Gretsas.

Dr. Davidyan stated that her interview with former IT Director Jessica Cusson provided insight into broken policies. Basecamp was mentioned in several staff interviews.

Commissioner Casale asked if Mr. Gretsas had the right to have his own server or if he had ever explained the need for having one.

Dr. Davidyan confirmed that as City Manager, Mr. Gretsas had the right to adopt and change policies through proper procedures. However, documentation was never provided to express the need for the server nor to create a new policy.

Mayor Petrolia wanted to verify whether installing a private server violated state law. City Attorney Gelin confirmed that he did in fact violate state law - that the primary concern regarding the private server is that it was installed without the purview of the IT Department. Mayor Petrolia agreed and expressed concern that the server violated transparency of City business and could potentially create an unprecedented hacking situation.

Ms. Rodriguez, representing Mr. Gretsas, was called upon address the charges. Ms. Rodriguez commented that there is email documentation from her client asking to find out the nature of the investigation before scheduling a date to meet with staff. She stated on four occasions, she wrote to the City asking for due process. The City wrote back, "Your objection is noted." Stated that she believed that there was no report, witnesses, or analysis supporting these allegation and the her client never received a notice explaining what was being investigated. She began to address the allegations. The private network was purchased and installed through City funds. She believed that the allegations from the investigation violated the City Charter, which permits the City Manager to have authority over day-to-day procedures. She believes Mr. Gretsas was acting within a declared state of emergency. She claimed that her client had records of email conversations with Ms. Alvarez about the television studio's purchase.

Ms. Rodriguez stated that her client should not be terminated for the allegations brought against him. Other comments made by Ms. Rodriguez were:

- How appalled she was by the way the City of Delray Beach slandered her client.
- Once the City investigated the allegations, she felt they did not allow Mr. Gretsas to participate in a way that he could be informed, seen, or heard.
- She advised the Commissioners to review the City Charter which she feels proves their charges are insufficient due to her client having the right to change policies and procedures within his role as City Manager.

City Attorney Gelin explained that Mr. Gretsas put forth the investigation procedures outlined in his contract agreement. It was written in the same language that was used in his contract with the City of Homestead. She stated that if the City Charter superseded Mr. Gretsas' employment contract, the City could have sent him a termination notice within 72 hours. She explained to the Commissioners that the letters sent back to Ms. Rodriguez informed her on which policies were being looked at. The agreement in Mr. Gretsas' contract requires the City to undertake an investigation. City Attorney Gelin believed that the City followed protocol to the letter. The allegations referred to administrative issues that had created a liability to the City. Ms. Gelin further explained that Florida law requires the municipality to follow Chapter 119. Therefore, Mr. Gretsas' actions were deliberate and not in the City of Delray Beach's best interest. City Attorney Gelin did not believe that the City slandered Mr. Gretsas because everything they released was factual. However, she believed Mr. Gretsas slandered Dr. Davidyan.

Commissioner Casale expressed that she was appalled by the numerous violations committed by Mr. Gretsas and she expressed concern about Mr. Gretsas bullying employees.

City Attorney Gelin reminded the Commission that Ms. Rodriguez and Mr. Gretsas chose not to meet with the investigator and during the public hearing, they will both have the opportunity to address the evidence, refute it, and provide their own evidence.

Ms. Rodriguez disagreed stating that City Attorney Gelin's statement was untruthful and that they were never notified of the policies being investigated. Ms. Rodriguez claimed to have evidence proving her statement. She demanded that Mr. Gretsas was entitled to know about the alleged misconduct.

Vice Mayor Boylston asked for the following phrase in the memorandum to be explained: "The following basis for misconduct was not included in the written charges submitted for adoption as the City's investigator did not specifically investigate them." City Attorney Gelin explained that statement reflects conduct that had occurred since the notice of intent to terminate.

Vice Mayor Boylston asked why bullying and retaliation were not included in Dr. Davidyan's investigation. City Attorney Gelin reminded the Commissioners that they can decide which charges to adopt. Bullying and retaliation can be included if the Commission has a consensus.

City Attorney Gelin advised that moving forward with bullying charges could create a divisive environment. She found this to be true during the investigation and felt that the Commission should focus on the policy violations instead. Vice Mayor Boylston thanked City Attorney Gelin for the explanation. He asked his colleagues for their thoughts.

Dr. Davidyan clarified that the Commission reviewed written charges and allegations. They did not review a report. She explained that a City Manager cannot make policy changes verbally. All changes need to be documented and noticed in writing and must be dated and signed. Mayor Petrolia said that the City Manager's ability to change policies is not the issue; creating nontransparent policies and overriding the documentation process is the issue.

Commissioner Casale wanted the public to know that even though the report was not finalized, the investigation was completed. The report was not disseminated to the public for the benefit of Mr. Gretsas. She mentioned that the interviews related to Ms. Fisher's incident shed light on other issues which led Dr. Davidyan to pursue the list of written charges brought before the Commission.

Commissioner Frankel was troubled by the matter. He understood Vice Mayor Boylston's point of view, but at the same time, he did not want to put additional stress on staff during the pandemic. Commissioner Frankel wanted Ms. Rodriguez to know that he believed in due process and wanted to give her and Mr. Gretsas the ability to respond should they proceed with the charges. Commissioner Frankel felt that nothing was hidden from the Commission when it came to the TV studio and private network. He asked if any argument could be made not to terminate Mr. Gretsas for these infractions.

Dr. Davidyan believed that the investigation proved that Mr. Gretsas had a continued pattern of disregard. She said that even though these decisions were made during the pandemic, City policy still needed to be followed.

Commissioner Frankel expressed his concern that the Commission voted 3-2 to suspend Mr. Gretsas for bullying and that a press release was sent out countywide, stating that he was suspended for bullying, but now the investigation seems to be ignoring that aspect of the charges.

City Attorney Gelin stated that it is up to the Commission to choose which policies they would bring forward to the public hearing.

Commissioner Casale questioned Commissioner Frankel's knowledge about the private server. Commissioner Frankel commented that he did not know about the computer programs on Mr. Gretsas' computer, but he was told about the private network on an Apple computer. Commissioner Casale asked Commissioner Frankel, now knowing the written charges, would he condone Mr. Gretsas' behavior?

Commissioner Frankel wanted to hear both sides of the case before making a decision. Mayor Petrolia did not know about the private network. If she had found out sooner, the issue would have been addressed. She believed that using the pandemic as an excuse for misbehavior is unacceptable and that the letter Mr. Gretsas sent out was extremely harmful to residents.

Vice Mayor Boylston agreed that the letter was damaging to the City. However, he did not want to jump to the conclusion that Mr. Gretsas used Basecamp to disregard City policy. He also told his colleagues that he had a conversation with Mr. Gretsas about hiring Mr. Padgett for the TV studio. Vice Mayor Boylston favored adopting the bullying and retaliation charges. He understood City Attorney Gelin's concerns but felt that it would hurt the City by not addressing all allegations.

Commissioner Casale and City Attorney Gelin reiterated that Basecamp's primary issue was that it denied the public access to records that they had the right to obtain. The City failed to

grant the City Clerk and IT Department access to monitor the program. Vice Mayor Boylston asked to see an example of public records requests not fulfilled within the next 60 days.

Mayor Petrolia believed that the City had enough allegations to move forward without bringing the bullying and retaliation charges forward. She asked City Attorney Gelin if she was aware of Basecamp. City Attorney Gelin confirmed that Ms. Cusson told her about Basecamp. City Attorney Gelin requested access but was denied until Ms. Alvarez became the Interim City Manager. Once she received access, she realized that valuable public information was stored within the program, violating state and local laws. Dr. Davidyan informed the Commission that Basecamp projects were deleted every 30 days. Once a project is deleted, there is no way to retrieve that information.

Deputy Vice Mayor Johnson was surprised to hear how much damage Mr. Gretsas did within such a short timeframe. She believed that the City's Charter is at stake, and they cannot take public records violations lightly.

Ms. Rodriguez expressed her disappointment in the manner that the Commissioners, Dr. Davidyan, and City Attorney Gelin have handled this case.

Commissioner Frankel commended Ms. Gelin for her diligence in her role as City Attorney. He wished they had listened to her advice before accepting Mr. Gretsas' contract in 2019. Commissioner Casale notified the public that City Attorney Gelin had informed them of her issues with Basecamp access before the meeting.

City Attorney Gelin had many conversations with Mr. Gretsas about policy violations during his employment. As the administrator he had the responsibility to provide those records to the public.

Vice Mayor Boylston motioned to adopt charges as detailed. It was seconded by Deputy Vice Mayor Johnson.

City Attorney Gelin said that the Commission would need to specify which charges they would be adopting before voting.

Vice Mayor Boylston amended his motion to include the allegations in the August 21 and August 22 memorandums. Deputy Vice Mayor Johnson withdrew her motion.

The motion failed. Mayor Petrolia asked Vice Mayor Boylston to try again.

Vice Mayor Boylston motioned to approve the charges as detailed in the memorandums sent by City Attorney Gelin on August 21 and August 22. It was seconded by Commissioner Casale. The vote was taken, and the motion carried with the following vote:

Yes: 4 - Commissioner Frankel, Vice Mayor Boylston, Commissioner Casale, Mayor Petrolia

No: 1 - Deputy Vice Mayor Johnson

Before the meeting concluded, City Attorney Gelin wanted to clarify that the Commission would not include the bullying and retaliation charges. There was consensus.

Deputy Vice Mayor Johnson asked if she could change her vote.

Commissioner Casale made a motion for reconsideration. It was seconded by Vice Mayor Boylston. Vice Mayor Boylston motioned to approve the charges as detailed in the memorandums sent by City Attorney Gelin on August 21 and August 22. It was seconded by Commissioner Casale. The vote was taken, and the motion carried with the following vote:

Yes: 5 - *Deputy Vice Mayor Johnson, Vice Mayor Boylston, Mayor Petrolia, Commissioner Frankel, and Commissioner Casale*

Deputy Vice Mayor Johnson motioned to schedule the public hearing on October 23, 2020, at 10:00 a.m. It was seconded by Vice Mayor Boylston. The vote was taken, and the motion carried with the following vote:

Yes: 5 - *Deputy Vice Mayor Johnson, Vice Mayor Boylston, Mayor Petrolia, Commissioner Frankel, and Commissioner Casale*

With no further business to discuss, the meeting was adjourned at 1:06 p.m.