

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota

March 10, 2020

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Rapid City was held at the Rushmore Plaza Civic Center in LaCroix Hall C and D in Rapid City, South Dakota on Tuesday, March 10, 2020, at 1:30 P.M.

The following members were present: The following Alderpersons: Ritchie Nordstrom, Greg Strommen, Laura Armstrong, Chad Lewis, Lance Lehmann, Lisa Modrick, Bill Evans, Darla Drew, John Roberts and Becky Drury; the following Alderpersons arrived during the course of the meeting: NONE; and the following were absent: NONE

Staff members present included: Deputy Finance Officer Tracy Davis, City Attorney Joel Landeen, Airport Director Patrick Dame and Administrative Coordinator Heidi Weaver

**ADOPTION OF AGENDA**

Motion was made by Armstrong, second by Lehmann and carried to adopt the agenda.

Mayor read in item (No. CC031020-01) Public Hearing on Code of Conduct Complaint Against Alderwoman Lisa Modrick. Mayor went over the proposed procedure for the hearing. He asked council if they wanted to suspend the rules on any of it. Council did not want to suspend the rules.

- a) Mayor said the public would now listen to Audio Recordings. Drew stated that council has heard both recordings already and some members had listened more than once.
  - 1) The recording of Alderman Modrick's statement to the Mayor was played.

Mayor called for recess at 2:37 p.m.; meeting reconvened at 2:49 p.m.

- 2) The recording of the conversation between Alderman Modrick and Darren Haar was played.
- b) Mayor explained the adoption of procedure and preliminary statement on the code of conduct process. He stated this was not a court hearing, it is a disciplinary hearing.

Mayor called for recess at 4:04 p.m.; meeting reconvened at 4:18 p.m.

- c) Statement from Darren Haar and/or his attorney about his complaint.

Darren Haar addressed the council. He explained what happened to give rise to his complaint. He said he thought he had a productive meeting with Modrick on December 10, 2019. He stated he would never threaten Modrick, damage property or hurt anyone. He did not intend to share the recording with Modrick until she falsely accused him. He said it takes years to build a good reputation and Modrick has tarnished it. He wanted an apology from Modrick and never received that.

David Lust, attorney for Haar, addressed the council. He explained the meeting on December 10, 2019 was between two people trying to solve problems at the airport. The conversation was not threatening. He said Modrick's allegations were outrageous. There was no need to file a complaint with the FBI or involve Chief of Police. He asked the council to read the key provision in the code of conduct and hoped they would act accordingly.

- d) Presentation from City Attorney on the complaint.

Joel Landeen, City Attorney, addressed the code of conduct. He said it is in place to protect the public. He stated that council has an obligation to protect the public. Landeen said Beardsley will try to say there are certain situations that elected official fall under the status of employees. Landeen said they get paid but they aren't an employee. He stated that Westjet has wanted to get Patrick Dame fired. He said Darren Haar has been supportive of Dame. Landeen explained that Modrick said she felt threatened and that Haar said he knew where she lived. Landeen said that was a lie and that was not on the recording. He asked the council to examine direct evidence versus circumstantial evidence. He stated if Modrick was scared, she should have left the meeting. Landeen said it was a good thing it was recorded or there would likely be a different outcome. He said there was no physical threat as Modrick claimed.

- e) Presentation from Lisa Modrick and/or her attorney in response to the complaint and the presentations of Mr. Haar and the City Attorney.

Steve Beardsley addressed the council. He said due process of law is an examination of witnesses. Beardsley asked if he could cross examine witnesses, Landeen said no. Beardsley said then there is no due process. Beardsley stated he asked for Haar's recording so he could make a transcript and was denied. He said the words used by Haar are threats and intimidation. He stated that council doesn't have the right to remove a councilperson without abiding by the law. Beardsley argued that SDCL 3-17-6 (Exhibit #12) requires a councilperson be charged and tried to be removed. Beardsley said that SD Law mandates that council follows the city handbook. He stated the law is set forth in the handbook, non-union employee guide. He stated the grievance procedure was not followed by Allender or Landeen. Beardsley said an employee goes to their supervisor and then the mayor; if the mayor isn't involved the complaint goes to the Department of Labor in Pierre. He said this shouldn't have gotten out to the press. He stated that Modrick contacted Allender on January 2, 2020. He said Westjet contacted the FBI, not Modrick. The meeting with the mayor, police chief, Westjet owners, and others took place on January 6, 2020. Beardsley explained duress is to injure someone's character. He heard threats on the recording to Mrs. Modrick. Beardsley said he heard Haar say: he's going to trigger something; he's not playing games; I'm doing a lot of digging; I have a path; It's going to get real ugly, nobody is going to be happy; I know your neighborhood. Beardsley stated Haar wanted payback against Westjet for making problems the last three years.

Lisa Modrick addressed the council. She explained her side and stated she was disappointed with Allender. She said her complaint should not have been made public.

- f) Limited rebuttal by Mr. Haar and/or the City Attorney based on Alderman Modrick's presentation.

Lust started rebuttal at 5:52 p.m. He stated he was very disappointed there was no regret or remorse by Modrick against Mr. Haar. He said Haar has never received an apology. Lust stated that Modrick said there were threats of physical harm. He said the tone and context of the meeting was light, civil, with some laughter. He stated that elected official were somewhat remorseful but she wasn't. No one will be able to restore Mr. Haar's reputation back to what it was. Landeen started his rebuttal at 5:58 p.m. he said councilpeople are not employees and handbook procedures didn't need to be followed. Landeen stated that Modrick didn't say she was threatened to be embarrassed. She said she was threatened by physical harm. Landeen said it was appropriate to go to the mayor, however, elected officials don't go through grievance process.

Mayor called for recess at 6:08 p.m. meeting reconvened at 6:22 p.m.

- g) Public Comment – Limited to 3 minutes per speaker

The following people spoke in favor of keeping Lisa Modrick on the Council: Mike Modrick, Al Hall, Athena Braveheart, Dick McConnell, Jerry Wright, Brian Teachout, Patty Nikkila, Ted Wolk, and Monique Mousseau,

The following people spoke against keeping Lisa Modrick on the Council: Rod Pettigrew, Patrick Dame, and Deb Hadcock.

h) Council discussion and action: Mayor asked the council if they wanted to suspend the rules. They said they did not.

(1) Questions by Council to staff, Mr. Haar, Alderman Modrick, or their attorneys.

Bill Evans stated he wasn't sure how the time between three weeks got misconstrued. He knows body language is separate from tone and Modrick could have felt threatened. He was disappointed this wasn't taken care of privately. If somebody has to win then the whole city loses. He supports a sanction but not dismissing her.

(2) Council makes motion to resolve the complaint (take no action, reprimand, censure, expulsion).

Motion was made by Drew, second by Strommen to expel Modrick from council.

(3) Debate on the motion and vote.

The following council persons spoke in favor of expelling Modrick: Drew, Armstrong, Nordstrom, Strommen and Roberts.

The following council persons spoke in favor of keeping Modrick on the council: Evans and Modrick.

Motion carried 8 to 2 to expel with Modrick and Evans voting no.

**ADJOURN**

There being no further business to come before the Council at this time, motion was made by Roberts, second by Armstrong and carried to adjourn the meeting at 7:45 p.m.

Dated this 10th day of March, 2020.

ATTEST:

CITY OF RAPID CITY

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Finance Officer

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Mayor

(SEAL)