

WATERVILLE CITY COUNCIL
SPECIAL MEETING
May 15, 2015, 4:00 P.M.

There was a special/closed meeting of the Waterville City Council held in Council Chambers at 4:00 p.m. on May 15, 2015 to resignation of Council Member Schmidtke and Resolution 23015R-021 declaring vacancy.

Present: Vail, Schmidtke, McIntyre and Mayor Mihalik;

Absent: Wollin

Also Present: Administrator/Clerk Teresa Hill, and Jason Moran City Attorney

Also Absent: None

1. Call to Order/Pledge of Allegiance. Mayor Mihalik called the meeting to order noting that all Council was present except Wollin. Also present was Teresa Hill, Administrator/Clerk, and Jason Moran City Attorney. Pledge of Allegiance was recited.

2. Resignation – Council Member Schmidtke. Mayor Mihalik said the first thing on the agenda tonight was to be a resignation of Council Member Schmidtke, this was based on a verbal comment made at the last meeting. Mr. Schmidtke handed the Mayor a letter prior to this meeting that addressed the Mayor and City Council stating that “I am not agreeing, at this time, to the resignation. I am consulting with an attorney.” Signed by Alan Schmidtke. Mayor Mihalik deferred to Mr. Moran. Mr. Moran said in order for a resignation to be valid it should be in writing, in fact it must be in writing and it has to be accepted by the Council. Mr. Schmidtke made a verbal motion to resign; Mr. Moran followed it up with a telephone call to Mr. Schmidtke and he had a discussion and it appears at this point in time he is not wishing to resign so we should accept this written document into the record. The resignation at this time is not being tendered so there should be no action taken on that. Mr. Moran said that leaves us with somewhat of a conundrum now, technically Mr. Schmidtke is in the role of the Fire Chief, we have got the Council slot that we have to deal with. Mr. Moran said he does think that they are incompatible offices. Mr. Moran did some research which discusses compatibility and incompatibility of offices. It is an incompatible office. The Minnesota State House research department are the ones that determine whether offices are compatible or incompatible. The Attorney General’s office also does this and the Attorney General’s opinion dated April 5, 1971 the attorney general found that a council member should not be acting in the role of Fire Chief. Mr. Moran also provided Council with a document from the League of Minnesota Cities which references the Attorney General’s opinion. “When the individual is elected or appointed to an incompatible office, the individual is considered to have resigned from the first position. Discussion regarding the incompatibility of the offices. Mr. Schmidtke said he spoke with the State Fire Chief’s Association and a law has changed where in small towns a Fire Chief can also be a Mayor or City Council. Mr. Schmidtke said he spoke with his attorney and he said if fire department issues come up he could just abstain from it. Discussion held regarding Mr. Schmidtke taking a leave of absence from the Council for 30 days. Discussion held regarding the duties of Fire Chief, and 1st Assistant. Mr. Schmidtke said he hasn’t had enough time to speak with his attorney. Mr. Moran will research this issue further. Mr. Schmidtke provided a written request for a 30 day leave of absence from Council effective at 4:30 p.m.5/15/2015. Motion by Mihalik, seconded by Vail accepting Mr. Schmidtke’s request to take a 30 day leave of absence from the City Council. Voting For: Vail, McIntyre, and Mihalik; Abstain: Schmidtke. Motion passed.

3. 2015R-012 Resolution Declaring Vacancy. Motion by Mihalik, seconded by McIntyre to not declare a resolution declaring vacancy. Unanimous vote. Motion carried.

4. Appointment Process. Motion by Mihalik, seconded by Vail to not go through the appointment process.

5. Adjourn. Motion by Mihalik, seconded by McIntyre to adjourn. Unanimous vote. Motion carried. Meeting adjourned 4:20 p.m.

Stephen Mihalik, Mayor

Teresa Hill, Administrator/Clerk