

CARTER LAKE CITY COUNCIL MEETING
Monday, January 20, 2025

Mayor Ronald Cumberledge called the regular meeting to order at 7:00 p.m.

Roll call of the council, present: Mayor Ronald Cumberledge, Jacob Hanika, Jackie Wahl, Aaron Grell, Victor Skinner and Jason Gundersen; City Attorney David Levy and Clerk Jackie Carl.

Gundersen moved to approve the agenda, seconded by Grell, unanimously approved. Gundersen moved to approve the consent agenda, Skinner moved to table Salvage permits for Fett's City Super Shop and D & R Auto, seconded by Wahl, Hanika seconded consent agenda without the two salvage permits; unanimously approved. Consent agenda includes the following: Department head reports from Parks, Library, Community Center, Senior Services, Maintenance, Police, Fire/EMS; City council minutes from December; Overtime and comp-time reports for December; abstract of claims, receipts and financial reports for December.

Mayor Cumberledge asked for council to approve Fire Department membership for Mayah Bradburn, Skinner moved to approve seconded by Gundersen, unanimously approved.

Attorney David Levy provided an update on the notice to demolish the garage at 122 Carter Lake Club as a dangerous building. Skinner moved to proceed with the demolition, seconded by Hanika. Unanimously approved.

Aaron, I have the City attorney on the agenda for tonight we uh a year ago Michael O'Bradovich stepped down and for a lot of years we used a single firm attorney kind of a smaller outfit lower cost um after he left we didn't have a lot of options and was given Baird Holmes and David Levy here to help us out for a year. My opinion is I just don't think it's financially fit and it's a little big for our city and I'd like to make a motion tonight to uh appoint Clint Fichter as the City attorney. Victor: So we'd have two City attorneys right now? Aaron: Uh well he's tonight's his last meeting and I believe he's sent resignation and we're not reappointing so I don't I think tonight's the final is that the right way tonight you ended your turn today right. David: that's fine yeah I just want to be clear I didn't send a resignation; I just gave the council and I apologize for the lateness of it, but that was just notice that we were not going to seek reappointment. For some you know so yeah but with that clarification uh we don't yeah I mean you can make the switch now uh or end of the meeting whatever you're like. Aaron yeah no there's just today would be the last meeting be the just the final month. Mayor: he's going to finish up the items he's doing oh yeah finish every he's working on everything that they're working on right now. Jason: that was one of the complaints with Mr. O'Bradovich was that he was a single lawyer firm and that everybody worried that if something happened and whatever or passed on he's the only one that knew what's going on in the city; and I like David's firm because they have multiple experts in multiple areas um so I'm going to be against this move; Mayor: you say he's cheaper, do you have a rate from Clint? Aaron: uh yeah, he sent us an RFP earlier in the year, he has his paper sent in, all of us have seen it. Jacob: I got the RFP for that Jackie received. Jackie W.: well it was it was actually it was sent to Aaron and then I asked him last week if he could send a copy to me so I would have it. Jacob: we should have a RFP from like a request out there sent publicly though correct to everybody; Jackie W. uh you don't normally have to RFP for a service position like this.

Jacob: then my question would be on May... Jackie W. If you wanted to do a search you can do a search

Jacob to Jackie W.: I would say do a search, but my question would be on May 23rd he represented you to a letter to Susan and to David our attorney that would have been on your behalf so it to me it's a conflict of interest for you to hold a vote. Jackie W. I think we've had other attorneys so that have represented people. Aaron: She got legal advice from somebody why is that a problem I don't understand she never retained him, she just got legal advice. Jacob: That she sent to the attorney special investigation we do not think that's a problem? Aaron: To reach out to him; this attorney works in just the municipal field and works for just City municipalities and gave good advice and I agreed with his advice then how come an opinion. Jacob: okay and Aaron: it's just votes we all get votes, and he might not get voted as of right now we have an attorney we have an attorney now that's seeking resignation not seeking reelection so. Jacob: then should we not want to see who is out there for reappointment or not reappointment but for appointment if there's anyone out there? Aaron: We definitely could start searching have one. Jacob: right now, I have zero issue with Clint. Aaron: yeah, you obviously have an issue with him; Jacob: I've never spoken to him so I can't. Aaron: I know I gave you the opportunity to and you've never reached out to him to conversation with him and I asked you to speak with him; Jacob: But because of this, it is a conflict of interest. Wait let me take it back, would it be a conflict of interest for someone to send a legal letter to our attorney and to a special investigator who's doing something on behalf of the city; to represent that individual at some point in time, but now also represent the city because that's. I googled him and that was something that he had an issue with before; he represented a mayor individually and the city. Jackie W.: Not his city. Jacob: Avoca? Jackie W.: No. Jacob: oh, Jackie W.: It was Sidney. Jacob: Oh, it can go 3 to 2 or four to one. I'm okay with it, I'm just saying my opinion is that. That's my research and I will work with anyone from a city standpoint but I from my opinion that's where I stand.

Mayor: Is Clint here? Aaron: No, he didn't want to make it awkward, I wasn't trying to make it awkward. We were pushing somebody out, so I did not ask him to come tonight. Mayor: What services does he offer? Aaron: Full service, so he is looking to do the litigation. He will do everything that they're looking to not do he's also the gentleman that stepped up to work with us on our codification and the zoning right now.

Jason: what will happen with the codification does that become part of his duty. Aaron: That's separate contract we're given we signed the contract for him just to handle that. Jason: okay Aaron: he actually offered to put it up there as just a part if we want to try him for 30-90 days or even just try him out while he was doing the uh uh the work on the codes to let him show himself I didn't think we needed to Banter around on it. So I mean I knew we were making a move on it. I had poled my votes and thought we'd come to decision that this was the right from what people I've talked to in the city and out and move that was my take at the time was I thought we'd see how that went with the pro the me also but why write another year out and make a move in the middle of the year. Jason: There was some other issues that I won't bring up but um I just there was just some gray areas that I'm not comfortable with supporting him, I'm fine if you guys do, But I am not. David: This is an awkward spot for me but I'm still your city attorney and so I still want to give you definitely the best legal advice I can. Um Jacob to your question, take it as a hypothetical so we don't single anybody out. But a good example is the um the lawsuit where you have two different sets of lawyers representing the city and members of the council. You cannot be lawyer for the city and lawyer for an individual council person at the same time. Definitely not. Yeah, and whether you're currently doing legal work for somebody, your attorney client relationship doesn't end the last day you do legal work for them. And your attorney client relationship, believe It or not, does not require an engagement letter to be an attorney client relationship it does not require that money change hands. It

requires a request for legal advice and the giving of legal advice that creates an attorney client relationship. So, I do if somebody has represented a member of the council personally; recently, to where they might have information about something having to do with the city's business that not everybody on the council would have; then you have a confidentiality issue. And you have a disclosure issue and those are the things that underly what people call conflicts of interest.

Aaron: Jackie, you never, Jackie you asked, got legal advice, you never paid this attorney, you asked for legal advice from this attorney but isn't never been retained;

Jacob: but it doesn't have to. David: I'm not saying this particular situation; I'm saying. Aaron: I understand you're saying totally I talked to three different a lawyer advices on work that we've done in here so I mean Pat Paterson goes out and gets his own attorneys to do work of the city business himself while he's a city councilman. Jacob: I would say I don't know, if I was on Council then I'd have an issue with that too; Pat's my neighbor and he and I have had lengthy discussions. Mayor: So you're recommendation just abstain if you're in that position would be the easiest to vote. David: Well, I would abstain, but I'm also saying that this lawyer who has done work who has been an attorney, who's had an attorney client relationship, recently with a single council member arguably has a conflict in with representing the city. Jackie W.: but we had O'Bradovich who was an attorney for several people that. Victor: they weren't council members though. Aaron: I called this guy on issues that David Levy was dealing with I mean I've got advice from this guy. Jacob: We've sat up here and said we don't want to have the good old boys club anymore so let's not look at what O'Bradovich did because we want to move forward not doing that. Aaron: for sure and Jacob: and move forward doing something new Victor: So you wish to reach out and see if we get more Jacob: I'm saying if there's no one that has any interest and Clint is the only one and I've had a conversation; I don't know if Jason has; you and I have talked about him. Aaron: I offered I offered everybody to call him and I personally told him that everybody would be calling him Jacob: And I thought he was only doing the codification piece I didn't know we would be getting a submitted proposal as of December 2024 Victor: when was originally looking Jackie when was originally looking for a new attorney how many applications did we get? Clerk: oh we started looking for a new attorney in June of 2023 and we hired David at the end of 2023; we did not we have not sent any RFP's out in 2024. Victor: how many did we get in response when we sent out prior? Aaron: we had zero reactions all through Council Bluffs, they went out through all the email chains or all the attorney everybody was reaching out to everybody they knew. Clerk. 25 or more sent, there was one attorney that wanted to, an attorney from Southwest Iowa not in Council Bluffs but from down by Glenwood.

Mayor: David, you are saying you wish not to be reappointed but you're going to stick with us do we find somebody else or what is your plan? David, um yeah, I don't want to leave you high and dry so yeah with within reason if that's the council's pleasure we would do that.

Mayor: Aaron, you had a motion to hire him was there a second Aaron's motion? No? No second? Okay, anything else?

Jacob: I'll make a motion to put a RFP out there for a City attorney and I would say Clint should be one of them that we look at. I have no problem saying that, putting that out there from a public standpoint. Aaron: you do whatever you got to do, I'm fine, I made my motion, I can't make another one, this would have been something that you as a council member should have come to a workshop and worked with us, talked about, because this has been numerous occasions we've all talked about this. Jacob: We have not spoken about a City attorney in a workshop, we have behind closed doors, Aaron: individually we've

all talked about it, Jacob, Yeah. Aaron: we're supposed to do individually talk and on board and then Friday we had not for a while. Jacob: I've been on board with him as the codification guy; you called me while I was at my daughter's volleyball and we had a, I'm not arguing with you, I'm having a conversation we move on. Aaron: I think he is a great fit, he come highly regarded by a few different people one is a high person in the legislature.

Jacob: We have a consistent issue with our city we put RFP's out and no one responds. Aaron: yeah Jacob: and it is because what Clint Fichter says in there, we are dysfunctional we do have problems, we are the laughingstock. How do we change that? If he thinks we are the laughingstock; why the hell would you want to work with us? Aaron: Because he's done it before, he's got the lawsuits to prove it he's sued cities that have done things wrong, he's come in and followed code that's what I found out from him that's exactly what I found out from him, he's came into busted cities and stepped in and been the man to try to fix it Jacob: But my issue then is part of the dysfunction that we hear from citizens or from other people you cannot have a conflict of interest or a potential conflict of Interest whatever we want to call it with an individual, Aaron: I don't agree with that conflict interest because I've talked to numerous attorneys and I've talked to him I mean on one of the issues that we dealt with that walked us into a lawsuit I directly called him and he gave different advice than our City attorney did and then I spoke to my personal attorney and my personal attorney agreed with Clint; not the advice we were getting; so that's just. I'm not a lawyer I'm a freaking construction worker. I mean, so this is not my forte. I'm going on feelings and what I think is right so that's exactly what I told David. I do not think he fits our city; I don't think the large firm with 100 men fit our city and I think for half the price and the work that we get done a smaller firm could handle it. And we put out an RFP and we'll chase some more guys down. I am sure Clint will fill out the RFP and comes highly regard be another one. We will just you know give another shot or there is a few other people now that we've been digging a little further along that from Des Moines and a couple other Iowa guys that are interested from small towns too so maybe it's getting a little better I don't know.

Mayor: So that was a motion? Jason: for an RFP? Yeah. Mayor: Is there a second? Jason: I will second.

Any public comments? Roll call please: Jacob yes Jason yes Victor no Jackie no Aaron yes.

Gundersen moved to approve the second reading to adopt the "Carter Lake Code of Ordinances", Wahl would like to hold off until she has time to review the new ordinance book compared to the old to see what changes were made. Gundersen withdrew his motion and moved to table to next meeting; Skinner seconded the motion; unanimously approved.

Gundersen moved to reappoint the City Attorney until a new city attorney can be brought on board, seconded by Skinner; Roll Call: Yea: Gundersen, Skinner, Wahl, Hanika; No: Grell.

Trish Humphrey made statements about other teams usage of the gym and fields, feel her teams are being treated unfairly. Gundersen will investigate it with the CLCC Director. Bob Wahl questioned Attorney Levy concerning his past attorney client relationship with former council member Paterson; Mayor stated Paterson was not on the council when Davide was appointed and the current council appointed David Levy. Janette Banks provided an update on Park and Recreation board activities.

Gundersen moved to go into closed sessions to discuss real estate matters, seconded by Hanika;

After returning to open session, Kendra Hollenbach and Brandi McWilliams were present to respond to comments made prior to the closed session, and to explain the facts surrounding their kids' ball teams have been paying for usage of the gym and fields. Receipts will be shared with the Council.

Jackie Carl, City Clerk

Ronald Cumberledge, Mayor