

A special meeting of the City Council of the City of Newburgh was held on Monday, March 7, 2016 at 7:00 p.m. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

Present: Mayor Kennedy, presiding; Councilwoman Abrams, Councilwoman Angelo, Councilwoman Holmes, Councilwoman Mejia, Councilwoman Rayford- 6  
Absent: Councilman Harvey - 1

Mayor Kennedy said that they are meeting tonight to discuss the legal steps taken concerning our Police Chief and Civil Service but she was just notified that the City Manager's brother passed away this evening. He plans on still attending but will be late. At this point she will need a motion to proceed with this meeting or what they want to do. Since she did not call this meeting she needs to know what they want to do.

Councilwoman Holmes said that she wanted to have this as an open meeting to discuss the unauthorized Court proceedings by the City Manager and Acting Chief. She found out about it on Tuesday through an e-mail before the Petition was filed. From what she knows if there is a Litigation then there should be a Resolution for them to vote on. This wasn't done and maybe some people were privy to this information but she wasn't and that's why she wanted to have this meeting. She understands and has sympathy for the City Manager and that we will probably have to discuss this on Thursday because of a death in his family. She feels that the taxpayers should know and she understands that Michelle has a line in her Budget for Legal Proceedings but these are also the taxpayers' dollars so they should know where their money is going.

Mayor Kennedy said that she is not able to answer that question and added that we are probably at risk of the City Manager being out of town by Thursday.

Councilwoman Abrams asked if Corporation Counsel, Michelle Kelson could explain for Councilwoman Holmes.

Mayor Kennedy believes that Corporation Counsel, Michelle Kelson was not part of these legal proceedings and process.

Corporation Counsel, Michelle Kelson said that she had a professional conflict under the New York State Rules of Professional Conduct. She can't be on both sides of a "V" but even prior to getting to the litigation status she received requests for legal advice by two different parts of city government and it became fairly clear to her that they were going to have "*differing interests*" under the rules of professional responsibility. That presented her with a professional responsibility issue and in that regard she couldn't fully represent either side against the other and provide

appropriate legal counsel. Attorneys were assigned to both of these parts of city government so there was no further obligation for either side to inform her in advance of how they were proceeding with respect to each of their clients. She is not aware of this happening in her tenure before but that is how the situation did arise. In answer to the other question whether civil litigation can be commenced without the authorization of the legislative body, what she understands the process to be is that there is no specific provision in the City Charter that gives any particular city officer or employee the ability to make this decision or commence that litigation. Under the General City Law of the State of New York that decision would fall to the legislative body and that has been her practice since she has been Corporation Counsel. Where she believes there is a reason to commence a civil proceeding where the City would be the Plaintiff or the Petitioner in the proceeding to come to Council for a resolution. That is about as far as she can go with this particular set of circumstances.

Councilwoman Rayford said that the other part of the question was when Corporation Counsel was notified because they weren't.

Corporation Counsel, Michelle Kelson said that she was actually notified after the Council. It was her understanding that the City Council was notified by e-mail and if you look back at that e-mail her name and address was not on it. It was brought to her attention by another Council member who forwarded it to her so she found out after the Council.

Councilwoman Holmes noted that she forwarded the e-mail to Corporation Counsel.

Mayor Kennedy asked Councilwoman Mejia to send a text to the City Manager to see how soon he might be here because we really cannot proceed very far tonight unless he is here. We have some pretty unique circumstances around this whole situation. We have had a Council divided against each other and this has been a political situation for almost a year. We have had political campaigning within our Civil Service situation so we have got some pretty unique circumstances going on and this all has to be taken in the context of this particular circumstance. She believes the City Manager needs to be here to speak to that.

Councilwoman Abrams said that his brother just died in the last two hours so can we give him a break and cut him some slack?

Councilwoman Holmes said that she has no problem with that. She is not trying to be unsympathetic she just wanted to explain why we are here.

Mayor Kennedy said that the City Manager called her saying that he was coming. So she just wants to know if he is parking his car now and if he is not then that's fine and we can adjourn until another meeting.

Councilwoman Mejia said that in light of everything this man's brother has just passed away and she doesn't know about anybody else at this table but for her whenever there is a loss of life it puts everything into perspective. On that note, the Mayor made a comment about a Council divided but let's be clear, *"I am not divided. I am a member of this policy body. I am a resident of the City of Newburgh and love this City. We have our differences but our differences do not divide us. Instead I think they give us an opportunity to dialogue and work through all of those different issues."* If we can just get our language in a different tone she would appreciate it especially when we have a team member, our Manager, the leader of our day to day management who just lost his brother. His mind and his heart are not going to be here. He is making funeral arrangements for his brother.

Mayor Kennedy suggested that they call him and tell him not to even try to get here. We will adjourn this meeting until the whole situation is resolved and he is back here. She asked for a motion to do that.

Councilwoman Rayford moved and Councilwoman Abrams seconded the motion.

Ayes - Councilwoman Abrams, Councilwoman Angelo, Councilwoman Holmes, Councilwoman Mejia, Councilwoman Rayford, Mayor Kennedy - 6

**MOTION PASSED**

There being no further business to come before the Council the meeting adjourned at 7:10 P.M.

**LORENE VITEK  
CITY CLERK**