

Michael Malaguti

From: Michael Malaguti
Sent: Tuesday, January 24, 2023 10:33 AM
To: Michael D. Ramsdell
Subject: Draft nonpublic minutes

A/C Privilege

- The Council went into nonpublic session under RSA 91-A:3, II(c) ("*Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.*").
- The Council, Assistant Town Manager, and Town Manager convened at 9:12 p.m. after leaving public session.
- The Town Manager advised that before any discussion occurs, it needed to be determined what can and cannot be discussed under the provision that was invoked. He advised that Associate Town Planner Laura Gandia's reputation "cannot be discussed because she just waived it" (in public session Laura made specific reference to the following language in RSA 91-A:3, II(c): "*unless such person requests an open meeting.*")
- Vice Chairman Green asserted it is matters affecting the Town Manager's reputation he wished to discuss. The Town Manager stated that while he didn't enjoy hearing what was stated about him in public session, he was uncomfortable invoking his own reputational interest as the reason to remain in nonpublic session. The Town Manager stated he cannot give the Town Council legal advice. Several more times, he declined to invoke his own reputational interest.
- The Town Manager suggested the better exemption would be (a): "*The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted.*"
- Vice Chairman Green opined that "(a)" doesn't apply. The Town Manager read the language and stated he disagreed. The Town Manager stated he is not trying to be difficult; he's trying to keep all of us from getting "jammed up." He stated that while the "promotion," "compensation," or "investigation" of the Associate Planner clearly do not apply, the list includes comings, goings, and movement within the Town's employment, some of which are and are not for cause. "Dismissal" does not signify separation either for, or for no, cause, and would better embrace what Councilor Green wishes to discuss ("(c)").
- There was more discussion about the Town Manager's reputational interest. The Town Manager reiterated he was not invoking his own reputational interest, although he did not specifically request a public discussion.
- It was asserted the Council could not move into nonmeeting (RSA 91-A:2, I(b) to permit a broader discussion). The Town Manager suggested it likely was possible but he was not entirely sure. Regardless, the Town Attorney's availability was unclear.

- Chairman Farrell stated there were three options: Stay in nonmeeting, go back into public to vote, or ask for further legal advice. He did not give further advice except to remind the Council what could and could not be discussed under "(c)".
- Vice Chairman Green referenced Section 4.8 of the Town Charter ("Non-interference with Town Administration"), and suggested this decision was operational, and did not require Council decision.
- Vice Chairman Green stated, "you're the Town Manager, this is your recommendation. You're writing the history books, it's your reputation."
- Councilor Franz asked whether the Planning and Economic Development Department can "meet demands" following the proposed action. The Town Manager replied he can't answer that question under "(c)".
- Councilor Paul asked why the focus is on this department, and why "so quickly." The Town Manager replied he could not answer her question under "(c)".
- Councilor Butler expressed concern about cutting the Town Manager out "at the legs."
- Chairman Farrell suggested more discussion could be had in public but not here.
- Vice Chairman Green addressed the Town Manager and made reference to the Land Use Assistant's public comments, referring to her as "your employee," and that her comments "broke my heart."
- Councilor Butler referenced the public comments received tonight and elaborated, "Mike would never do that."
- Vice Chairman Green stated, if the public's comments were true, there was "no way he wanted to be part of that."
- The Town Manager stated, "we're really twisted around the axle here. We need to be careful not to commit 91-A violations however well-intentioned." He added we should not "make unforced errors."
- Vice Chairman Green stated he did not believe violations were occurring.
- Councilor Butler asked, accusatorily and questioning the Town Manager's performance: "You're comfortable proceeding?"
- The Town Manager stated, "you're asking if we came here half-cocked? If we did, we're don't deserve our jobs. I'm proposing to eliminate someone's job; You thought this would be easy?"
- The Assistant Town Manager stated, "management is challenging." She added that when you start managing, you "will likely have a poor reputation for a while." However, she added, it's a small number of people (employees) the Council heard from.
- Vice Councilor Green asked the Town Manager: "did it go down like that?" (like those who had spoken against the Administration had suggested). The Town Manager stated, "I've been Town Manager for a year. I've made a lot of tough calls. I've never failed to treat anyone with decency and respect. You hired me to make these tough decisions, and that's what I've done."

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