



CITY COUNCIL

Tuesday, August 13, 2024 | 2:00 PM
Council Chamber- City Hall
900 Church Street
Lynchburg, VA 24504

AGENDA

I. Agenda Item

- I.1. Consideration of adopting Resolution #R-24-___ censuring and punishing Councilmembers Jeff Helgeson and Martin Misjuns for disorderly behavior and misconduct.

RESOLUTION:

#R24_____

WHEREAS, Chapter VI Section 37 of the Charter of the City of Lynchburg vests all members of the City Council for Lynchburg Virginia with the profound duty of making decisions that pursue and act in the best interests of the City in a manner founded with reasonable diligence and prudence; and,

WHEREAS, the Lynchburg City Council has the authority to discipline one of its members for engaging in disorderly behavior and misconduct, pursuant to Section 15.2-1400(D) of the Code of Virginia, 1950, as amended, and Chapter VI Section 37 of the Charter of the City of Lynchburg; and,

WHEREAS, Chapter VI Section 37 of the Charter of the City of Lynchburg further states, "The council shall have authority to adopt such rules and appoint such officers and clerks as it may deem proper for the regulation of its proceedings"; and,

WHEREAS, the Council annually reviews and adopts Rules of Procedure for its governance; and,

WHEREAS, Councilman Helgeson has served the longest time on city council as compared to his peers, and as such, should know to govern with a certain level of decorum representative of said tenure; and,

WHEREAS, Councilman Misjuns joined an attempt with Councilman Helgeson to call a Special Meeting of the Lynchburg City Council for July 3, 2024; and,

WHEREAS, Item I.5 on the official agenda for this Special Meeting was to, "waive attorney-client privilege on an email from the City Attorney Matthew Freedman, on June 29, 2024, at 2:28:08 PM addressed to City Council, City Manager Wynter Benda, and the Clerk of Council Alicia Finney..."; and,

WHEREAS, a quorum of the body failed to be produced, thus adjourning the meeting; and,

WHEREAS, Councilmen Helgeson and Misjuns again attempted to call for a Special Meeting of the Lynchburg City Council for July 9, 2024, with the same aforementioned item on the agenda; and,

WHEREAS, the Council voted 4-2 to block consideration of this, and all other matters on the agenda, indefinitely; and,

WHEREAS, in blocking consideration of these matters, the aforementioned agenda item was not released from Attorney Client Privilege; and,

WHEREAS, without authorization from a majority vote of the City Council, on July 9, 2024, Cardinal News reported that Councilmen Helgeson and Misjuns provided a copy

of that same email, stating, “the body text was redacted except for a portion of a sentence...”; and,

WHEREAS, irrespective of and in direct conflict with the July 9 vote of Council, Councilmen Helgeson and Misjuns provided a copy of the entire email, as referenced in part via the report from Cardinal News, by disclosing it to the press on July 15, 2024, again without authorization of a majority vote of the City Council; and,

WHEREAS, Councilman Helgeson planned to and did immorally, deceptively, and underhandedly record a private and privileged phone call with the City Attorney on June 29, 2024, with the intent of using said recording for future personal and political gain; and,

WHEREAS, at a Press Conference on July 15, 2024, prior to releasing a part of this phone call, Councilman Helgeson admitted he recorded it for his “protection”; and,

WHEREAS, said phone call pertained to city business and was made by the City Attorney to members of the Body as a method to seek guidance related to a legal matter; and,

WHEREAS, In Peter Alexander v. Christopher Faraldi, Councilman Misjuns is cited as providing a declaration in his official capacity as a member of the City Council; and,

WHEREAS, Councilman Misjuns is quoted in such declaration as saying he is an, “elected representative for the citizens of Lynchburg...;” and,

WHEREAS, Councilman Misjuns therefore used his official office for the purpose of attaining a specific and personally motivated outcome in a legal proceeding; and,

WHEREAS, The affidavit and statements made in the Press Conference by Councilman Misjuns clearly articulate a predetermined use of his official office for the purposes of obtaining a political or personal advantage, and potentially influencing pending litigation and public perception of said litigation; and,

WHEREAS, The Councilmen have used their offices and city resources to publicly speak from a place of authority — both on legal matters and as a voice to interpret the law on behalf of the City — with neither a vested vote of Council granting such authority, nor educational credentials or state certifications signifying qualification for articulating such interpretations in this manner; and,

WHEREAS, no vote of Council has been adopted to authorize the waiver of Attorney Client Privilege for any record whatsoever; and,

WHEREAS, such statements, actions, and communications have created confusion and caused the voice and standing of the Council to be disjointed, fractured, and compromised; and,

WHEREAS, Councilmembers Helgeson and Misjuns actions demonstrate a determined effort to use official offices to cause chaos, intimidate, instill fear, and foster a hostile environment for political and or personal gains; and,

WHEREAS, Councilman Helgeson has set a poor and unbecoming example of what a near twenty-year representative of Lynchburg should be; and,

WHEREAS, in 2023, Councilman Misjuns was first admonished by Mayor Reed for actions unbecoming of a member of the Body via a letter to the Councilman; and,

WHEREAS, on November 28, 2023, the Councilman was formally censured and fined by City Council (#R-23098), further disciplined for additional conduct unbecoming of a member of the Body; and,

WHEREAS, in that same Resolution, the Councilman was “placed on notice” and “strongly advised to change course or potentially face future reprimands permissible under Virginia Law.”; and,

WHEREAS, Councilman Misjuns ignored this notice and only continued to use his office for feeding the flames of division, chaos, hatred, retaliation, harassment, intimidation, and all other manner of distaste, further damaging the reputation of the Body and its ability to conduct the business of the City as outlined in Chapter VI of the Charter for the City of Lynchburg; and,

WHEREAS, Councilman Misjuns aided Councilman Helgeson, as evidenced by the joint efforts above and below; and,

WHEREAS, Attorney Client Privilege was blatantly and intentionally broken by Councilmembers Helgeson and Misjuns on multiple occasions, thus undermining the status and will of the Council; and,

WHEREAS, while the legality of the grievances outlined in this resolution may or may not be unlawful, they, among others, have been a further detriment to the public trust and reputation of the City of Lynchburg and its Council; and,

WHEREAS, to effectively conduct the business of the citizens of Lynchburg, it is incumbent on the City Council to firmly and resolutely protect the public standing of the Body against misconduct to this degree.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. Councilmen Helgeson and Misjuns are censured for intentionally breaking attorney client privilege and continuing to negatively impact the name, reputation of, and trust in the Council for the City of Lynchburg.
2. The Council rejects the hostile work environment promulgated by Councilmen Helgeson and Misjuns, both for the Council itself and its staff.

3. A fine commiserate to one-month of pay for a member of the Body is hereby imposed on Councilman Helgeson, due for payment no later than August 30, 2024.

4. Referencing #R-23098, adopted November 28, 2023, a fine commiserate to two-months of pay for a member of the Body is hereby imposed on Councilman Misjuns, due for payment no later than August 30, 2024.

5. Should Councilmen Helgeson and Misjuns agree in writing to attend a type of "newly elected official training" with a reputable Virginia Association within three months of adoption of this resolution, such as the Virginia Municipal League or Virginia First Cities, the fines above will be voided. Said communication shall be submitted to and considered for approval by the Mayor, in writing and within two weeks. Should training not be completed or agreed to, the fines above shall be in effect.

6. The billings and collections divisions of the Finance Department shall collect the fine amount in accordance with this Resolution, Virginia law, and City practice should the fine be left unpaid by the due date.

7. Councilmen Helgeson and Councilman Misjuns are barred from submitting an annual review and discussing compensation for the City Attorney for the period of July 1, 2023, through December 31, 2024.

8. The City Attorney is released from any obligation to receive and or respond to direct communication(s) from Councilmen Helgeson and Misjuns, nor are they entitled to request legal counsel of the City Attorney on city matters; however, these privileges may be permitted only if routed through and with approval of the Mayor and in writing. This stipulation shall be in effect through the end of the calendar year.

9. The Clerk of Council, City Manager, and City Attorney are empowered to take any necessary steps for future communications with Councilmen Helgeson and Misjuns that ensure a more productive, positive, and honest work environment.

10. Without consideration to those who hold the Office of Mayor and the Office of Vice Mayor, seniority for the Council is now: Dolan, Wilder, Faraldi, Reed, Taylor, Misjuns, then Helgeson.

11. Council's seating arrangement shall now be, commencing from the left of the Clerk of Council and City Attorney: Misjuns, Taylor, Faraldi, Reed, Dolan, Wilder, then Helgeson.

12. Councilman Helgeson and Councilman Misjuns are placed on strict notice, firmly instructed to change course, or face certain future reprimands permissible under Virginia Law.

13. That this Resolution shall be effective upon its adoption.

Adopted:

Certified: _____

Clerk of Council