

CITY OF LAGUNA NIGUEL

AGENDA ITEM CITY COUNCIL

JULY 24, 2017

TO: Honorable Mayor and Council Members

FROM: Terry E. Dixon, City Attorney

SUBJECT: Direction to City Attorney to Review and Advise the City Council Regarding Various Complaints About the Activities of Mayor Jerry Slusiewicz, Including those Allegations Contained in the Email from City Manager Rod Foster Regarding Mayor Jerry Slusiewicz' Treatment of Him and Other Members of City Staff, and to Review and Advise the City Council Regarding the Procedures for Removing Jerry Slusiewicz as Mayor of the City of Laguna Niguel

SUMMARY: The City has received complaints regarding actions of Mayor Jerry Slusiewicz, including the complaints in the email from City Manager Rod Foster dated June 8, 2017, and the email from the Laguna Niguel Community Theatre dated June 5, 2017. Council Member Laurie Davies and Council Member Elaine Gennaway have requested that there be placed on the agenda for a special meeting of the City Council an action item to direct the City Attorney to review, advise and report to the City Council regarding allegations in the complaints and also the procedures for removal of Jerry Slusiewicz as Mayor of the City of Laguna Niguel. Further, the Council Members request that the City Attorney be directed to retain an outside law firm to assist in that review and report.

BACKGROUND

1. Introduction

Jerry Slusiewicz has been serving as Mayor for the City of Laguna Niguel since December 1, 2016. City Council members have received complaints regarding activities of Mayor Slusiewicz. Council Member Laurie Davies and Council Member Elaine Gennaway believe that the Council should consider removing Jerry Slusiewicz as Mayor of the City of Laguna Niguel. A special meeting has been called to direct the City Attorney to review and report on the complaints and the procedures for the removal of a person serving as Mayor, and retain an outside law firm to assist in this review and report.

This special meeting is called pursuant to Government Code Section 54956 as contained in the Brown Act. It is called by a majority of the City Council namely Council Members Laurie Davies, Elaine Gennaway, and John Mark Jennings. For a special meeting, notice must be given 24 hours in advance of the meeting. In this case, more than 72 hours' notice is being provided.

The purpose of this special meeting is not to evaluate or determine the validity of any complaints against the Mayor, but simply to provide direction as to whether the City Attorney should review and provide advice and analysis of these matters. The Mayor will be given an opportunity at a future Council meeting to respond to the complaints against him.

2. Complaints About Activities of Mayor Slusiewicz

In recent weeks, the City has received complaints and questions about certain activities of Mayor Slusiewicz. The Council members are requesting that the City Attorney, with the assistance of outside counsel, be directed to review, report and make recommendations to the Council regarding the following matters.

- a. City Manager Rod Foster sent an email dated June 8, 2017, to the members of the Laguna Niguel City Council complaining about the treatment by Mayor Jerry Slusiewicz of him and other members of staff, stating that he was leaving his employment with the City as City Manager because of the way Mayor Slusiewicz treats him and others, and requesting the full protection of the Council. (A copy of the June 8, 2017, email is attached.)

The City Council members expressed concern regarding the treatment of City employees. They want to make sure that the employees understand that the City Council is concerned about their treatment. Further, Council members are concerned that the City could lose good employees and frustrate their efforts to retain a new City Manager, if there are problems with the way employees are being treated.

It is requested that the City Attorney with the assistance of outside legal counsel review and report to the City Council and make recommendations as to the potential actions the City Council can take regarding this matter, including initiation of investigations.

The City Attorney is requested to insure that employees understand there will be no repercussions against them for providing information during the course of these investigations.

- b. As is noted in the June 8, 2017, email from City Manager Foster, there is a memorandum from the Public Works Director dated June 7, 2017, advising that Mayor Slusiewicz directed City staff to change the wording on the dedication plaque for the Crown Valley Park Entrance Improvements to remove the names of the City Manager and Assistant City Manager.

It is requested that the City Attorney, with the assistance of outside legal counsel, review and report on whether this violates Laguna Niguel Municipal Code Section 2-4-7 and make recommendations to the City Council as to what actions to take to prevent future violations.

- c. At the July 18, 2017, Council meeting, questions were raised regarding the payment of invoices submitted by West Coast Arborists for Tree Services provided to the City.

It is requested that the City Attorney with the assistance of outside legal counsel review and report to the City Council as to all aspects of the City obtaining Tree Services from West Coast Arborists, including, but not limited to, whether the City has paid for tree services that were not provided.

- d. Questions have been raised regarding the preparation of the draft (July 11, 2017) Agreed-Upon Procedures Report by the City auditors, The Pun Group, including whether proper procedures have been followed by Mayor Slusiewicz, including his initial refusal and delay in providing the Director of Finance and the City Attorney with a copy of that report.

It is requested that the City Attorney, with the assistance of outside legal counsel, review and report to the Council regarding the process and procedures that have been used in preparing the draft report, including whether the validity of that report has been compromised.

- e. Jeremy Golden, the Artistic Director for the Laguna Niguel Community Theatre ("LNCT"), alleges in an email dated June 5, 2017, to the City Attorney that Mayor Jerry Slusiewicz interfered in the cast selection for LNCT's next play which is scheduled to be presented at the end of July/early August 2017. LNCT alleges that Mayor Slusiewicz threatened that unless it complied with the Mayor's request, that LNCT would not receive support from the City Council for approval of both a then pending fee waiver request LNCT had made relating to its current production and future fee waiver requests.

It is requested that the City Attorney, with the assistance of outside counsel, review this complaint and make recommendations to the City Council regarding the potential actions that can be taken.

3. Removal of Jerry Slusiewicz as Mayor of the City of Laguna Niguel

Because of the alleged actions and activities of Mayor Jerry Slusiewicz, questions have been raised about removing Jerry Slusiewicz as Mayor of the City. The City Council members request that the City Attorney, with the assistance of outside counsel, review and advise the City Council regarding the following:

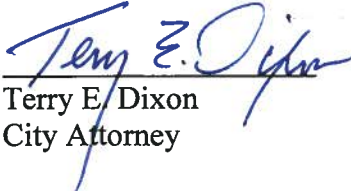
- a. What are the procedures for removal of a mayor?
- b. Are there any required findings that have to be made?

- c. Is the City Council required to hold a noticed public hearing?
- d. What rights does the Mayor have regarding the proceedings for such a removal?

RECOMMENDATION

- 1. The City Council authorizes and directs the City Attorney to review and advise the City Council regarding,
 - a. The allegations in the June 8, 2017, email from City Manager Rod Foster regarding the actions of Mayor Jerry Slusiewicz.
 - b. The apparent violation of Laguna Niguel Municipal Code Section 2-4-7 (regarding the prohibition on Council members giving direct orders to City staff).
 - c. The contracting with and payment for Tree Services by West Coast Arborists.
 - d. The preparation of the draft Agreed-Upon Procedures Report.
 - e. The email dated June 5, 2017, from the Laguna Niguel Community Theatre.
- 2. The City Council authorize the City Attorney to review and advise on the procedures for removing a person as mayor of the City of Laguna Niguel.
- 3. The City Council authorizes and directs the City Attorney to report on the status of the matters set forth in this report at a special meeting to be held on or before August 7, 2017.
- 4. The City Council authorizes and directs the City Attorney to retain outside legal counsel and investigators to assist in the required review and advise.

**SUBMITTED
BY:**


Terry E. Dixon
City Attorney

ATTACHMENT

Terry Dixon

From: Rod Foster
Sent: Thursday, June 08, 2017 9:48 AM
To: Jerry Slusiewicz (jerry@pfpinvest.com) (jerry@pfpinvest.com); Fred Minagar; ldavies499@sbcglobal.net; elainegennawey@gmail.com; 'John M Jennings'
Cc: Terry Dixon
Subject: Memo from Nasser Regarding Mayor Slusiewicz
Attachments: Memo from Nasser.PDF

City Council,

I want you to know that the attached memo now constitutes the absolute lowest point of my public career. To think that anyone would direct that both Dan and my names be removed from a dedication plaque is the absolute most vile and despicable action I have ever witnessed by an elected official. I make these affirmative statements as both Nasser and Ziad are mentioned as witnessing the statements made in the memo by the Mayor.

Second, for the Mayor to state to my Public Works Director that the Mayor plans on removing me at last Tuesday's Council Meeting is nothing short of now trying to harm me personally and financially, as well as undermining and neutering my authority as City Manager. I make this statement affirmatively since at Orange County City Managers Association (OCCMA) luncheon held yesterday David Doyle, City Manager of Aliso Viejo, told me that he had been told (David would not mention from who), that Mayor Slusiewicz ordered a financial audit of me and finance and then found nothing was wrong. Why would David Doyle know this? For the record, this is now the second city that has questioned or provided information that someone is potentially disparaging my character publicly. The first was Dana Point during the recruitment process and now I receive the same information openly from a representative of Aliso Viejo.

Even more disturbing is the fact that Newport Beach City Manager David Kiff, who was hosting the OCCMA lunch, was in the process of introducing retirees when I entered the banquet room. David Kiff introduced Tim Casey and then said that Tim will be returning to Laguna Niguel. (I do not think that David meant that he would be returning to his house in LN but you can ask him that if you like). Why would David Kiff make such a public statement? After David Kiff asked if there are any other retirees in the room, I announced my future retirement on July 24.

If the allegation of the Mayor directing Nasser and Ziad is true, then it would be clear that the Mayor violated Section 2-4-7 of the Laguna Niguel Municipal Code which reads in substantive part, "The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any members thereof shall give orders to any subordinates of the city manager."

I believe that the Council needs to know the truth now about my leaving, Dan's leaving and potentially other executives as well:

- I am leaving because of the way Mayor Slusiewicz treats me and others. I have witnessed the tears from the way he treats people first hand.
- Dan is leaving because he does not want to work for Laguna Niguel any longer. I asked him if I was able to find a way for the Council potentially to offer my contract to him would he stay, he said no and said that he does not want to work with the Mayor. (As information, my contract pays just over \$241,000; Dan accepted about \$217,000 and a drive from San Juan to Diamond Bar).
- Steve Erlandson is very upset about how he has been treated publicly by the Mayor, especially at last Tuesday's Council Meeting. Steve told me today that he is considering other employment.
- Debbie Bell stated that she is concerned about her position with the City since the Mayor has threatened her job.

➤ Eileen Gomez told me that she is scared about her future at the City and is looking for other employment. I read the above individual statements to each City Executive listed and each validated the statement and provided permission to be included in this email to the City Council.

Even with all this, I have been told that the Mayor has been telling prominent leaders and developers in our community that I am a "figurehead only and that while I am in the office; I am not there."

My staff and I seek and request the full protection of the Council so that we can work without fear as detailed herein.
Rod

Rod Foster
City Manager
City of Laguna Niguel

Confidential Memorandum

To: Rod Foster, City Manager
From: Nasser Abbaszadeh, PW Director N.A.
Date: June 7, 2017
Subject: Comments By Mayor Slusiewicz on June 6, 2017

On Tuesday, June 6, 2017, Mayor Slusiewicz spoke to Ziad Mazboudi and me and directed that we change the wording on the plaque for the Tier 2 Bridge. He stated that since both the City Manager and the Assistant CM will not be with the City at the August 8th project dedication, their names and titles should be removed from the plaque.

When we stated that the plaque might already have been made; he stated that it should be re-done and the project will cover the cost.

He further stated that he will ask for the City Council's help to remove the City Manager from the office as soon as possible before his retirement date of July 24, 2017. He mentioned that he had someone on his mind for the interim CM, but no names were mentioned.