



MAYOR MICHAEL O'BRIEN  
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# CITY OF WINOOSKI

## CITY COUNCIL

COUNCILOR JODI HARRINGTON  
COUNCILOR MICHAEL MAHONEY  
COUNCILOR ERIK HEIKEL

### Agenda

Tuesday, September 30, 2008 at 6:00 p.m.

Winooski Council Chambers

- I. Call to Order and Pledge of Allegiance
- II. City Manager Hearing (Possible Executive Session)
- III. Adjourn

The Mayor opened the meeting at 6:05 pm.

Members present: Mayor Michael O'Brien, Deputy Mayor Katherine Picard  
City Councilors: Michael Mahoney, Jodi Harrington, Erik Heikel

Officers present: Pauline K. Schmoll, City Clerk/Treasurer

Others present: See list attached to minutes.

- I. The Mayor asked the Deputy Mayor to lead the audience in the Pledge of Allegiance.
- II. City Manager Hearing. The Mayor stated that the council needed legal advice and he had called each councilor and Councilor Picard was the only one who voiced concerns.

After some discussion the Mayor recommended that we move forward.

**MOTION** by Councilor Heikel seconded by Councilor Mahoney to go into Executive Session to discuss employment contract at 6:12 pm. Voted and passed 3-1. Councilor Picard voted no.

Meeting reconvened at 7:05 pm.

The Mayor read the following statement:

Ladies and gentlemen, we are here tonight to hold a hearing concerning our city manager. As you are undoubtedly aware, Mr. Handverger was given the opportunity to request a hearing and he did so on Saturday.

First, I want to apologize that this meeting is taking place on this Jewish holy day. We were advised by Mr. Franco of this conflict for Josh just this morning. In an effort to accommodate Mr. Handverger's religious beliefs, we reached out to him through Mr. Franco by proposing an agreement to postpone the hearing to another date. Unfortunately, we could not come to an agreement with Mr. Franco and Mr. Handverger on this matter. AS a result, we are moving forward this evening because it is in the best interest of the City to do so.

We find ourselves in the unfortunate situation where we have decided to terminate Mr. Handverger's employment with the City. Under his employment agreement, Josh is an "at will" employee for the first year of his employment. His contract specifically states that just cause is not needed to terminate him during his first year. After his first year of service, just cause is required to terminate his services. As a practical matter, what does this mean; while we believe we have more than sufficient just cause to remove Mr. Handverger that process requires a more formal process as we all observed during the McQueen hearing. We believe that such a hearing would not be in the best interest of the City because of the terms of Mr. Handverger's Employment Agreement, an agreement negotiated by Josh with the City and signed of his own free will.

As an "at will" employee, Mr. Handverger has no right to a public hearing. There is no provision for such a hearing in his contract. We have provided this opportunity for Josh to present his side of the story concerning the charges brought forth by the employees in their letter of September 19, 2008 that was presented to the Council last Monday night and cited by this Council in the resolution passed on that date. Specifically, the resolution states:

"Whereas the City Council believes it is in the best interest of the City to terminate its employment relationship with Mr. Handverger in light of the overwhelming opposition of his management style, competence, and abilities expressed by all department heads of the city, and the adverse effects it has placed on their abilities to perform their jobs. The Winooski City Council hereby resolves as follows:

Mr. Handverger's services as City manager shall be terminated effective September 30, 2008.

As today is September 30 and is the date that the termination becomes effective, lacking an agreement with Mr. Handverger that would allow the City to postpone the hearing, we need to proceed as scheduled.

I was informed at 5 o'clock this afternoon that neither Mr. Franco nor Mr. Handverger would be attending the hearing this evening. This is truly unfortunate and should have been avoided. I was accused of leaking to the press settlement discussions that we were pursuing with Mr. Franco. Let me be clear that we had not entered settlement discussions, rather as I stated previously had reached out to try to reach an agreement to postpone the hearing to accommodate Josh's religious needs. As a result, Mr. Handverger has forfeited his opportunity to be heard by this council.

Despite these events I will recommend that we take the following action:

We move forward tonight to determine whether the council wishes to ratify the resolution of September 22<sup>nd</sup> to terminate Josh effective tonight.

Councilor Picard voiced her concerns and will be voting no. Councilor Harrington asked why the council allowed the defamation of Mr. Handverger.

**MOTION** by Councilor Heikel seconded by Councilor Mahoney to ratify the resolution of September 22. Voted 2-2 and the Mayor voted yes allowing the passage of this motion.. Councilors Picard and Harrington voted no.

**MOTION** by Councilor Harrington seconded by Councilor Picard to adjourn at 7:10 pm. Voted and passed 4-0.

Attest: \_\_\_\_\_  
City Clerk