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January 29, 2020

**Special Council Meeting – For Appointment of Corporation Counsel**

The special meeting of the City of Port Jervis Common Council was held in the Council Chambers, 20 Hammond Street, Port Jervis, New York on Wednesday January 29, 2020 at 6:45 p.m.

**Pledge of Allegiance-**

Kelly Decker led all present in the Pledge of Allegiance to the Flag.

**Attendance-**

All members of the Common Council were present. Also present was Deputy City Clerk Treasurer Bobbie Jo Muller.

Meeting opened at 6:45 pm by Mayor Kelly Decker.

Mayor Decker explained that the only purpose of this meeting is the nomination and appointment of Corporation Counsel for a 2 year term.

Members of the audience are invited to speak at the podium, only on this subject with a 2-minute limit.

**Public Comment –**

Ms. Debbie Raia, 2<sup>nd</sup> Ward – She said the Mayor has the right to pick the lawyer. She has no objection to David Bavoso.

Judith Oppelt, 4<sup>th</sup> Ward – Made a reference to previous situation with Damian Brady years ago that Mr. Simmons spoke about at the last meeting and said he was appointed. She has no problem with David Bavoso and that we should go by the Charter. Also said the members that are the against David Bavoso should give a reason.

Mrs. Joan Rollman, 2<sup>nd</sup> Ward – We have a candidate that is both qualified and experienced to do the job with a deputy to handle the annexation issues pro bono. She thanked each council member that voted yes and respectfully asked the other members to reconsider and vote yes to David Bavoso as corporation counsel.

Mr. Peter Grech – Made a reference to nomination of a Supreme Court Justice. The President proposes a candidate, the Senate reviews the background of the nominee, interviews the nominee and then the Congress votes, making it a point that Congress votes to approve or disapprove the nominee.

Ms. Linda Van Horn – Thank you to the Council members for standing their ground and not being persuaded to change their vote. She is opposed to the 3 Lawyers involved in the annexation and feels they have something to gain. She is looking forward to when the City of Port Jervis has an Ethics Committee and feels it is time for a change.

Mr. Ed DeGroat, 3<sup>rd</sup> Ward – Most important thing is Ethics. Claims that activity has happened between father and son, things that have happened are not right. Suggested Glen Plotsky.

Mr. Sean Donnelly, 2<sup>nd</sup> Ward – Excited with New Council. Displeased with 2<sup>nd</sup> Ward Council Members voting no without an explanation. Feels that the Mayor put forth a qualified candidate. He feels that they are blindly following a team effort at an attempt to hamstring Kelly. He said that Mr. Simmons has mis-characterized the emails that were sent out for applicants for Corporation Counsel.

Mr. Pat Murray, Many Wards – He said that at last meeting he heard 2 different Council members give cite 2 different laws about the matter at hand and that we need to be respectful. They may have more information that we may not have.

Mr. Todd Kowinsky, 4<sup>th</sup> Ward – Not happy with the bickering since the change in the Council. You are supposed to be a team. This is not good leadership. He does not know David Bavoso, but feels it is the best move for the City because he is familiar with everything that is going on and has already worked with mostly everyone on the Council.

Ms. Karen Conklin, 3<sup>rd</sup> Ward – She is a transplant to the area. She said that some of the behavior of the Council members and Councilman at Large has been unprofessional. She does not agree with appointing Mr. Bavoso just because he has been here. She is not impressed with what she has seen. She commends those that are going against the grain.

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**Business:**

**Mayor Decker** – Stated that he would like to recommend David Bavoso for Corporation Counsel.

A motion was made by Lisa Randazzo and seconded by Kristin Trovei to appoint David Bavoso as Corporation Counsel

Mr. Siegel asked if we were running this by Roberts Rules of Order?

Mayor Decker said this is a regular agenda process.

Mayor Decker stated that at the end of the last meeting he asked the council to please tell him David's abilities and in-abilities to serve as Corporation Counsel, for facts please.

The Mayor stated that he received a comment from Mr. Siegel that said he stated his comments at a recent meeting with him and Ms. Mann and Mr. Simmons. The Mayor said he replied and told him it would be best if he put it in writing.

He also received a lengthy e-mail from Ms. Randazzo which he read. It stated that she is not personally aware of nor does she have any firsthand knowledge as to why David would not be able to perform the duties of Corporation Counsel. She does not have anything factual to support any rumors or claims made about his inabilities at public comment or on social media. The email also stated he is a resident, homeowner, taxpayer, small business owner in the City and a volunteer. He has municipal experience in zoning, planning, contractual, agreements, real estate, comprehensive code as well as local laws, which he performs for other municipalities in addition to Port Jervis. He has established relationships with our City and our department heads.

The Mayor read a response from Mr. Foster that he would like to see a firm that we could work with that specializes in all areas, besides just the municipality piece. He said other issues are going to come up besides municipal ones. He names an associate of a firm that he would like considered. Mrs. Trovei asked what issues? He replied that if other issues were to come up, this firm would be a great resource. The associate is a local hometown guy that would like to get back to the City.

The Mayor stated that he heard nothing back from any of the other Council Members.

The Mayor stated that he sent out emails to the Department heads to let them know that his appointment of David Bavoso for Corporation Counsel had been tabled and that there would be a special meeting Wednesday 1/29 at 6:45 and if it was not resolved we would not have Counsel after 1/31/2020. Five of the Department heads responded with lists of what they currently had on the table with Counsel and that continuity was important.

He stated that he also asked the public to respond and received the following responses:

Mike Ward- full support for David Bavoso  
 Justin Drew- David Bavoso makes the most sense  
 Donna Taylor-Support David Bavoso  
 Frank Steffen-Not happy with previous real estate transactions, shouldn't use the same firm for too long  
 Matt Howell – Support of Bavoso & Plotsky  
 Paula Roberts- Support David Bavoso  
 Erika Klostermeier Cox-David Bavoso would be an asset and is qualified  
 Rick Onerietti- Support David Bavoso

We received an unsolicited response from a local attorney. I have a Bio and resume from David Bavoso and today we received a fax from a 3<sup>rd</sup> firm if there is an opening.

**Council Comment**

**Mr. Siegel-** Waiting for other offers, not just local. Has concerns about annexation. Not sure of David's qualifications outside of Port Jervis. Heard he has very little experience in City Court and that is important. He said David has been rude to a few people at the meetings and that it is not right. Feels the letter was written wrong to solicit other firms. An outside person may be better than a local. He understands that the Mayor works the most with Corporation Counsel, but the council needs to rely on them as well and should have input in the choice.

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**Mr. Simmons-**At the last meeting and some emails since then several people keep referring to the City Charter the Mayor and the he appoints the Corporation Counsel; however, the next line states that it must be ratified by the council. The Mayor makes several other appointments that do not require the council's ratification. There must be a significant reason that appointment of Corporation Counsel requires the council's ratification. It's because they represent the Council as well. It's checks and balances. He read a letter from a law firm interested in the position that he liked. He said he would not support David Bavoso.

**Mrs. Trovei-**She is disappointed that this has come to this point. She read a letter she received from Glen Talmadge, 3<sup>rd</sup> Ward he stated the Mayor has the right to appoint the attorney and feels the Council has overstepped their authority. He supports David Bavoso. Mrs. Trovei read a portion of the letter from the firm Mr. Simmons spoke about. She the read a list of their qualifications and areas of practice and then did the same of the Bavoso firm so everyone could compare them. She said although the other firm covers a lot of areas many do not apply to the job at hand. The Mayors appointment has just as much Municipal experience, past and current, and provides the services that the City needs. As to annexation, there are 6 sitting members of the council that had no problem with Bill Bavoso representing them before and doesn't know why they have an issue now. We need to make our decisions on Facts not rumors or hearsay.

**Mr. Oney-**This comes down to a difference of opinion. We should look at changing the charter, so this doesn't happen again in the future. But, for now if this gets voted down tonight, we will not have Corporation Counsel after Friday the 31<sup>st</sup>. He believes we should support the Mayors appointment and that the candidate is qualified. There are a lot of current projects in the City that need have documents that need to be discussed with the attorney every day.

**Ms. Randazzo-**Read an email that she sent out to the Council asking if anyone had any factual information that showed that David was not capable of performing the duties of Corporation Counsel to contact her so that they could discuss and review it, and no one replied. She also asked if no one has any facts, then why would you want to leave ourselves, our department heads and our residents without representation. If we weren't confident in his abilities, why did we allow him to oversee the changes to the zoning and the comprehensive plan and prepare contracts. She also read a letter from Tracy Drew is Support of David Bavoso.

**Ms. Mann-**Feels that the other firm has more experience and that is why she voted no.

**Ms. Campbell-**She voted no because there are too many conflicts of interest on too many circumstances. She does not think it is ethical that one firm runs Mt. Hope, Deerpark and possibly Port Jervis. There are many options so we can take so things do not come to a stand still on legal advice if we don't come to a decision. She also referred to the other law firm as being ready to step up to the plate.

**Mr. Santini-**I voted yes because I think David Bavoso is well qualified. My questions about annexation were answered. I also would have voted yes if the Mayor had chose another firm that was qualified.

**Mr. Foster-**Looking for a well-rounded that firm that help with issues that arise. Very experienced.

#### Role Call Vote

Council Member-At-Large Lisa M. Randazzo	<u>  Y  </u>
Council Member Regis Foster	<u>  N  </u>
Council Member Dominic Santini	<u>  Y  </u>
Council Member Maria Mann	<u>  N  </u>
Council Member Chandler Campbell	<u>  N  </u>
Council Member Kristin Trovei	<u>  Y  </u>
Council Member Stan Siegel	<u>  N  </u>
Council Member Timothy Simmons	<u>  N  </u>
Council Member Gerald Oney Jr.	<u>  Y  </u>

AYE: 4 ABSENT: 0 NAYS: 5 ABSTAIN: 0 FAILED

**Mayor Decker** – Since the nomination was defeated, I will set up a committee that will include myself, councilwoman at large, Lisa Randazzo and one other council member and one department head to interview candidates for corporation council. This process could take up to about a month.

A motion was made by Lisa Randazzo and seconded by Kristin Trovei to allow Mayor Decker, at his discretion, to hire an attorney for \$200 per hour until a corporation counsel is appointed.

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## Role Call Vote

Council Member-At-Large Lisa M. Randazzo	<u>  </u> Y <u>  </u>
Council Member Regis Foster	<u>  </u> N <u>  </u>
Council Member Dominic Santini	<u>  </u> Y <u>  </u>
Council Member Maria Mann	<u>  </u> N <u>  </u>
Council Member Chandler Campbell	<u>  </u> N <u>  </u>
Council Member Kristin Trovei	<u>  </u> Y <u>  </u>
Council Member Stan Siegel	<u>  </u> N <u>  </u>
Council Member Timothy Simmons	<u>  </u> N <u>  </u>
Council Member Gerald Oney Jr.	<u>  </u> Y <u>  </u>

AYE: 4 ABSENT: 0 NAYS: 5 ABSTAIN: 0 FAILED

**Mr. Siegel** -He thinks the interviews should not be by a select group, but by anyone on the council that wants to be in the interview and if The Mayor changed that then he might change his vote.

**Mayor Decker** stated that he will change the committee to include himself, councilwoman at large, Lisa Randazzo and two other council members and one department head to interview candidates for corporation council. This process could take up to about a month.

A motion was made by Lisa Randazzo and seconded by Kristin Trovei to allow Mayor Decker, at his discretion, to hire an attorney for \$200 per hour until a corporation counsel is appointed.

**Mr. Simmons** questioned who The Mayor would hire and he replied he would ask Bill Bavoso.

**Ms. Mann** asked who is 2<sup>nd</sup> choice would be and he said he would ask Glen Plotsky if Bill declined.

## Role Call Vote

Council Member-At-Large Lisa M. Randazzo	<u>  </u> Y <u>  </u>
Council Member Regis Foster	<u>  </u> Y <u>  </u>
Council Member Dominic Santini	<u>  </u> N <u>  </u>
Council Member Maria Mann	<u>  </u> Y <u>  </u>
Council Member Chandler Campbell	<u>  </u> N <u>  </u>
Council Member Kristin Trovei	<u>  </u> Y <u>  </u>
Council Member Stan Siegel	<u>  </u> Y <u>  </u>
Council Member Timothy Simmons	<u>  </u> Y <u>  </u>
Council Member Gerald Oney Jr.	<u>  </u> Y <u>  </u>

AYE: 7 ABSENT: 0 NAYS: 2 ABSTAIN: 0 Carried

**Meeting Adjourned** – A motion was made by Kristin Trovei and seconded by Dominic Santini to adjourn.

AYE: 9 ABSENT: 0 NAYS: 0 ABSTAIN: 0 CARRIED

Meeting Adjourned at 8:00 pm.

Next Meeting is scheduled for 6:30 pm executive session, 6:45 pm Annexation Scoping Session and 7:15 pm general business session on Monday February 10<sup>th</sup>, 2020.

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Bobbie Jo Muller  
Deputy City Clerk Treasurer