

MINUTES OF THE REGULAR MEETING OF THE HIGHLAND PARK CITY COUNCIL

August 6, 2018

Council convened at 7:09 p.m. with Council President Patrick presiding.

Present: Council Pro Tem McDonald, Councilmember Woodard, Councilmember Lewis, Councilmember Marshall and Council President Patrick. (5).

Absent: None

A quorum being present, Council was declared in session.

APPROVAL OF AGENDA

Moved by Council Pro Tem Mc Donald

Supported by Councilmember Lewis

To approve the agenda. Yeas (5), Nays (0), Absent (0).

APPROVAL OF MINUTES

Moved by Councilmember Lewis

Supported by Councilmember Woodard

To approve the minutes from the Workshop Meeting held July 16, 2018. Yeas (5), Nays (0), Absent (0).

Moved by Council Pro Tem Mc Donald

Supported by Councilmember Marshall

To approve the minutes from the Regular Meeting held July 16, 2018. Yeas (5), Nays (0), Absent (0).

Moved by Councilmember Lewis

Supported by Councilmember Marshall

To approve the minutes from the Special Meeting held July 25, 2018. Yeas (5), Nays (0), Absent (0).

MAYOR:

8-06-2018-V

Mayor's Veto:

Pursuant to Section 6-3 of the City Charter, Veto of Council Action, the purpose of this memorandum is to veto and therefore suspend the operation of Council's vote of July 25, 2018, approving a Resolution to hire the Herb Sanders Law firm. As the Mayor, I am opposed to this Resolution as it is in violation of City Charter Section 7-5, and is therefore not a legal act of Council. I therefore veto this Resolution as an ultra vires act of City Council.

On July 25, 2017, the Highland Park City Council approved a Resolution to hire the Herb Sanders Law Firm, "To provide legal, representation for the Highland Park City Council for a flat fee of \$7,500.00." See Exhibit A, Resolution of Council. This was against the advice of Counsel provided by City Attorney Terry Ford.

(a) The administration head of the Department of Law shall be the City Attorney. He shall be appointed by the Mayor. The duties of the Department shall include, but shall not be limited to, the following:

(3) Defend the officers and employees of the City in all actions that may be brought against Them for acts done in the performance of their duties as officers and employees of the City;

This provision unambiguously places the authority and duty to defend the officers of the City in all actions against them for official acts.

The Michigan Court of Appeals reviewed a very similar provision within the City of Flint Charter and held that the Charter, "specifically provides that the (Chief Legal Officer) is the individual responsible for directing the legal affairs of the city. The Flint Charter does not permit (City Council) to appoint its own legal counsel ... The CLO has sole authority to direct the legal affairs of the City ... "See Exhibit B, Young v Flint City Council.

As a result of the foregoing, the Council Resolution to engage the Herb Sanders Law Firm is in violation of Charter 7-5 and as such, falls outside the authority of the Council. Therefore, the Resolution is ultra vires and is ineffective as an act of Council because it is outside of the legal authority of the Council. See Salzer v East Lansing, 263 Mich 230-237-238 (1933); Parker v West Bloomfield Twp., 60 Mich App 583, 95-596 (1975).

Moved by Councilmember Lewis

Supported by Council Pro Tem McDonald

To OVER RIDE the Mayor's veto. Yeas (5), Nays (0), Absent (0).

FINANCE:

The following resolution was submitted for approval.

**RESOLUTION AUTHORIZING THE ENGAGEMENT OF GREGORY TERRELL & COMPANY TO PROVIDE
AUDITING SERVICE**

BE IT RESOLVED that the Highland Park City Council hereby approves the engagement letter between the City of Highland Park and Gregory Terrell & Company to complete the audit for the City of Highland Park for the fiscal year ending June 30, 2018 for an amount not to exceed Thirty thousand (\$30,000.00) dollars

Council President Patrick requested to abstain from voting.

Moved by Councilmember Lewis

Supported by Council Pro Tem Mc Donald

To approve Council President Patrick request. Yes (3), Nays (1) Councilmember Woodard, Absent (0).

Moved by Council Pro Tem Mc Donald

Supported by Councilmember Lewis

To approve the engagement of Gregory Terrell & Company to provide auditing services. Yeas (4), Nays (0), Absent (0), Abstain (1).

CITY COUNCIL:

Moved by Councilmember Woodard

Supported by Councilmember Lewis

To remove the item concerning the Ford Law Firm; principal Attorney William R. Ford from the agenda. Yeas (4), Nays (1) Council President Patrick, Absent (0).

ADJOURNMENT:

Moved by Councilmember Marshall

Supported by Councilmember Lewis

To adjourn the meeting; motion carried meeting adjourned at 7:35 p.m.

