

SPECIAL MEETING OF THE CITY COUNCIL
CITY OF CALEDONIA, MINNESOTA
Thursday, January 3, 2008

CALL TO ORDER: Following due call and notice thereof, Mayor Morey called the meeting to order at 5:05 p.m. in the Council Room, City Hall.

ROLL CALL: Members present: Mayor Michael J. Morey; Council Members: Randi Vick, Gary Klug and Robert Standish. Members absent: Paul Fisch. Consultants and City staff present: Randy Shefelbine, James Stemper, Gary Bubbers, Allan Johnson, Chad Heuser, Timothy Murphy and Robert L. Nelson. Visitors present: Doug Ely, Scott Yieter and Charlie Warner, Reporter.

BUSINESS ITEM

A. PRELIMINARY CONSIDERATION OF ALLEGATIONS OR CHARGES: Randy Shefelbine, Police Chief, the subject of this meeting, informed the Council that he had not been notified of this meeting until New Year's Eve Day and had not time to find an attorney to represent him at the meeting. He also noted the absence of Paul Fisch, Council Member, who is a Council Committee Member for the Police Department. He presented a copy of Minnesota Statute 626.89, Police Officer Discipline Procedures Act, commenting that he had not received explicit or written notice of the complaint which is the cause of this meeting. He asked of the Council why this complaint had not been brought up on November 26th when the Council learned that he had created the position of Sergeant and appointed James Stemper to the position. He contended there is a period of 10 days to register complaints. City Attorney Murphy concurred that Chief Shefelbine should have opportunity to be represented by an attorney and should have a written notice of the complaint. Chief Shefelbine referred to rules of procedure, contending that usually an outside agency investigates a matter and presents facts of the case. He requested whether or not the City would pay for his attorney fees if he must be represented or asked Attorney Murphy if he as the City Attorney would represent him. Attorney Murphy responded that his duty was to represent the City not individual employees and that as far as paying for attorney fees or reimbursing the cost of attorney fees, there are varying laws that address that depending upon the circumstances. Chief Shefelbine asked if he is allowed to bring witnesses and ask what the actual complaint was that is to be filed and whether or not the letter of reprimand distributed at the beginning of the meeting constituted the actual complaint. Attorney Murphy commented that to declare the letter of reprimand the complaint would be the cleanest way to precede with this. In reference to the letter of reprimand, Attorney Murphy commented that there was no authority for others than the City Council to create positions or give promotions unless delegated by the Council. Chief Shefelbine presented a copy of his Job Description contending that bullet #7 under Essential Functions gave him authority to create the position of sergeant and appoint Officer Stemper to that position. That bulleted item states, "Undertakes or effectively recommends the full complaint of personnel actions including interviewing applicants, hiring, transfer, rewarding and promotion, training, assigning and prioritizing work, coaching and performance evaluation; and recommends actions such as discipline/suspension/discharge to the City Council." He said he discussed the issue with the League of Minnesota Cities, POST Board and other municipalities, some of which said there Chief of Police has authority for such actions. He commented further, that his research of Minnesota Statutes and the like did not reveal any law which prohibited him from such action. When asked if he believed the authority was fully his to take such action why he presented a request to the City Council at the Regular Meeting held October 8 to create a sergeants position, Chief Shefelbine said it was done merely out of courtesy. Member Klug noted that the sergeants' position had already been created and Stemper promoted to that position before Chief Shefelbine returned to the Council Meeting of November 13, requesting again that the Council create the sergeant's position. Chief Shefelbine commented that police must make split decisions and cannot wait a month to do something. Attorney Murphy inquired whether the council might say a misunderstanding occurred if Chief Shefelbine would then accept the fact that he did not have authority to create positions or promote to a new position. Officer Stemper than asked about the circumstances of all other essential functions, i.e., does clarification have to be made on each? City Attorney Murphy, seeking a resolution to the problem, commented that all research is not at hand in this meeting, stating the City Council is normally the body to hire, fire, etc. and that if the City Council were willing to set aside the idea of reprimand, could there be common ground in examining the interpretation of the bulleted item #7 under the essential functions listing? Significant discussion was then held on the #7 bulleted item under essential functions with opposing sides stating how and why they understood the intent of the phrase the way they did. City Attorney Murphy asked Chief Shefelbine again if the City Council were willing to drop the reprimand would the Chief accept Council interpretation of the job description bulleted item #7 that the Council alone had authority to create new positions and make appointments? He further indicated that the issues at hand appear to be whether the City or the Chief had the authority to

create a new position, whether the complaint should be filed for a letter of reprimand or whether each side should accept the circumstances that there may have been a misunderstanding and misinterpretation of the job description with the effect being that the City Council has all authority to create positions and promote and that the letter of reprimand would be withdrawn. Chief Shefelbine commented again that he acted in good faith and within the scope of his authority. Member Standish commented that the bulleted paragraph #7 should be rewritten for clarity. He stated further that Chief Shefelbine should be the ultimate person to make that decision, asking the question "are we asking too much here?" Chief Shefelbine said assigning the sergeants position was an effort to streamline the police department, commenting that the Caledonia Police Department had handled 3,050 complaints in 2007. Sheriff Ely informed the Council that he supported Chief Shefelbine and questions why the City is not hiring 2 officers to fully complete the police department as it was a few months ago, commenting that the County had only \$2,700 complaints during 2007. Mayor Morey asked what Chief Shefelbine wanted to straighten this affair out – another officer? Chief Shefelbine replied of course another officer, stating it was a slap in the face to reduce the staffing of the police department. In response to a question from Mayor Morey, Chief Shefelbine said the current grievance proceedings initiated by the Caledonia Police Association is the Associations doing, not his, but that he will testify should the issue go to court or arbitration that his interpretation of his job description authorized his action in creating the sergeants position and promoting Officer Stemper to that position. Officer Gary Bubbers commented that he Chief's concern was to have someone else in authority who can fill-in if he is gone from the Community. Following discussion, a motion was made by Member Vick, seconded by Mayor Morey, to table the question of whether or not a letter of reprimand should be given to Chief Shefelbine until the issue could be re-discussed with Member Fisch in attendance. Officer Stemper than contented that Member Fisch would not have been privileged to hear all the discussion this evening and would he fully understand what had been done at this time? Following further discussion, Member Vick and Mayor Morey agreed to withdraw their motion. Then a motion was made by Member Klug, seconded by Member Standish that the City would not precede with a complaint against Chief Shefelbine. All members present voted in favor and the motion was declared carried.

ADJOURNMENT: There being no further business before the Council, a motion to adjourn was made by Mayor Morey and seconded by Member Vick. All members present voted in favor, the motion was declared carried and the meeting then adjourned at 6:29 p.m.

Michael J. Morey, Mayor

Robert L. Nelson
City Clerk - Administrator