

**CITY OF GILBERT
SPECIAL CITY COUNCIL MEETING
APRIL 3, 2014
6:00 P.M.**

The purpose of the Special City Council Meeting was to discuss and take action on a Separation Agreement for Rachel Devich.

Mayor Skenzich called the Special Meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

Members present included Mayor Michael Skenzich, Councilors Karrie Schutte, Rob Kutsi, John Skalko and Tom Nemanick. Also present City Attorney Mitch Brunfelt and Clerk/Treasurer Deb Sakrison.

Attorney Brunfelt explained some of the history that has lead up to the need for offering the employee a Separation Agreement. Mrs. Devich is at work very sporadically; she cannot be relied upon to be at work, her migraines have become debilitating resulting in her being absent from work more and more frequently. This is resulting in significant strain on her co-workers and others. Her absences have resulted in her almost exhausting her compensated absence banks.

Attorney Brunfelt and Louis Russo worked together and it was determined the best solution for the city of Gilbert would be to offer a Separation Agreement to Rachel Devich. This would be a clean, permanent end of employment with the city.

The drawback to offering this type of Separation Agreement is the city will be expending financial resources in exchange for a general release from any future legal action. The agreement being offered by the city of Gilbert is the city of Gilbert will continue to pay 80% of the group health insurance family plan for coverage from May 1, 2014 to April 30, 2016. Rachel Devich will be responsible for 20% of the premium. In addition the city will fund the \$2400 VEBA contribution for calendar year 2015 and \$800 VEBA contribution for calendar year 2016.

The timeframe was determined to be an appropriate amount of time to transition to disability coverage and also be financially enticing so the employee would be willing to accept the agreement.

Councilor Skalko expressed his discomfort with two years. He feels that is too generous, that this offer is way above and beyond necessary. He personally went through a similar situation and he was not offered any sort of severance.

Councilor Kutsi expressed his support for the agreement because it protects the city from potential future litigation.

Councilor Schutte asked if this agreement is not put in place what would be the future potential for any grievances.

Attorney Brunfelt explained that if the union deems the separation to be involuntary, the action can be grieved, which could go all the way to arbitration. In the state of Minnesota it is very hard to uphold a termination of a public employee. Most labor arbitrators tend to restore the employee to the public sector employment. Attorney Brunfelt has been involved with dozens of this type of case during

his career. The additional consideration is the financial cost of litigation even if it is just a grievance resulting in arbitration. That can easily cost \$10,000 to \$15,000 just in attorney fees and that does not take into consideration the intangible costs.

This discussion prompted Councilor Nemanick to question what protections do the employers have? This situation has been on-going for three years. He feels her past behaviors should not be rewarded. This has been extremely difficult.

Mayor Skenzich interjected that during the meeting that was held with Rachel and Todd Devich March 26, 2014 it was made clear that it no longer matters what Rachel "wants", this is what is being offered. If she does not accept this separation agreement she has to meet the criteria for full time work and when she runs out of time she will be done. This agreement protects the health insurance.

Attorney Brunfelt stated this is an option for this to finally be done.

Councilor Kutsi moved to approve the Separation Agreement and General Release of All Claims offered to Rachel Devich and to authorize signatures. Rachel Devich has until April 18, 2014 to sign the agreement or it is withdrawn. Motion was seconded by Mayor Skenzich.

Discussion: Councilor Schutte agreed it has been a horrible three years but, she took an oath of office to do the best for the city so even though this is not an ideal solution it is the best solution for the city even if she does not like it.

Vote was called, three ayes two nays, Motion Passed.

Meeting was adjourned at 6:23 pm.

Mayor Michael Skenzich

Attest:

Clerk/Treasurer Debra Sakrison