

The City Council of the City of Charlotte, North Carolina convened for a Special Meeting on Monday, April 7, 2014 at 6:00 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Pro Tem Michael Barnes presiding. Councilmembers present were Al Austin, John Autry, Edmund Driggs, Claire Fallon, David Howard, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

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INVOCATION AND PLEDGE

Mayor Pro Tem Barnes gave the Invocation and led the Council in the Pledge of Allegiance.

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Councilmember Barnes said once again we have one primary agenda item and that is the appointment of a new Mayor. I wanted to say something at the outset about a couple of stories that have been in the media regarding the work of the people around this dais. I have spoken with everybody around this dais since last Monday. I have met with a number of the people around this dais; people have met with each other. I have met with both of the primary candidates; Mr. Mitchell and Mr. Clodfelter. There has been a lot of work that has gone into this decision. It has been disturbing to me that people have suggested that we haven't been doing anything. We have been meeting; again one on one, phone calls and upstairs, one or two people meeting at a time. What I have not been willing to do is hold illegal meetings. You all are probably aware that we are currently in the midst of litigation regarding meetings with the Panthers last year. In order to avoid additional allegations of illegal Council meetings we chose not to have six or seven people meeting to discuss this topic. But I can assure you that I and everyone else around this dais is taking the time, a lot of time, over the last seven days to reach a conclusion and to work hard to decide what we think is best for the city. As I said last Monday, this is an unprecedented experience for every last person in this building. I never thought it would happen during my time on the Council and I'm sure everyone else would say the same thing. But it has happened and we have to figure out what we need to do to move Charlotte forward and to do what's right for the people of this City and for the City in general.

I wanted to cover a few housekeeping issues if I could. Primarily, it's an issue of courtesy. Last week we had someone who was a bit outspoken and out of respect for everyone in the Chamber, for the citizens, for the elected officials and our staff I would ask people to refrain from outbursts and shouting and things like that. It would help us to move the meeting along in a much more orderly fashion if we do that and also when we get to our speakers list I would ask that each speaker observe the three minute limitation. So when you hear the ringer please stop and ask that as people are asked to come down to speak I'll call out yours names. If you could come down three at a time and be prepared to speak when the person ahead of you is finishing. You could use either one of the microphones would be fine on either side of the Chamber. But just as a matter of general courtesy let's please be respectful and try to get through what is already a very difficult and challenging process for every last person in this building. So thank you all for that and please act accordingly. We had a discussion about the process for tonight and I wanted our City Attorney to cover some of the process issues, some of the legal issues regarding how we are to go about the appointment of a Mayor.

Bob Hagemann, City Attorney said as I explained last Monday night, state law is very, very clear that the authority and responsibility for filling this vacancy rests with the 11 of you. General Statute §160A-63 provides that a vacancy that occurs in an elective office of the city shall be filled by appointment of the City Council. Legally there are only three limitations on your decision. One, the person you appoint must be a registered Democrat since the previous Mayor was elected as a Democrat; two, the person must be at least 21 years old and finally, must be a resident of the City of Charlotte. I as do you are aware that some have called for a special election. There is no authority in North Carolina law for you to call a special election to fill this vacancy. The law is as you know prescribed by the General Assembly of North Carolina. And as far as I can tell for at least 40, 50 years, the statute has remained the same in that these vacancies are filled by the elected body. Beyond that, the statute does not prescribe any particular procedure for how you go about making this decision.

I sent the memo to you last Friday that outlined what I thought were the two logical options for making this decision from a procedural standpoint. The first of which is what I would call the nomination and election process and it is your prerogative of which of these or any variation you might choose. But I would put forward under nomination and election a process whereby any of you could nominate; place a name into nomination. Once nominations are closed you would then have an election with each of you having one vote that you would cast for one of the nominees. If a nominee received at least six votes that person would be appointed Mayor. If and that presumably would happen if there were only two nominees since there are eleven of you. If there are more than two nominees there is a chance that no particular candidate received six votes on the first ballot in which case you would have to have some kind of run off process. What I would recommend would be the two highest vote getters. Then go to the finalist and vote again. In the event that there is tie, for example, one person get five votes and two get three. I would propose that you break that tie by voting just amongst the candidates who tied and then whoever would win that vote would go forward to the final ballot against whoever led the first ballot.

The other process that I held out to you as an option is a motion, second and vote; whereby, anyone of you could, by motion, move that a particular individual be appointed. If that motion receives a second, it is on the floor for debate and vote. Your rules do allow for substitute motions. So one possibility is if a main motion is presented and seconded. A substitute motion for another candidate would be in order. If that motion received a second, you would first vote on that substitute motion. If that candidate received at least six votes you will have appointed that person as Mayor. If not the main motion would be back on the table with the potential for another second substitute motion. And presumably you would continue that process until somebody received six votes and would be appointed Mayor of the City of Charlotte.

Mr. Barnes said at this point we have five speakers signed up. So we will hear from the speakers and then we will continue with the meeting.

Wayne Powers, 4321 Stuart Andrew Blvd. Suite I, 28217, said good evening Mr. Mayor Pro Tem, Council and staff. Let's review. Over the last year this body has been facing litigation charging violation of the NC Open Meeting Law; still pending. Citizens stood in this very Chamber and demonstrated how you were in clear violation of your own code of ethics; still pending. Now our newly elected Mayor was just arrested by the FBI on corruption charges and the FBI is still in town as we speak conducting a wide net ongoing investigation. So what do we do? We blindly return to back room business as usual. At your meeting last week Councilman Driggs inquired about the process for working with Raleigh to arrange a special election. The Mayor Pro Tem quickly and unilaterally halted that discussion by declaring that he doesn't think that we should be doing that. When asked why not? He snapped back "because I don't think so." period. That kind of elitist, autocratic bullying is beneath the dignity of this elected body and the reputation of Mr. Barnes himself; who I've always considered to be a very thoughtful public servant. I mention this not to single out anyone but only because it's a perfect example of how we all as a city and you as our elected representatives are losing our way during this critical time of crisis and opportunity. Blinded by partisanship and personal agendas. There are those that want you to pick our new Mayor strictly on the basis of skin color, or gender. The Democrats are worried that a special election might risk the Mayor's seat they just won. When even the long shot of a Republican actually being elected Mayor wouldn't have any impact on the nine to Democrats super majority. It's not about who, it's about how. The Republicans are worried that a special election might increase Democrat voter turnout in Charlotte and risk their chances to win the Hagan senate seat this November. Look, here's a new flash, not one of these things you're focusing on have anything to do with your job description of serving the people of Charlotte. Your focus should be on restoring public faith and confidence in this elected body and our city government and that cannot be done by horse trading the Mayors seat behind closed doors and then anointing your choice with another done deal public show vote. If this Council and the new Mayor want to restore public trust in our city institutions and leaders you can't ignore the public. You need to encourage and enable public participation. That, and only that, can be done by allowing Charlotteans to vote in a special election. And there are those of you that hide behind the excuse that by picking our next Mayor for us you're only following North Carolina state law. Well let me remind you, not too long ago Jim Crow was the law but we stood tall and exhibited the wisdom, courage and confidence to change those laws. Now I plead with you to stand tall now, show that same wisdom, courage and conscience by allowing a special election. If you want the

peoples trust then you have a golden opportunity tonight to earn it right here. Stand together, please and let the people speak. Thank you.

Mr. Barnes said thank you Mr. Powers. I appreciate your passion every time you come before us. You're a very passionate man. I would say in defense of myself, I think what I was saying, and I told Mr. Driggs this, I don't believe that we need Raleigh to help us pick a Mayor. That was my point. But, and you heard some of the legal issues that the attorney brought up but thank you.

Mr. Powers said thank you.

Stuart Algood, 11830 Dan Maples Dr., 28277, said members of the City Council. I'm here today to represent the almost 800 people that have signed a petition calling on you to petition Raleigh to hold a special election. We the people of Charlotte are demanding to vote because we believe in this city. We believe in our community. We believe in our democracy. Voting is one of the founding principles of this nation. Because it is the most powerful tool given to the people in a democracy. Mayor Pro Tem Barnes this past week you tweeted that the people no longer have a voice after the recent Supreme Court ruling. I have to respectfully disagree. The people do have a voice. Their vote is their voice. The people can express their opinions, their ideas, their values through their vote and that is what we are asking for; a chance to express our opinions and a chance to elect our Mayor. If you want to regain the trust of the people give them a voice. Give them a vote. I'd like to conclude by quoting Abraham Lincoln. "Elections belong to the people. It's their decision." Thank you very much.

Melissa Alacaldez, 4022 Providence Rd, Apt. 10, 28211, said good evening members of City Council. I'd like to begin by thanking you for stepping up to represent us. As we know you are in a position that requires sacrifice. And for that I thank you. The trust of all Charlotteans have been shattered and that must be restored. The situation that we are confronting in our city is unprecedented and unlike any other before. This has placed us before you requesting to consider a special election so that we the people, your people elect our next Mayor. This is not a partisan issue. This is about Charlotte and it's about restoring the citizen's trust in local government. Replacing our former Mayor through the normal procedure is not the right path in order to restore the public's trust. This is not a normal circumstance and is an order to get it right. The people need to be given the opportunity to speak. To restore the public trust a special election is an absolute necessity to restore our confidence. Finally, though most importantly, I stand here before you with confidence that tonight's prayers have served its purpose for everyone in this room and that you will place that political norms aside and make a decision on this matter. Tonight, based on solid leadership and that is let the people decided. Let's make the special election happen. Thank you very much.

Reverend Willie Bee Simpson, P.O. Box 16537, said good evening Pro Tem, Mayor Barnes and the others, City Council members. I stand before you tonight as I did for about twelve years, different Mayors. I've been here over sixty years in Charlotte and I've seen the ups and downs of Charlotte and I have the heart for the people. I've accomplished over \$4 million dollars for communities in this city. A lot of people don't know that; but I have a letter to nominate myself to take this remaining time of Patrick Cannon. I, Reverend Simpson, would like to be nominated as candidate to continue my service in the area as activist in the government building, chamber. Born and raised in Charlotte, I'm a native of Charlotte and in doing this process I would like to eliminate the homeless problem we have, eliminate the tractor trailers getting stuck under the bridge on North Tryon. There are a lot things I'd like to implement. Some things I've already accomplished for Parkwood Avenue is documented in your history before you was Mayor Pro Tem. When I was active in the community of North Charlotte they collected I'd say about 9.2 million dollars to renovate that area, lights, sidewalk. I just want the opportunity to do what is best for Charlotte because I have the heart for the city and the people. I'd like to see the homeless situation solved. Clean the city up, abandoned buildings all over the place. I'd like to see that cleared up. I'd like to have the opportunity to exercise the things I've saw in some visions that God has given me the future of Charlotte. I've seen a large city already whether you believe it or not God has showed me the Kingdom coming with these eyes not a dream. I've seen it. I'd like to also say if you'll just give me the opportunity to use the wisdom that I've used in times past to get those 4 million dollars for those communities. I was a trailblazer. From that Statesville Avenue, Independence and all these other avenues has grabbed a hold to that idea. It had a domino effect and for those for who don't know me I'm still active in the community and the

organization called Wee Kare; feeding the homeless, feeding the community. Bringing people together that would not speak but they are together now. I nominate myself, Reverend Simpson.

Katherine Stefan, 4024-A Bannockburn Place, 28211, said thank you. While I don't have any interest in being considered for the position of Mayor; I do stand before you this evening as a concerned citizen representing thousands of voters and the local and national press who are aware that City Council members planned to appoint a Mayor without the consent of voters and this is based on the technicality that was not created for the special circumstances that we have before us today. While the state law is clear, the City Council has complete latitude to call on the North Carolina General Assembly, who is fully prepared to pass a local act to permit a special election in the short session which convenes on May 14. And I do agree with you Councilman Barnes, these are unprecedented circumstances that call for unprecedented times and actions of our City Council members. I was born and raised in Chicago and Charlotte is starting to smell and feel like Chicago politics; the corruption that has taken place in this city. The things that are happening behind closed doors here are frankly an embarrassment to us as citizens. And please remember, you're elected officials today and in the next election, and what you do today has consequences for this city and for your role in government, your future role in government. Our city leaders have completely betrayed the trust of the public and we call upon all of our Council members today who are elected by the people and stand accountable to the people today and all future elections to restore public trust. The good citizens of Charlotte hereby petition our Charlotte City Council representative leaders to hold the Mayoral vacancy open and to put forth a formal Council petition to the North Carolina general assembly for a local act to permit a special election in the short session which convenes on May 14. Thank you.

Mattie Marshall, 2304 Barker, 28216, said Mayor Pro Tem, City Council members; I do appreciate all the work that you all are doing and I do respect your decision to move ahead with our next Mayor because we in District 12, as you know, we are taxed without representation and we do not need to have a special election when you have the power to go ahead and make the right decision. So I trust that you all will be looking for that individual with integrity that will uplift all of humanity with dignity and respect and I respect all of you. Thank you.

Mr. Barnes said thank you Ms. Marshall. Appreciate it. At this point we will entertain a motion from the Council. Councilmember Phipps.

Motion was made by Councilmember Phipps and seconded by Councilmember Driggs to appoint Dan Clodfelter as Mayor of the City of Charlotte.

Substitute motion was made by Councilmember Howard and seconded by Councilmember Mayfield to appoint James Mitchell as Mayor of the City of Charlotte.

Mr. Barnes said is there a discussion on that motion?

Councilmember Howard said first of all I'd like to tell you all that I can think you can tell by the way the first motion went how this vote is going to go. But I wanted to make sure that I showed the respect to somebody that I think a lot of to at least get his name on the table tonight. As a matter of fact I think there's some other people in the audience that feel the way I do. Do you mind standing real quick in support of James Mitchell? Thank you. So I just wanted to make sure that we got an opportunity to vote and I think on the next motion we'll probably all still fall in and give Mr. Clodfelter his support; but I wanted to make sure that James got his due tonight. Thank you Mr. Mayor Pro Tem.

Councilmember Mayfield said I support the second of Mr. Mitchell but I also want to make sure that it's clear that I've been consistent in the fact that I trust our electoral process. Yes, we have heard that we do not have the ability at this level to create a special election but I do have a concern that when our previous Mayor Mr. Foxx was appointed to a higher level we had the opportunity to identify someone to step into that role for five months. And some of the same names that we've heard the last two weeks we heard during that time. Well soon after that we had an election. So last year there was an election process of which all of those that were interested and that felt that they would be a good representation for our city had the ability and the opportunity to go out to the community and say we
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want your vote. Four people chose to do that. So I have a concern when out of the four Democrats out of our more than 775,000 just residents within the city that chose to actually run; when the community voted the second highest Democratic vote getter. We're saying giving us the opportunity we're going to make a different decision. I respect the decision that this Council is going to make but I do want to make sure that it's very clear that anyone whose name has been floated in the last week or two or in the last year had the opportunity to go to our community and say I want your vote and this is my platform. So I have a concern of what is the message we are sending out by identifying someone that chose not to actually run. So that is the reason that I support in this case Mr. Mitchell. But my support would have been the same had one of the other four candidates received the second highest Democratic votes because it's really about the electoral process but I will respect the wishes of my colleagues on this Council.

Mr. Barnes said I want to speak to the substitute on a personal level. As I indicated earlier I've spent time with James and with Dan and one thing I told James when he and I met and I have told him this for the eight, nine years I've known him is that his passion for Charlotte, his enthusiasm for life, his resilience in life is infectious and I admire it. I told him that he has the sort of spirit that will help any organization in any city as it grows. What I also said to him was that I feel like some of the issues that we are dealing with and about to deal with might require another perspective and that was why I was supporting Senator Clodfelter. What I have been hoping and what I think most of us have been hoping was to avoid voting against anybody. We all want to vote for somebody and so I don't want us to leave the impression with the general public that we are voting against James or against Dan. It is that we're trying to figure out how to move the city forward and deal with the very big issues that our staff members are confronted with and the very big issues that we as elected officials are dealing with. The airport issue is still outstanding, the Duke coal ash issue is about to start growing and there are several other issues that are very big for us. We just got back from Washington in March and met with members of our Congressional delegation about the air traffic control tower, transit funding, a number of things are going to continue to be important to Charlotte. It's in that spirit that I say I'm not here to vote against anybody, I'm trying to figure how to help us move forward as a unit and I wanted James to know how much I respect him. And I told you that when we met last week. So he knows that. But anyway we can call for a vote on the substitute.

The vote was recorded as follows:

YEAS: Councilmembers Austin, Autry, Howard and Mayfield.

Mr. Barnes said substitute fails. Now we're back to the original motion made by Mr. Phipps and seconded by Mr. Driggs, any discussion on that motion?

The vote was recorded as follows:

YEAS: Councilmembers Austin, Autry, Barnes, Driggs, Fallon, Howard, Kinsey, Lyles, Phipps and Smith.

NAYS: Councilmember Mayfield.

Mr. Barnes said thank you all so much for that. I had asked Mr. Mitchell and Mr. Clodfelter if selected when would you be available to be sworn in. Mr. Clodfelter told me that he has to resign from the State Senate first and that he can't do that until tomorrow. So he will be sworn in at noon on Wednesday up in the Mayor's office up on the 15th floor. Of course the media is invited and the general public too I suppose and the Manager Carlee will work on a public reception for the new Mayor. So congratulations to him and is there any other business for the Council tonight?

Motion was made by Councilmember Lyles, seconded by Councilmember Barnes and carried unanimously to adjourn the meeting.

The meeting adjourned at 6:30 p.m.



Stephanie C. Kelly, City Clerk

Length of Meeting: 30 Minutes
Minutes Completed: April 10, 2013