

August 25, 2014

Madeira City Council Meeting

At the July 25th council meeting there were questions regarding the proposed charter amendment. Some of those questions were discussed at your last council meeting but were left unanswered. I hope that my comments tonight will be helpful.

Let us begin with the concern expressed that our charter was not meant to be used for governing and that the proposed amendment may lock the city into financial obligations. Our charter is the basis for our laws and does determine financial obligations.

The charter was created not for one or another city council but rather for the community at large. City councils come and go but the community stays put. The charter was meant to be flexible allowing for changes in the form of amendments. A city council is elected to serve the community not elected to be self-serving. When the elected city council fails to properly serve the needs and wishes of the community the charter provides many alternatives.

Article 12 of our charter begins with "Powers Reserved" and may be the most important part of our charter. This section encourages people to participate in the governing of their community and explains how to participate. This section is a warning to those elected and appointed in city government that the power is always vested with the people. First in this section is the power of Initiative. Any Madeira elector can exercise his or her right to initiate by petition an ordinance or measure. Next is the Referendum allowing for the repeal of nearly any ordinance, resolution or measure passed by city council. Any elected official serving in Madeira government can be removed from office and his or her successor can be elected by the qualified electors of Madeira. This procedure is the process of Recall allowing for the removal of an elected city official. Last is the procedure allowing for the Madeira city charter to be amended. An amendment to the

charter is different than an ordinance or resolution. An amendment cannot be changed or repealed by a vote of city council which may explain the derogatory remarks by council members and appointed city officials at the July 25th council meeting. A proposed amendment to the city charter is not like a recipe for making a chocolate cake. Many in attendance spoke out during the meeting and afterwards in the lobby stating that this was a "stupid" comment made by our law director. The law director also suggested that the proposed amendment can easily be replaced and the law director provided further derogatory suggestions. There is a procedure in our charter that would make the law director more accountable to the electors and the time to use that procedure may be drawing near.

Another issue discussed at the July 25th council meeting was cost. The simple answer is yes there will be a cost. The final cost on Election Day for this proposed amendment will be a few thousand dollars, caused by council's reticence to listen to a majority of Madeira citizens. Another cost to the city after passage of the amendment will be the cost of preserving and maintaining the three historic properties. The city manager in a recent e-mail said that he and council members

have neglected the historic properties for the past twenty five years which accounts for some needed catch up work in historic downtown Madeira.

Another cost to the city that led to the proposed charter amendment was the unnecessary cost of Horwitz versus the City of Madeira. Madeira taxpayers because of this law suit paid out at least \$42,467.15, \$20,886.25 paid to the law firm hired to represent the city, \$7,500 paid to the attorney representing Mr. Horwitz and as much as \$15,345.40 or more to Mr. Malloy's law firm. This cost could have been avoided. Mr. Malloy's billings are subject to further review awaiting cancelled checks from the city manager. We paid Mr. Malloy's law firm Wood and Lamping after Mr. Malloy may have given bad legal advice to council members and personally participated in the Paxton misdealing's leading up to the law suit. Madeira citizens have the right to question further the detail of Mr. Malloy's billings. Four council members here this evening authorized questionable past behavior including the creation of an ordinance designating parts of downtown Madeira as the Muchmore Historic Area. The record will show that this designation did nothing that differentiated this part of downtown from any other part of downtown. The existing building code and zoning laws are the same as anywhere. What was different was that the historic homes (Muchmore and

Hosbrook) were included in city authorized drawings of the Muchmore area but not in their current locations. Something else peculiar was that the two historic houses were shown in parts of the historic area on property not owned by the city. There was no effort made by the city to acquire these properties but the city did have a real-estate consultation completed by the White Appraisal firm located in Kenwood. The details of the consultation were given to the Paxton partner but was not shared with the Johnson Brothers of B&B Mower or Todd Woellner owner of the old antique store. At the same time that city council members four of whom sit here tonight, created the new Muchmore area, agreements and discussions had already begun with the partner of Paxton's Bar and Grill. City authorized drawings of the Muchmore Area had a Paxton's Bar and Grill drawn in on the plans where the two historic houses have been for 100 years. Even more disturbing was that behind closed doors our manager, law director and council were discussing with the Paxton partner his purchase of the three city owned properties. Madeira law allows executive sessions for discussion of the sale of city property when there is competitive bidding and then it is restrictive. Our elected and appointed city officials never solicited competitive bids; had no intentions to do so and more alarming were moving ahead with plans to covertly encumber Madeira taxpayers with a substantial portion of the Paxton acquisition. To skirt

competitive bidding our law director created an "Exclusive Right to Negotiate Agreement" tailored to the needs of the Paxton partner guaranteeing that there could be no competition and loaded with other favorable terms benefiting the Paxton partner. Four council members here tonight participated in supporting that arrangement with the Paxton Partner. Many of us in the community knew that the Council / Paxton relationship was inappropriate. Our suspicions were confirmed by the acquisition of dozens of e-mails exchanged among council members, appointed Madeira officials the Paxton partner and his attorneys confirmed those suspicions. The historic houses, the Clothes Closet, The Madeira Women's Club, Creativities and Christine Parker were all threatened by the advice of Mr. Malloy and the votes of city council. The collection of signatures to amend our charter preserving and protecting the historic houses and the law suit filed by Mr. Horwitz were on parallel courses.

Our current council has embraced the same ill-conceived ordinance that created the Muchmore Historic Area, the ordinance that cost the city \$42,467.15 and has left a smear on the integrity of our community. At the next meeting of council we can discuss specifically what has been spent for the past twenty five years on each of the three city owned historic properties, the income from each property and

what required maintenance has been neglected. I suggest that now is the time for all to join together, support the proposed charter amendment and work to make our community better.

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