



CITY OF HUNTINGTON BEACH CITY COUNCIL MEETING – COUNCIL MEMBER ITEMS REPORT

TO: CITY COUNCIL

FROM: TONY STRICKLAND, MAYOR
PAT BURNS, CITY COUNCIL MEMBER
CASEY MCKEON, CITY COUNCIL MEMBER

DATE: SEPTEMBER 5, 2023

SUBJECT: MOVE TO CENSURE COUNCIL MEMBER MOSER

ISSUE STATEMENT

At the end of the City Council Meeting conducted on August 1, 2023, there was a Council discussion about an H Item brought by Councilman Pat Burns regarding directing updates to the City's Declaration on Human Dignity. Part of that recommendation by Councilman Burns was to create a Council Ad Hoc Committee to review the current Declaration and make recommendations for updates at a future Council Meeting. Mayor Pro Tem Van Der Mark was then appointed (along with Council Members Burns and McKeon) by Mayor Strickland as a member of the Ad Hoc Committee. Councilmember Natalie Moser began to directly question Mayor Pro Tem Van Der Mark's qualifications to participate on the Ad Hoc Committee citing allegations of Holocaust denial and association with "Proud Boys." The questioning by Moser evolved into her own accusations and inappropriate statements toward Mayor Pro Tem Van der Mark directly at a public City Council Meeting. Those inappropriate statements include:

- Disrespectfully: "This person's [Van Der Mark's] qualifications..."
- Disrespectfully: "If this person [Van Der Mark] is going to be involved in determining, in the amending of this document..."
- Personally: "...that you have questioned if the Holocaust has happened"[said to Van Der Mark]... "It's been brought up and I have never heard it being responded to."
- Personally: "...being associated with a Proud Boy [Van Der Mark]...Proud boys are considered a "hate group"..."How can you, as someone [Van Der Mark] that has been associated with that..."

These questions evolved into a hostile exchange, which many have characterized as a "fight" at City Council by Moser and Van Der Mark. It was personal, it lacked decorum, and Councilwoman Moser's attempt to call into question Mayor Pro Tem's qualifications was entirely inappropriate. The voters already qualified Mayor Pro Tem Van Der Mark to serve on the City Council in the November 2022 election. Mayor Pro Tem Van der Mark received 33,833 votes in that election where slightly more than 70,000 ballots were cast.

And all of this occurred on the topic of the Declaration of Policy of Human Dignity, which espouses respect, civility, and tolerance, among other things. The aims of the Declaration itself were dishonored by Councilwoman Moser's statements on August 1, 2023. Also, this behavior most likely violates our Code of Ethics on how we should respect each other that serve the City of Huntington Beach.

This type of challenge by Moser of Van Der Mark during a City Council Meeting is disruptive, inappropriate, it undermines professional decorum, and is unacceptable. To that end, Councilwoman Moser should be censured by this City Council. While Councilwoman Moser has her First Amendment

rights, so does this City Council. (*Holbrook v. City of Santa Monica* (2006) 144 Cal.App.4th 1242; instructing that "the Board's [censure] resolution is clearly within the scope of CCP 425.16(e), "which defines the City Council's First Amendment Speech in part as "any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law..."")

We recommend that Councilwoman Moser be censured by Minute Order, by majority vote here tonight. This is not intended to be a punishment or to limit Councilwoman Moser's First Amendment speech, but this vote will be the City Council's exercise of its own speech to disavow Councilwoman Moser's inappropriate statements and hostile/personal escalation made on August 1st, to formally deem those statements and that hostile/personal escalation as "inappropriate," and that such inappropriate statements and hostile/personal escalation do not represent the opinion or statements of the Council majority. (See *Whitener v. McWatters* (4th Cir. 1997) 112 F.3d 740; also *Zilich v. Longo* (6th Cir. 1994) 34 F.3d 359, 364).

RECOMMENDED ACTION

By Minute Order, or majority vote of City Council tonight, censure Councilwoman Moser for the aforementioned statements and hostile/personal escalation made at the Council Meeting on August 1, 2023; that those statements and hostile/personal escalation be deemed "inappropriate," declare that they are not the views/statements of the City Council, and serve as a reminder that those types of statements and hostile/personal escalations do not meet either professional decorum required at City Council nor the goals of the Declaration of Policy of Human Dignity.

STRATEGIC PLAN GOAL

Not applicable

