

PROPOSED RESOLUTION

CITY OF BUCHANAN
COUNTY OF BERRIEN, STATE OF MICHIGAN
RESOLUTION NO. 2024.01/02

A RESOLUTION FOR CITY COMMISSION CENSURE OF CITY COMMISSIONER DAN
VIGANSKY

WHEREAS, the City of Buchanan has adopted the City Code of Conduct, Ordinance 2021.12/427 (hereinafter “Code”); City's Misconduct Harassment and Discrimination Policy ("Policy"); and Rules of Procedure for City Commission Meetings (hereinafter Rules)

WHEREAS, based on the Code, Policy and Rules, the City Mayor, filed proposed charges against Commissioner Vigansky (hereinafter “Proposed Charges”) attached hereto;

WHEREAS, a notice of the Proposed Charges and a hearing thereon, set for December 11, 2023, commencing at 5:30p.m., was served on Commissioner Vigansky by email and regular mail on December 4, 2023 (hereinafter “Notice of Charges”);

WHEREAS, the Proposed Charges presented at the December 11, 2023 hearing contain four (4) specifications, as follows:

1. During a June 14, 2023, public meeting of the Buchanan Area Recreation Board, Mr. “Vigansky” addressed members of the public audience, which included African-American individuals, using the phrases "you people" and "those people." This conduct resulted in the filing of a Complaint with the Michigan Department of Civil Rights (MDCR), Case # 635831. This Complaint is still under review by the Civil Rights Department, has harmed citizen relations with the City, and caused the City to unnecessarily spend funds on attorney's fees responding to the MDCR Complaint.
2. On November 3, 2023, the City of Buchanan Mayor sent to all City Commission members, by text message, a six-page complaint made by City employees against the City Manager. The Mayor specifically instructed each Commission Member to keep the employees' complaint confidential and that the complaints would be investigated by the City Attorney. Mr. Vigansky disregarded the confidentiality directive by producing the complaint to the City Manager and releasing a copy or contents of the Complaint to the public, before an investigation could even be started. Although the employee complaints would be available to the public, release of the complaints before employees and the City Manager could be interviewed risked impeding investigation of the complaints. The complaint has at least five allegations of misconduct against female employees. Mr. Vigansky's actions were acts of retaliation for the reporting of conduct in violation of the City's Misconduct, Harassment and Discrimination Policy ("Policy").
3. After receiving an envelope containing written employee complaints on November 3, 2023 against the City Manager, Mayor Denison explained to Mr. Vigansky that the City had received multiple employee complaints from different City departments concerning the City Manager. Without reading the complaints, Mr. Vigansky immediately stated to

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Mayor Denison that the complaints were "just a bunch of retaliatory b_ sh_ ." This is a clear statement Mr. Vigansky is completely not concerned with the investigation and, if needed, resolution of employee concerns.

4. On the morning of November 8, 2023, Mr. Vigansky entered the City Hall office and confronted City Bookkeeper Courtney Baham and Clerk Kalla Langston over their involvement in the employee complaints filed against the City Manager. The employee complaint contains allegations of misconduct against female employees. This incident was reported to the Berrien County Sheriff's Department, where the incident is being investigated. Mr. Vigansky's actions were acts of retaliation for the reporting of conduct in violation of the City's Misconduct Harassment and Discrimination Policy ("Policy").

WHEREAS, at the December 11, 2023 hearing, the following witnesses testifying under oath, James Busby, John Brown, Mayor Sean Denison, City Clerk Kalla Langston, and City Bookkeeper Courtney Baham, presented witness testimony and/or documents that substantiated all four (4) specifications of the Proposed Charges and Commissioner Vigansky did not appear at the hearing, either in person or through a representative, and did not otherwise in any manner respond to the Charges at the December 11, 2023 hearing;

WHEREAS, at the November 27, 2023, Regular Meeting of the City Commission, Commissioner Vigansky commented on the record on the City Commission's vote to hold a special hearing on the Proposed Charges and stated "don't expect me to show up at your stupid hearing-contact the Governor."

WHEREAS, at the December 11, 2023, Hearing, the Commission confirmed that the City Clerk served the Notice of Charges, set for a hearing on December 11, 2023, commencing at 5:30p.m., on Commissioner Vigansky by email and regular mail on December 4, 2023, attached hereto;

WHEREAS, the City Commission has completed the hearing process on the Charges, as required under Code and Rules, and at the December 11, 2023 hearing voted unanimously that all four (4) specifications of the Charges have been substantiated and that a resolution of censure be presented and discussed at the Commission's next regular meeting to request Mr. Vigansky's resignation, and if Mr. Vigansky refused to resign that the Commission approve any and all actions necessary to terminate Mr. Vigansky's right to hold the office of a City Commissioner, including the filing of charges with the Governor of the State of Michigan requesting an action for the removal of Commissioner Vigansky from office on the City Commission pursuant to MCL 168.327.

NOW, THEREFORE, IT IS RESOLVED THAT, by the unanimous vote of Commissioners Weedon, Money, Swem, and Mayor Denison, the Commission finds that all of the statements of fact contained in all four (4) of the specifications contained in the Proposed Charges have been substantiated by the sworn testimony of witnesses James Busby, John Brown, City Clerk Kalla Langston, City Bookkeeper Courtney Baham and the sworn testimony of Mayor Denison and the documents submitted by Mayor Denison to the Commission at the December 11, 2023 hearing, and Commissioner Vigansky's conduct as set out in the specifications constitutes misconduct in office in violation of the Code and Policy;

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IT FURTHER RESOLVED THAT, a resolution of censure is hereby adopted against Commissioner Vigansky based on the Commission’s findings that all four (4) of the specifications of the Proposed Charges have been substantiated.

IT FURTHER RESOLVED THAT, pursuant to the Code and effective immediately, Commissioner Vigansky is removed from his appointed positions on the Board of Directors of the Buchanan Area Recreation Board and the Joint Board of the Joint Water Sewer Board.

IT FURTHER RESOLVED THAT, because two or more independent findings of misconduct in office are found based on the Proposed Charges, the Commission requests that Commissioner Vigansky tender to the Commission his written resignation from his Commission office on or before January 9th, 2024.

IT FURTHER RESOLVED THAT, if Commissioner Vigansky fails or refuses to tender his written resignation from Commission office to the Commission on or before January 9th , 2024, the Commission hereby authorizes the Mayor, on behalf of the Commission, to take any legal actions necessary to terminate Commissioner Vigansky’s right to remain a seated City Commissioner of the City of Buchanan, including the filing of charges with the Governor of the State of Michigan requesting an action for the removal of Commissioner Vigansky from office on the City Commission pursuant to MCL 168.327.

IT FURTHER RESOLVED THAT, a copy of this Resolution NO. 2024.01/02 be served upon Commissioner Vigansky either in person or by regular and certified mail at the earliest possible time, filed with the City Clerk, and published consistent with all applicable provisions of the City’s Charter, ordinances, rules, policies and procedures.

AYES: Commissioners _____

NAYS: Commissioners _____

ABSTAIN: Commissioners _____

ABSENT: _____

RESOLUTION DECLARED ADOPTED

Sean Denison, Mayor _____

Kalla Langston, City Clerk _____

CERTIFICATION

The foregoing resolution was certified at a regular meeting of the City Commission of the City of Buchanan, Michigan, held on January 8, 2024, at 7:00 p.m.

Kalla Langston, City Clerk, City of Buchanan _____