



WORK SESSION
Pelham Police & Court Building
October 19, 2020 – 5:00 p.m.

MINUTES

Proper notice of the regularly scheduled work session of the Pelham City Council was given in advance of such public meeting and the notice remained posted throughout the scheduled meeting.

Members of the Pelham City Council met October 5, 2020 at 5:00 p.m. The regular work session was held in the Pelham Police & Court Building and was open to the public.

Call to Order

The work session was called to order by Council President Hayes at 5:00 p.m.

Record of Attendance

The following elected officials were present:

Council President Rick Hayes
Councilmember Ron Scott
Councilmember Beth McMillan
Councilmember Maurice Mercer
Councilmember Mildred Lanier
Mayor Gary Waters

Media Present: None

Others Present: City department heads, city employees, and members of the public.

Approval of Minutes

Councilmember Lanier asked when statements are submitted to be included in the minutes, those minutes include the heading. A motion was made by Councilmember McMillan to approve the Regular Work Session Minutes for October 5, 2020 and the Special Work Session Minutes for October 7, 2020. The motion was seconded by Councilmember Lanier and passed by unanimous voice vote of those members present.

Executive Session

Council President Hayes stated for the record the purpose of the Executive Session was to discuss the legal ramifications of and legal options for pending litigation and to discuss with our attorney controversies not yet being litigated, but imminently likely to be litigated if the governmental body pursues a proposed course of action. City Attorney Bent Owens stated the purposes of tonight's Executive Session are appropriate under Section 36-25-A-7(3) (a), Code of Alabama 1975, as amended.

Mr. Owens stated the city council may invite councilmembers-elect to the executive session. He further stated they are not bound by the same confidential rules as the sworn councilmembers. Councilmember-Elect Larry Palmer stated he would not attend the executive session since he is not a sworn member of the city council. Councilmember Scott encouraged all councilmembers-elect to attend. Councilmember Lanier stated her opposition to those individuals who have yet to be sworn in as councilmembers to attend the executive session. A motion was made by Councilmember Mercer to enter into an Executive Session of the city council for the stated purpose. Said motion was seconded by Councilmember McMillan. Council President Hayes asked the city clerk/treasurer for a roll call vote. The vote to adopt said motion was recorded as follows:

Rick Hayes, Council President	<u>Yes</u>
Ron Scott, Council Member	<u>Yes</u>
Beth McMillan, Council Member	<u>Yes</u>
Maurice Mercer, Council Member	<u>Yes</u>
Mildred Lanier, Council Member	<u>Yes</u>

Council President Hayes asked the members of the city council, Mayor Gary Waters, City Attorney Bent Owens, City Clerk/Treasurer Tom Seale, Director of Development Services & Public Works Andre' Bittas, Human Resources Director Tracy Hill, Councilmember-Elect David Coram and Councilmember-Elect Rick Wash attend the Executive Session. Council President Hayes stated he expected the city council to return from the executive session in approximately 40 minutes. The city council went into executive session at 5:45 p.m.

Councilmember Lanier moved to adjourn the executive session. Said motion was seconded by Councilmember McMillan. The motion passed unanimously by voice vote of those members present, and the executive session was adjourned at 5:34 p.m.

Council President Hayes called the work session back to order at 5:37 p.m.

New Business – None

Old Business – None

Review of Council Agenda

Council President Hayes reviewed the October 19, 2020 city council agenda.

F. Public Hearing – None

G. Mayor's Comments

H. Proclamation(s) by the Mayor – None

I. Report of the City Manager – None

J. Request(s) to Address the Council

Tommy Barberini, Oak Mountain Lanes, regarding the Alabama High School Athletic Association state bowling tournament

K. Old Business / Resolutions / Ordinances / Orders and Other Business

1. **Ordinance No. 501** for consideration to declare that certain described real property of the City of Pelham, Alabama, is no longer needed for public or municipal purposes located along Welborn Street in the corporate limits of the City of Pelham. (First Reading was on October 5, 2020)

There were no comments from the city council.

2. **Ordinance No. 247-07** repealing and replacing the health insurance benefits for retired employees and their surviving spouses and, specifically, repealing and replacing City of Pelham Ordinance No. 247-06 heretofore adopted by the Pelham City Council (First Reading was on October 13, 2020)

It was noted by Council President Hayes the additional evaluations requested by the city council would not be received until at least Friday. He asked the city council for direction in moving forward. Councilmember Lanier requested a delay until the valuations were received and noted the need to call a special council meeting to discuss. Councilmember McMillan said she was okay with calling a special meeting. A motion was made by Councilmember Lanier to remove Ordinance No. 247-07 from the October 19, 2020 city council agenda. Said motion was seconded by Councilmember McMillan.

There being no further discussion, the motion to remove Ordinance No. 247-07 from the agenda passed unanimously by voice vote of those members present and the council president declared the same passed.

L. New Business / Resolutions / Ordinances / Orders and Other Business

1. **Resolution 2020-10-19-01** for consideration to appoint _____ to an unexpired term on the Pelham Commercial Development Authority (CDA), Place No. 3

Council President Hayes asked for direction from city council. Councilmember McMillan thanked all candidates who were willing to serve on the CDA. Councilmember McMillan stated she was impressed by Ms. Beall and her energy level. Councilmember McMillan made a motion to appoint her to Place No. 3 on the CDA. Said motion was seconded by Councilmember Lanier. Councilmember Lanier stated she agreed with Councilmember McMillan and further stated Ms. Beall's experience, professionalism, business knowledge and noted she was a very strong candidate for the CDA. Councilmember Lanier thanked all the CDA candidates and encouraged each to seek other opportunities with the city. Councilmember Mercer said he was also impressed with the other two candidates, Mr. Clements and Mr. Foster, and wanted to go on record thanking each. Council President Hayes concurred and noted this is a short term appointment until March 2021. He said he enjoyed meeting Mr. Foster and stated Ms. Beall has the right experience and skill level to meet the challenges. Councilmember Scott noted this is the second time Mr. Clemons has applied for an appointment on the CDA. He said he has worked on projects which gave him in-depth knowledge regarding tax incentives and tax abatements which would benefit our community. He stated he was leaning toward Mr. Clement.

There being no further discussion, the motion to add Becky Beall's name to Resolution 2020-10-19-01 for consideration by the city council passed by a majority by voice vote of those members present with Councilmember Scott dissenting. The council president declared the same passed.

2. **Resolution 2020-10-19-02** for consideration to accept the lowest responsive bid for protective clothing for the Pelham Fire Department

Fire Chief Mike Reid stated they are recommending the vendor who met all the bid requirements, with no exceptions.

3. **Resolution 2020-10-19-03** for consideration to discharge the city manager

Councilmember Scott stated we have always worked together as a council and each councilmember has the ability to remove an item from the agenda. He said he has not seen, read nor heard any information that would make this a timely or appropriate matter to take up at this time. Councilmember Scott made a motion to remove Resolution 2020-10-19-03 from the October 19, 2020 agenda. Said motion was seconded by Councilmember McMillan. Councilmember Lanier stated her disagreement and said this item was put forth at the October 13, 2020 special called council meeting for council consideration and action. She further stated there was no discussion or opposition at that time. She asked that any other councilmembers opposed to the Resolution to please acknowledge. Councilmember Mercer stated he agreed with Councilmember Scott and Councilmember McMillan in removing the Resolution from tonight's agenda.

Councilmember Mercer addressed the city council. His comments are as follows:

WORK SESSION
Pelham Police & Court Building
October 19, 2020 – 5:00 p.m.

Comments by Councilmember Maurice Mercer

I personally regret that we find ourselves here discussing whether or not to terminate Mrs. Gretchen DiFante.

I have spent time reading and watching Councilor Lanier's dissenting remarks. I asked the general public, employees, and peers to reach out to me and others to help determine the validity to the claims. I spoke with retirees, department heads, and contractors. While the majority of the comments spoke highly of Gretchen, there were a couple that spoke in the negative. I want to acknowledge that. In the negative comments, there wasn't much substantiated evidence but opinion.

Today, I want to discuss and dissect councilor Lanier's personal dissent statement.

In her opening statement, she references sabotaging Candidate Scott Christian. On the surface this sounds horrible and the general public is led to think there was an orchestrated event. In fact, in the video Gretchen never says Scott said ... After giving an update of multiple projects, she does say, "I was not at the CDA meeting but I do know that the folks from 58 Inc. told me that they had received direction, from (Gretchen pauses and looks around), Scott Christian is here, from CDA to pursue discussion with the Poach Creek Indians for a casino on Blueberry Hill."

What are the factsScott does admit he suggested the CDA consider it in a brainstorming meeting prior to COVID 19. The exact time was not immediately remembered.

There appears to be not enough evidence to suggest if any direction was given to 58 INC or not. I spoke to people who say they were and were not given the direction.

Lanier goes on to discuss the continuous unprofessional actions of the City Manager during her tenure with the city cannot continue to be ignored by this Council and Mayor.

Let's discuss one by one.

*(Lanier 1.) Publicly undermined a candidate in the **October 5, 2020** run-off election.*

(Mercer conclusion) Mildred's claim is a half-truth at best or false.

*(Lanier 2.) Disclosed the medical health privacy of the Building Official's husband in a text to me on **September 22, 2020**.*

(Mercer conclusion) The Building official has said her privacy wasn't violated because she discusses it freely. In fact, the Building Official's husband condition was only mentioned because there was a breakdown in communication via email and Angie didn't respond right away being on medical leave. Ms. Lanier did not mention to us last week that there was an email breakdown and Gretchen in her text message was trying to help the councilor see reason not violate HIPPA.

(Lanier 3.) Recently publicly announced in Council Meeting that the Mayor's Assistant has been moved to the HR Department that is responsible for confidential employee information.

(Mercer conclusion) The HR Director and Mayor felt comfortable in placing Paula in a role that is normally held by temporary employees. Due to budget concerns, the fiscal conservative thing to do was combine some roles. Paula has not shown any reason to not be capable of being trusted with sensitive information. In fact, one would assume that an assistant to a high level Admin or CEO would have some knowledge of sensitive information by knowing certain meetings are taking place or taking notes in those meetings. This claim is erroneous.

*(Lanier 4.) After the former Police Chief corrected misinformation that the City Manager gave to the Council, she called me and informed me that she was upset when she spoke to him and she proceeded to inform me of the profanity that she used to let the Chief know of her displeasure with him. On **November 5, 2018**, I asked that my Statement be entered into the Council Minutes and stated that "all is not well among our leadership and employees."*

(Mercer conclusion) I discovered the Chief was in training and another officer was left in charge. Someone pulled a wrong list for the ranking officer and sent to Gretchen which Gretchen forwarded out.

September 17th, Gretchen sent out an email with the available data she had at that time regarding vehicles. The council was considering purchasing new cruisers for our department and we had recently had some accidents and wanted a clear picture.

Police Chief Palmer stated in an email September 25, "The attachment is a current list of police vehicles. In the past few weeks incorrect or incomplete documents were distributed and this is an attempt to correct the information released. "

*(Lanier 5.) When I questioned the September 19, 2018 minutes, emailed by the City Clerk for Council review that only had one sentence representing a meeting that took over two hours, the City Manager became angry and falsely accused me along with Council President Hayes, in a group email, of attempting to amend the minutes via email. The accusation was false and was clearly stated in a reply all email by City Attorney Butch Ellis. I am thankful that 33/40 was present at the Council Meeting when I had my Statement entered into the minutes for **October 18, 2018**.*

(Mercer Conclusion) There was some concern about how we should send changes to Tom regarding minutes after he has taken minutes and sent out to the council.

*(Lanier 6.) During the City Manager's tenure, I questioned her and the Mayor's method of evaluating employees and their job performance. On **January 4, 2018**, I submitted a Statement for the record concerning her assessment and termination of the prior HR Director.*

(Mercer Conclusion) The mayor made the termination according to civil service law for the previous HR Manager. When the city brought in new HR Director Tracy Hill and she began to work with City Manager, Mayor and personnel board to bring Pelham hiring practices in-line with SHRM best practices, Labor law, and Civil Service. As one council member (Lanier) has concerns, I'm confident in the process. Both are opinions.

There is no justification to move on a termination!

Council President Hayes said this is not a place he wanted to be on what is scheduled to be their last council meeting night. He said he championed bringing a city manager to our city while working with the Alabama City County Managers Association (ACCMA). He noted there are great city and county managers/administrators throughout our state. He said their professionalism brings value to their city and county. He noted there have been issues which concern him and it is appropriate to discuss the dismissal of the city manager tonight, as painful as it is, and was not an easy decision. He said it is his responsibility to protect the city and its image. Council President Hayes stated some of those concerns of his which must be addressed include: (1) having been accused of receiving private information from the police department, which he said was not true; (2) private Human Resources issues discussed with the public, and (3) repeatedly reporting a city employee doing illegal activities. He said he was told nothing could be done about this employee. He said he met Mrs. DiFante in 2017 and was very impressed with her. He said we truly did not make a mistake in moving forward with a city manager. He said the decision regarding the city manager will be the responsibility of the new city council. He stated the city deserves to be made aware of the situation, good and bad. He said Mrs. DiFante has done some good things for the city. He asked, "Where do we go as a city". He said all he wants for this city is the most it can possibly achieve. He said the opportunities for our city are unbelievable.

Councilmember Lanier stated the dismissal of the city manager is not something she takes pleasure in. She said what she is saying is true, and each one of these councilmembers knows it is true. She further stated several concerns, including the city manager cursing out the police chief, the issue with the minutes and moving city employees around. She stated there are laws which govern this. She charged the incoming councilmembers to do the right thing. She stated for the record a number of employees who have been involved with the city manager had just left the room. She asked, "Why are they leaving the room."

Councilmember Lanier addressed the city council and asked her comments be entered into the minutes of the October 19, 2020 Work Session and Council Meeting. Councilmember Lanier's comments are as follows:

CITY OF PELHAM
CITY COUNCIL MEETING
Pelham Police & Court Building
October 19, 2020 – 5:00PM

Personal Statement for Discharge
Mildred Lanier, President Pro Tempore

I am going to start at this back sentence and then I will go to the beginning....

In conclusion, I ask this Council to make the right action and vote tonight to dismiss the City Manager because all of the items outlined are true and each Councilor, Mayor, and City Manager knows it. The City Manager publicly made statements about Scott Christian and the Mayor's Assistant with respect to that as well.

It is also to be noted that in a text message that was sent to me on August 26th, 2016 by Councilman Mercer, he indicated that the Mayor was trying to put together a group to work together. This was the new machine they were trying to get rid of or the old machine. He went on to ask me on October 11, 2016 to meet with him and Ron, which never happened. I'm sure they could not have foreseen the group that the Mayor was supporting and was putting together. I am not nor have I ever been part of anyone's group.

To the beginning.....

Tonight, the last regular City Council Meeting for this current Council, the agenda includes the resolution for the consideration to discharge the City Manager. On October 13, 2020, I asked "this Council to move to take up the action for the dismissal of Gretchen DiFante as the City Manager for Pelham. This call to action was not taken lightly and was based on the actions of the City Manager started in 2018. Tom, I ask that you please include this Personal Statement for Discharge as submitted and in its entirety be entered into the minutes for both the Work Session and City Council meeting tonight. I also ask that you re-enter my full Dissenting Personal Statement for this meeting as well. Thank you, Tom.

To my Pelham family, I have no self-interest in bring the actions of the City Manager and our city leadership to light. Some might say that it's easier to let things go and hope that things will get better. However, I ask you, ask yourselves, has anything in our world and government gotten better when those in leadership roles look the other way and fail to do their duty. Ask yourself the question, "if you did the following actions, done by the City Manager, would you be retained with your employer or would you be terminated. I believe you know the answer. Often people do not want to know the truth because it's easier to say "I didn't know" that can be used as an excuse not to get involved. God forbid that I should deny the truth because people don't want to hear it. God forbid that I should let others suffer because some might say it can impact you politically. God forbid that I allow serving as a City Councilor change my values and concern for "my neighbor."

The actions of the City Manager create a hostile work environment. The actions of the City Manager create mental and emotion abuse. If this Council and Mayor do not take the right action for dismissal of the City Manager, as a governing body, the message to our city and employees is that this Council and Mayor do not care about them. If this Council and Mayor do not take the right action for dismissal of the City Manager and allows the City Manager to remain in place for the incoming Council to address, this Council and Mayor are declaring that the City Manager is autocratic in leadership and that this governing body is under the control of the City Manager.

Because the Dissenting Personal Statement will be re-entered into the minutes, I will not read the full Statement but I will reference specific portions.

City Manager Actions that Violate ICMA Standards and City of Pelham Employment Agreement

- 1. Publicly undermined a candidate in the **October 5, 2020** run-off election*
- 2. Disclosed the medical health privacy of the Building Official's husband in a text to me on **September 22, 2020** to cover for her because I questioned the Building Official's actions concerning a misleading email sent to me only stating that a Planning Commission Meeting was canceled when it was not canceled. The Building Official never replied to my email. The City Manager knew there had been questions about the Building Official's performance.*
- 3. Recently publicly announced in Council Meeting that the Mayor's Assistant has been moved to the HR Department that is responsible for confidential employee information.
This does bring into question the City Manager and the HR Director's interpretation of job titles, duties, and responsibilities. And I would just like to add she has just left this meeting. An HR employee's duties and responsibilities would be different from a Mayor's Assistant and the confidential information should not be accessible to an employee who is not hired for such a confidential position. This area change also brings into question the full-time duties of the Mayor's Assistant.*
- 4. After the former Police Chief corrected misinformation that the City Manager gave to the Council, she called me and informed me that she was upset when she spoke to him and she proceeded to inform me of the profanity that she used to let the Chief know of her displeasure with him. On **November 5, 2018**, I asked that my Statement be entered into the Council Minutes and stated that "all is not well among our leadership and employees."*
- 5. When I questioned the September 19, 2018 minutes, emailed by the City Clerk for Council review that only had one sentence representing a meeting that took over two hours, the City Manager became angry and falsely accused me along with Council President Hayes, in a group email, of attempting to amend the minutes via email. The accusation was false and was clearly stated in a reply all email by City Attorney Butch Ellis. I am thankful that 33/40 was present at the Council Meeting when I had my Statement entered into the minutes for **October 18, 2018**.*
- 6. During the City Manager's tenure, I questioned her and the Mayor's method of evaluating employees and their job performance. On **January 4, 2018**, I submitted a Statement for the record concerning her assessment and termination of the prior HR Director.*

The factual actions listed in this Dissenting Statement are true and since 2018 I have sought to bring to light serious misconduct by the City Manager for it to be addressed. Councilman Mercer did not check the minutes there's nothing there. Ron Scott did not check the minutes there's nothing there. Beth McMillan did not check the records there's nothing there when these things were brought before the City Council based on what the City Manager was doing. Thank you, President Hayes, for speaking up. Pelham is still a Mayor/Council form of government and the City Manager position and contract is set by Ordinance. A majority vote allows an Ordinance to pass. Therefore, a majority vote of the dismissal should apply. If a new law applies to changing an Ordinance, that new law has not been presented to the Council.

The City Manager has repeatedly engaged in actions that undermine the standards of ICMA in professional conduct, character, integrity, honesty, equity among all employees, political neutrality, and respect for the rights and responsibility of elected officials. The City Manager has repeatedly engaged in actions that undermine the Employment Agreement with the City of Pelham and in "Good And Just CAUSE" by:

- (3) Neglect of the proper performance of City Manager's duties
- (5) Violation of acceptable business and public standards and ethics
- (6) Dishonesty
- (11) Any ground put forward by the City Council, which is not arbitrary, irrational, unreasonable or irrelevant to the City Council's task of building up and maintaining an efficient city.
- (12) Any other legitimate and nondiscriminatory reason that constitutes good and just cause, is reasonably specific, is consistent with City rules, regulations and policies and is not motivated by any non-work-related preferences or animus or against any person.

When elected to my first term, I voted in support of a City Manager by ordinance. We have not changed our form of government. I also voted in support of Gretchen DiFante. However, I did not vote to abdicate my role and responsibilities as a City Councilor to objectively evaluate the actions of the City Manager based on the Employment Agreement. Nor did I abdicate my responsibility to evaluate the content of character of the City Manager that was truly revealed during her tenure.

Replies to Emails

Job Sharing:

Reference #3---from the Dissenting Personal Statement for Dismissal of City Manager

(Note: Mayor's Assistant moved to HR)

Individuals: HR Director, City Manager, Payroll & Benefits Analyst, Mayor, former acting HR Director

U.S. Department of Labor---Job Sharing

Job sharing means that two (or more) workers share the duties of one full-time job, each working part time, or two or more workers who have unrelated part-time assignments share the same budget line.

USLegal.com

Several specific issues should be dealt with in advance of starting a job-sharing program. These include:

- ***Clarify how the salary for a position will be divided between the job sharers and how the hours will be covered.***
- ***Determining how vacation and sick days will be divided between the participants.***
- ***Establishing a division of employment benefits that provide both parties some coverage but does not cost the company twice the cost that it would bear for a single employee.***

Did not apply nor follow guidelines of the U.S. Department of Labor

>>>>Email Sent by the HR Director on Friday, October 16th, 2020

Based on the HR and Personnel Law Requirements:

1. ***The HR directed stated in an email on Friday, October 16th, she sought counsel on reassignment of employees due to the Corona Virus. We all recognize that work changes have been impacted. She then stated that the City Manager and Mayor approved this proposed "job sharing."***

2. U.S. Department of Labor states the legal requirements for "job sharing" which is as follows: "Job sharing means that two (or more) workers share the duties of one full-time job, each working part time, or two or more workers who have unrelated part-time assignments share the same budget line." None of these legal requirements were done. Neither the HR Director, City Manager, nor Mayor requested a budget modification for the supposed "job sharing."
3. Job sharing by law requires a payroll adjustment among "all parties" but there was only the Mayor's Assistant. A payroll adjustment is required because the persons are now working "part-time" and not full-time. The budget adjustment would also impact the benefits of all parties. There were no other persons listed as part of this "job sharing."
In the same email, the HR Director stated in an attachment stated that the Mayor's Assistant would serve in a "Dual Role" and that her pay would not change. This is a failure of the City Manager to ensure that all U.S. Department of Labor Laws are followed. The Department of Labor has not changed the law.
4. In speaking to an HR Director from Virginia, who deals with this, "job sharing" based on what's been going on with COVID-19, the law has not changed.

>>>>The Mayor's Assistant sent an email on October 13, 2020 to only the incoming City Council, City Manager, Tracy Hill, and Mayor. Three of the current Council Members were not included.

1. The Mayor's Assistant sent an email stating that she "accepted the responsibility of Human Resources Admin, a lower paying job that is usually done by a temp, because of the budget concerns with COVID-19 and a decrease in revenue coming into the city. Hiring a new employee didn't seem fiscally prudent." She further stated that "I'm flattered the Mayor and Tracy both thought I would be able to handle the additional responsibilities along with my current job."

This email statement made by the Mayor's Assistant makes it clear that she was not knowledgeable of the U.S. Department of Labor legal requirement for "job sharing," which is what the HR Director stated that it would be. According to the Mayor's Assistant "hiring a new employee didn't seem fiscally prudent." However, approval was given by the City Manager, HR Director, and the Mayor for the new hiring of assistants in the Parks and Recreation Department and the Building Department during COVID-19.

To also note, the Mayor's Assistant has used multiple titles in email communications listing her name as follows:

*Office of the Mayor-----Executive Administrative Assistant (Date: October 13, 2020)

*Office of the Mayor-----Media & Event Coordinator (Date: October 25, 2019) Not a hired position.

>>>>The Payroll & Benefits Analyst sent an email on October 15, 2020 to only the incoming City Council, City Manager, Tracy Hill, and Mayor. Three of the current Council Members were not included.

In reply to the email, the former HR Director was a hiring decision of the Mayor and approved by the City Council. Also, the City Manager is evaluated by the City Council, asking the criteria of the evaluation process that the City Manager would use for other employees was reasonable. Also, if the City Council uses the same criteria that the City Manager used, her actions would warrant the same outcome.

>>>>The City Manager's Office sent an email on October 14, 2020 to only the incoming City Council, City Manager, Tracy Hill, and Mayor. Three of the current Council Members were not included.

In government, there is no place to "dabbled." In government, it is important to look at how someone leads. Transformational leadership is one type but autocratic/authoritarian leadership is also a type of

leadership. It is known that the City Manager has a policy in place to notify her if a Council Member contacts them. The subject is "conversations with council members." The stated actions concerning the conduct of the City Manager are true and would not fall under the definition of transformational leadership.

>>>>Library Leadership sent an email on October 14, 2020.

In reply to the email that was sent, the role of a director is to ensure that the law is applied to everyone equally. The role of a director is to ensure that objectivity is maintained in order to effectively carry out the responsibilities and duties of the position for the good of the city. It should be of great concern if a director chooses to make allowances for actions that do not uphold the duties and responsibilities of the person in the leadership position.

If allowances are made for these actions, then new HR Laws are in place in Pelham and therefore, anyone in a leadership position, from the City Council to other positions, can engage in the actions outlined in the Dissenting Personal Statement and those actions must be accepted.

>>>>Law Enforcement Leadership sent an email October 15, 2020.

To protect and serve is the responsibility of all of us who serve in government. The responsibility to apply the enforcement of the law equally and fairly can only be described as a sacred duty. A public persona can be very different from the actions and behavior that are done behind the scenes. When carrying out the responsibility to serve, those of us in such positions are not exempt from the law.

>>>>Racquet Club Leadership sent an email October 15, 2020.

"This group is the way it is because of our current City Manager & Mayor. They have formed the right combination when building this team." It is true that current issues within our city are the way that it is because of the City Manager and the Mayor. The statement "when one of us succeeds, we all succeed" this fails to include and consider my statement "when one of us is being abused or hurt, we are all being abused or hurt." However, in the email sent that leadership mindset was not included. A team is not succeeding if only part of the team is doing well.

In a text message that was sent to me on August 26th, 2016 by Council Person Mercer, he indicated that the Mayor was trying to put together a group to work together. He went on to ask me on October 11, 2016 to meet with him and Ron, which never happened. I'm sure they could not have foreseen the group that the Mayor would support and put together. I am not nor have I ever been part of anyone's group.

In conclusion, I ask this Council to take the action, the right action, and vote tonight to dismiss the City Manager because all of the items outlined are true and each Councilor, Mayor, and City Manager knows it. The City Manager publicly made the statements about Scott Christian and the Mayor's Assistant. Each Personal Statement I submitted during the year 2018 was publicly done and the City Manager was present. The City Manager, Gretchen DiFante, had the opportunity to state that statements that were made were not true. However, there was no denial made because the stated actions were true and are true. Not holding the City Manager to the same HR standards and performance expectations would be gender bias and what can only be called "gender privilege." This special privilege would also violate the law.

May Pelham truly be one city under God with liberty and justice for all.

Councilmember Lanier requested in her opening remarks tonight that her comments from the October 13, 2020 Special Council Meeting be entered into the October 19, 2020 Work Session Minutes. Those comments are as follows:

**CITY OF PELHAM
SPECIAL CALL COUNCIL MEETING**

Pelham Police & Court Building

October 13, 2020 – 12:00 Noon

Dissenting Personal Statement

Mildred Lanier, President Pro Tempore

From the October 13, 2020 Special Council Meeting Minutes

Tom, please include my Dissenting Personal Statement as submitted in its entirety for the Minutes for this Special Called City Council Meeting. Thank you. At the City Council Meeting on October 5th, the night before our city's run-off election, the City Manager, Gretchen DiFante, acted in what I can only describe as unprofessional and political maneuvering when she deliberately announced false and misleading information about then candidate Scott Christian, who also serves as chair of the CDA, and the members of the CDA Board. The City Manager stated "I know I wasn't at the CDA meeting but I do know that uhm the folks from 58 Inc. told me that they had received direction from, Scott Christian is here, from the CDA to pursue uh discussions with the Poarch Creek Indians for a casino on Blueberry Hill." I applaud Scott Christian, chair of the CDA for coming forward to state for the record and to the public that what Gretchen DiFante said was not true and no such request had been made.

As the city Manager, Mrs. DiFante should have known better than to present to the City Council, city leaders, and the public statements that were not true and that she did not even bother to fact check with the Chair of the CDA. Getting the necessary information about what took place in the meeting and making an accurate report to the governing body is basic management 101. The City Manager's action was a clear engagement of playing politics the day before the run-off election. There can be no question that putting out such a rumor the day before the run-off that candidate Scott Christian was promoting gambling in Pelham would influence some voters to no longer support him. The City Manager engaged in what can only be described as political sabotage of Scott Christian.

The continuous unprofessional actions of the City Manager during her tenure with the city cannot continue to be ignored by this Council and Mayor. This Council, Mayor, many of the department heads who have survived what the City Manager calls restructuring, and staff members are fully aware of the discipline issues concerning City Manager DiFante. I would conclude that new department heads and staff have not been informed of discipline problems, any other prior false statement, unprofessional conduct, behavior, and use of profanity in anger directed at a city leader.

According to the International City/County Management Association, a manager is expected to be "committed to the highest level of ethical standards" and "respect for the rights and responsibility of elected officials." According to ICMA, appointed local government managers are to be "nonpartisan and nonpolitical." These standards were not upheld on October 5th and have not been upheld at other times by the City Manager. This current Council and Mayor will be derelict in its duties to continue to look the other way while the City Manager's unprofessional and undermining actions continue to escalate because of no formal action taken by this Council and Mayor. This current Council and Mayor will be derelict in its duties by sweeping everything that has been going on under the rug and passing it on to the next Council and new Councilors who will have no knowledge of anything done by the City Manager.

The City Manager has become more embolden to take actions that violate what she was hired to do. She was truly emboldened to make her false statement about Scott Christian and the CDA the night before

the run-off election because this Council, as a body, and Mayor have never spoken out against her conduct and held her accountable for prior actions. Even the Mayor, when serving as HR Director, did not professionally present the misconduct of the City Manager to the Council after being informed that in anger, she engaged in profanity directed at the former Police Chief because he too corrected misinformation that she had given to the Council. Rather than carry out his acting HR duties, the Mayor said he was going to get a beer and left the meeting before it was adjourned.

This Council and Mayor can no longer put the appearance of the City of Pelham above what is in the best interest of the City. As a female elected official and as a woman leading government, this Council and Mayor cannot fail to do its legal duty and hold the City Manager responsible for her actions. Not holding the City Manager to the same HR standards and performance expectation would be gender bias and what can only be called "gender privilege." This Council and even newly elected Councilors cannot fail to perform the duties of office because of personal friendships or loyalty to the Mayor or others. This Council and Mayor cannot fail to do its duty because we took an oath promising to "faithfully and honestly discharge the duties of the office upon which I am about to enter, to the best of my ability, so help me God."

City Manager Actions that Violate ICMA Standards and City of Pelham Employment Agreement

- 1. Publicly undermined a candidate in the **October 5, 2020** run-off election*
- 2. Disclosed the medical health privacy of the Building Official's husband in a text to me on **September 22, 2020** to cover for her because I questioned the Building Official's misleading email sent to me only stating that a Planning Commission Meeting was canceled when it was not canceled. The Building Official never replied to my email. The City Manager knew there had been questions about the Building Official's performance.*
- 3. Recently publicly announced in Council Meeting that the Mayor's Assistant has been moved to the HR Department that is responsible for confidential employee information. This brings into question the City Manager and the HR Director's interpretation of job titles, duties, and responsibilities. An HR employee's duties and responsibilities would be different from a Mayor's Assistant and the confidential information should not be accessible to an employee who is not hired for such a confidential position. This area change also brings into question the full-time duties of the Mayor's Assistant.*
- 4. After the former Police Chief corrected misinformation that the City Manager gave to the Council, she called me and informed me that she was upset when she spoke to him and she proceeded to inform me of the profanity that she used to let the Chief know of her displeasure with him. On **November 5, 2018**, I asked that my Statement be entered into the Council Minutes and stated that "all is not well among our leadership and employees."*
- 5. When I questioned the September 19, 2018 minutes, emailed by the City Clerk for Council review that only had one sentence representing a meeting that took over two hours, the City Manager became angry and falsely accused me along with Council President Hayes, in a group email, of attempting to amend the minutes via email. The accusation was false and was clearly stated in a reply all email by City Attorney Butch Ellis. I am thankful that 33/40 was present at the Council Meeting when I had my Statement entered into the minutes for **October 18, 2018**.*

6. *During the City Manager's tenure, I questioned her and the Mayor's method of evaluating employees and their job performance. On **January 4, 2018**, I submitted a Statement for the record concerning her assessment and termination of the prior HR Director.*

This Council and Mayor will be derelict in its duties not to hold the City Manager accountable on all areas of performance beyond even those of the 360 Feedback Reports and the initial Evaluation, none of which captured crucial facts beyond the questions on the evaluation. Though one might try to argue that the 360 Feedback Reports give a high rating, even from me at times, that does not negate the actions of the City Manager. And most certainly, "the ends do not justify the means."

The factual actions listed in this Dissent Statement are true and since 2018 I have sought to bring to light serious misconduct by the City Manager for it to be addressed. I believe there have been other individuals, like me, who have questioned the actions of the City Manager and who, like me, have been subjected to anger by being falsely accused of a wrong doing. Others should speak up too. It takes courage to speak up and speak out when you have been subjected to wrongful actions even in the public workplace. The atmosphere created by these types of actions can only be characterized as hostile.

The City Manager has repeatedly engaged in actions that undermine the standards of ICMA in professional conduct, character, integrity, honesty, equity among all employees, political neutrality, and respect for the rights and responsibility of elected officials. The City Manager has repeatedly engaged in actions that undermine the Employment Agreement with the City of Pelham and in "Good And Just CAUSE" by:

(3) Neglect of the proper performance of City Manager's duties

(5) Violation of acceptable business and public standards and ethics

(6) Dishonesty

(11) Any ground put forward by the City Council, which is not arbitrary, irrational, unreasonable or irrelevant to the City Council's task of building up and maintaining an efficient city.

(12) Any other legitimate and nondiscriminatory reason that constitutes good and just cause, is reasonably specific, is consistent with City rules, regulations and policies and is not motivated by any non-work-related preferences or animus or against any person.

When elected to my first term, I voted in support of a City Manager by ordinance. I also voted in support of Gretchen DiFante. However, I did not vote to abdicate my role and responsibilities as a City Councilor to objectively evaluate the actions of the City Manager based on the Employment Agreement. Nor did I abdicate my responsibility to evaluate the content of character of the City Manager that was truly revealed during her tenure.

Based on these facts, I ask this Council to move to take up the action for the dismissal of Gretchen DiFante as the City Manager for Pelham at the next City Council Meeting or a Special Called Meeting before the end of term for this Council. If this Council and Mayor continue to take no action, as a governing body, the message to our city and employees is that this Council and Mayor do not care about them. If this Council and Mayor continue to take no action and allows the City Manager to remain in place for the incoming Council to address, this Council and Mayor are declaring that the City Manager is autonomous and that this governing body is under the control of the City Manager. If this Council and Mayor fail to carry out the oath that was taken, I ask the people of Pelham to speak out against a Council and Mayor that would continue to allow one person to undermine our municipal government. If this Council and Mayor fail to carry out the oath that was taken, I ask the people of Pelham to use social

media to let others know that the Council and Mayor support "One Person Not 5" in our leadership within Pelham.

As your City Councilor, I will remain committed to serve you and serve Pelham even if this Council or the next refuses to stand up against the actions of the City Manager.

Councilmember McMillan stated she took offense to Councilmember Lanier's comments that just because we do not agree or support everything she said that we have gender privilege or gender bias that we are not doing the right thing. She further noted the attacks on the city council and stated she was not impressed with Councilmember Lanier's tactics. Councilmember McMillan said the department heads are some of the most professional, best people she has ever worked with. She stated everything is not perfect and we do not agree on everything. She said Pelham is a great place to work and live, with great employees. She thanked all the city employees and said she understood why some employees would walk out. She said no one should be attacked in a place where they work, especially when they do a good job. She said she wanted to apologize to the employees for that. Councilmember McMillan apologized for those comments.

Councilmember Lanier stated she agreed with Councilmember McMillan. She said it was not an attack, but the truth. She stated none of those employees have denied these things took place.

Council President Hayes said the comments made by Scott Christian during a Commercial Development Authority (CDA) meeting did occur during a brainstorming session in August 2019. He stated no action or follow up was requested by the CDA. He spoke to differences of opinion should be differences of opinion, without it being personal. He said differences of opinion are good government, it is supposed to work that way. He said we should work through our differences to make things better.

There being no further discussion, the motion to remove Resolution 2020-10-19-03 from the October 19, 2020 city council agenda passed by a majority voice vote of 3-2 of those members present with Council President Hayes and Councilmember Lanier dissenting. The council president declared the same passed.

(End of October 19, 2020 Agenda Review)

Adjournment

A motion to adjourn the work session was made by Councilmember Scott and seconded by Councilmember Lanier. The motion passed unanimously by voice vote of those members present, and the work session was adjourned at 6:54 p.m.

Respectfully submitted this 19th day of October 2020,



Tom Seale, MMC, City Clerk/Treasurer



Maurice Mercer, President of the Council

