

RESOLUTION NO. 1848

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, PERTAINING TO THE SETTLEMENT OF WEAVER v. CITY OF GOLDEN

WHEREAS, in 2007, Councilor Weaver filed a lawsuit against the City wherein she challenged the procedures followed by City Council in convening executive sessions; and

WHEREAS, on December 19, 2007, Councilor Weaver presented testimony and evidence at a trial before the Jefferson County District Court in that lawsuit; and

WHEREAS, at the conclusion of the presentation of evidence by Ms. Weaver, the City requested that the trial court dismiss the complaint because the evidence presented did not support the claims; and

WHEREAS, before the Judge ruled on the City's request to dismiss the complaint, Councilor Weaver advised the Court that she was voluntarily dismissing her lawsuit with prejudice based upon an agreement that (1) "the City Council will entertain, in good faith," adoption of procedures requiring specific actions and conditions for conducting its executive sessions; and (2) then City Attorney, Jim Windholz, "would not pursue" his pending ethics complaint against Councilor Weaver; and

WHEREAS, James Windholz was contacted by telephone and confirmed that he agreed to "not pursue" his pending ethics complaint against Councilor Weaver as a part of the Settlement Agreement; and

WHEREAS, this "Agreement" was read to and approved by the trial court judge after the trial court judge specifically inquired of Ms. Weaver and City Manager Mike Bestor, as to whether such an arrangement was acceptable; and

WHEREAS, the City Manager Mike Bestor, specifically advised the Court that he could not bind City Council, but that he believed they would support such agreement; and

WHEREAS, the trial court dismissed the case based on said agreement; and

WHEREAS, the terms of the "Agreement" were immediately transmitted to City Council members following the Court's dismissal and there were no objections raised by any individual Councilors. City Council was orally advised of the settlement terms at its first public meeting after the trial (January 10, 2008) at which time the relationship between the Settlement Agreement and the proposed Amendment of the Rules of Procedure was discussed. City Council was further advised of the details of the trial and settlement by memorandum from its City Attorney on January 18, 2008; and

WHEREAS, in January of 2008, City Council undertook to amend its Rules of Procedure, specifically including matters pertaining to the method by which it conducted executive sessions and City Council, including Councilor Weaver, provided input and discussion pertaining to the amendment of its rules of procedure; and

WHEREAS, on February 14, 2008, City Council adopted Resolution No. 1834 upon a motion and second amending its Rules of Procedure; and

WHEREAS, on March 6, 2008, City Council conducted an executive session in accordance with their amended Rules of Procedure; and

WHEREAS, City Council's amendment of its Rules of Procedure was motivated in part by, and in response to, the terms of the settlement agreement of the Weaver lawsuit; and

WHEREAS, City Attorney, James Windholz, died on January 1, 2008, and had taken no action to pursue the pending ethics complaint that he asserted against Councilor Weaver; and

WHEREAS, although City Council did not formally ratify the terms of the settlement of the Weaver lawsuit, Council's actions in proposing, discussing, considering and making changes to its Rules of Procedure, particularly as they pertain to the conduct of executive sessions, constituted a ratification of the terms of the settlement of the lawsuit; and

WHEREAS, City Council welcomes and will consider further changes to its Rules of Procedure that are suggested by any of its members; and

WHEREAS, to the extent that any further ratification is necessary Council wishes to formally ratify the terms of the settlement of the lawsuit.

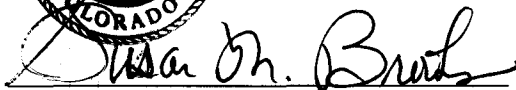
THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO THAT:

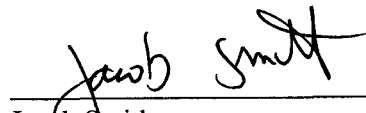
Section 1. City Council's actions in proposing, discussing and ultimately adopting changes to its Rules of Procedure were done, in part, to satisfy the provisions of the settlement agreement of the Weaver lawsuit, and thus, in effect, ratify the terms of the settlement.

Section 2. To the extent that any further ratification is required, City Council now ratifies the terms of settlement of the Weaver lawsuit, as represented to the Court on December 19, 2007.

Adopted this 20th day of March, 2008.

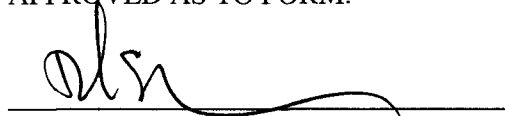



Susan M. Brooks, MMC
City Clerk



Jacob Smith
Mayor

APPROVED AS TO FORM:



David S. Williamson
Acting City Attorney


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I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a rescheduled regular business meeting thereof held on the 20th day of March, A.D., 2008.



ATTEST:


Susan M. Brooks, City Clerk of the City of
Golden, Colorado