

**A RESOLUTION CONCERNING THE REMOVAL
OF PETER PASTERNAK FROM THE OFFICE
OF MAYOR OF THE CITY OF DESLOGE, MISSOURI**

WHEREAS, Peter Pasternak was elected to the office of Mayor of the City of Desloge at the municipal election held on April 4, 2023; and

WHEREAS, during his term, Mayor Pasternak is alleged to have committed certain acts which may constitute malfeasance, misfeasance, and/or nonfeasance in office, as more specifically set out in the attached Articles of Impeachment; and,

WHEREAS, the Board of Aldermen of the City of Desloge desires to consider such allegations, and if determined to be true, further consider and determine, consistent with Section 79.240 RSMo, whether said actions constitute malfeasance, misfeasance and/or nonfeasance in office and whether Mayor Pasternak should be disciplined, up to and including removal from office; and

WHEREAS, the Board of Aldermen accordingly desires to schedule a hearing where it will convene as a Board of Impeachment to hear evidence, provide notice to Mayor Pasternak of these proceedings, the applicable rules to be observed, and an opportunity to be heard on the charges identified in the Articles of Impeachment, and authorize the issuance of subpoenas necessary for such purposes.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF
ALDERMEN OF THE CITY OF DESLOGE, MISSOURI, AS FOLLOWS:**

Section 1. Mayor Pasternak is hereby provided notice of the charges and specifications as presented in the Articles of Impeachment prepared by the City's Special Prosecutor, a copy of which is attached as Exhibit A and incorporated herein by reference. The City shall effect immediate service of the Resolution and Articles of Impeachment on Mayor Pasternak.

Section 2. The Board of Aldermen shall hold a public hearing on a date and time to be determined by separate action of the Board of Aldermen and such hearing shall continue from day to day or at such later date and time as may be necessary at City Hall, 300 N. Lincoln Street, Desloge, Missouri 63601, to hear and consider the allegations, and if determined to be true, to determine whether Mayor Pasternak should be removed from office, or other disciplinary action taken, pursuant to the authority granted under Section 79.240 RSMo or other applicable law.

Section 3. The City’s Special Prosecutor, Stephanie Karr, shall present the City’s case and have the burden of proving the alleged charges, and Mayor Pasternak may be represented by counsel at the hearing. Both parties shall be entitled to present evidence and to cross-examine witnesses. Mayor Pasternak shall have a deadline of 5:00 p.m. on August 20, 2024, to file, should he desire, a Reply to the Articles of Impeachment. The Parties shall exchange a list of witnesses and exhibits to be offered at the hearing not later than seven (7) days prior to the date and time of the public hearing.

Section 4. The Board of Aldermen hereby appoints the Mayor Pro Tem to communicate with the Special Prosecutor during the pendency of the impeachment.

Section 5. The Mayor Pro Tem, or other duly authorized Board member, shall preside over the hearing before the Board of Impeachment, shall make all ruling on procedural, evidentiary, or other matters brought to his attention, with the assistance of a legal advisor, if such person is appointed by the Board of Aldermen, and take all action necessary or desirable to facilitate the prompt and fair hearing and consideration of the charges.

Section 6. The contested case hearing before the Board of Impeachment shall be conducted in accordance with Chapter 79 RSMo, the Municipal Code of the City of Desloge and the Missouri Administrative Procedure Act, as applicable. The Board of Impeachment shall consider the evidence, arguments of counsel, and written briefs of the parties, if any, and shall cause written findings of fact and conclusions of law to be had on the charges presented. The decision of the Board shall be published, along with such further action(s) as may be authorized or required.

Section 7. This action is taken pursuant to Section 79.240 RSMo and Section 105.520 of the Municipal Code.

PASSED BY THE BOARD OF ALDERMEN FOR THE CITY OF DESLOGE, MISSOURI, ON THIS _____ DAY OF _____, 2024.

Mayor Pro Tem

Attest:

City Clerk

BEFORE THE BOARD OF IMPEACHMENT

CITY OF DESLOGE, MISSOURI

IN RE:)
)
THE MATTER OF THE IMPEACHMENT)
OF PETER PASTERNAK)

ARTICLES OF IMPEACHMENT

WHEREAS, Peter Pasternak (hereinafter "Respondent") was elected as Mayor of the City of Desloge at the local election held on April 4, 2023; and

WHEREAS, on July 8, 2024, the Board of Aldermen, in accordance with Section 79.240 RSMo, authorized proceedings to consider the removal of Respondent from the office of Mayor for alleged acts of misfeasance, malfeasance, and/or nonfeasance as described in this Articles of Impeachment with good cause shown.

NOW, THEREFORE, the City of Desloge, Missouri, pursuant to Section 79.240 RSMo, hereby issues the following charges and Articles of Impeachment against Mayor Peter Pasternak:

GOVERNING LAW AND JURISDICTION

The City of Desloge is a fourth class city and political subdivision of the State of Missouri. The power and authority to remove elected officials is provided by state law, specifically, Section 79.240 RSMo which provides as follows:

79.240. Removal of officers

1. The mayor may, with the consent of a majority of all the members elected to the board of aldermen, remove from office, for cause shown, any elective officer of the city, such officer being first given opportunity, together with his witnesses, to be heard before the board of aldermen sitting as a board of impeachment. Any elective officer, including the mayor, may in like manner, for cause shown, be removed from office by a two-thirds vote of all members elected to the board of aldermen, independently of the mayor's approval or recommendation. The mayor may, with the consent of a majority of all the members elected to the board of aldermen, remove from office any appointive officer of the city at will, and any such appointive officer may be so removed by a two-thirds vote of all the members

elected to the board of aldermen, independently of the mayor's approval or recommendation. The board of aldermen may pass ordinances regulating the manner of impeachments and removals.
2. *Nothing in this section shall be construed to authorize the mayor, with the consent of the majority of all the members elected to the board of aldermen, or the board of aldermen by a two-thirds vote of all its members, to remove or discharge any chief, as that term is defined in section 106.273.*

Section 105.520 of the Desloge Municipal Code mirrors the provisions set forth in Section 79.240 RSMo.

In *Fitzgerald v. City of Maryland Heights*, 796 S.W.2d 52, 56 (Mo.App.E.D. 1990), the appellate court interpreted this language and held that "the appropriate meaning of the 'for cause' standard for impeachment...should...specifically relate to and affect the administration of [the] office, and...be...of a substantial nature directly affecting the rights and interests of the public." (citing *McCallister v. Priest*, 422 S.W.2d 650 (Mo.banc 1968)).

The Court further explained that "cause" itself should also be "limited to objective reasons which reasonable people, regardless of their political persuasion, could agree would render any [office holder's] performance ineffective." *Id.*

Fitzgerald defines three types of "cause" that support removal from office:

Such cause would include acts of misfeasance, the improper performance of some act which may lawfully be done, malfeasance, the commission of some act wholly beyond actor's authority, and nonfeasance, the failure to perform a required duty.

796 S.W.2d at 56-57.

A finding of any instance constituting misfeasance, malfeasance or nonfeasance is sufficient to support removal from office under Section 79.240 RSMo and *Fitzgerald*.

The correctness of the decision of the Board of Aldermen, sitting as a Board of Impeachment will be presumed and such decision will be upheld if that decision if it is supported by competent and substantial evidence upon the record as a whole.

Mason v. City of Breckenridge Hills, 100 S.W.3d 153 (Mo.App. 2003) (citing *Fitzgerald* and *State ex rel. Hall v Wolf*, 710 S.W.2d 302, 304 (Mo.App.E.D. 1986)

CHARGES

The Board of Aldermen has caused the following Articles of Impeachment to be filed pursuant to the authority granted in Section 79.240 RSMo and Section 105.520 of the Municipal Code.

The City alleges that Mayor Peter Pasternak has engaged in conduct constituting malfeasance, misfeasance and/or nonfeasance in office, to wit:

ARTICLE I

On May 26, 2024, Mayor Pasternak, while in an intoxicated condition, drove through the city looking for possible storm damage and failed to use the proper procedures for survey and notification of storm damage.

On that date, Mayor Pasternak called City Administrator Stephanie Daffron and stated that he was driving around the city for the purpose of surveying for storm damage on behalf of the City and noticed a tree down.

During such call, the City Administrator noted that he was slurring his word and couldn't adequately communicate.

Mayor Pasternak also contacted the Director of Public Works and left a voicemail attempting to communicate the same thing.

This activity was not proper and constituted malfeasance for the following reasons:

1. Mayor Pasternak was not authorized to undertake such activity on behalf of the City of Desloge.
2. Mayor Pasternak violated the law by driving while in an intoxicated condition.
3. Mayor Pasternak's conduct was contrary to established procedures following storm events. During any storm event, there are qualified responders who will respond to any emergency or condition caused by the storm; this response includes members of the Department of Public Works and other city departments. Initial contact must be made to dispatch who will prioritize each situation and dispatch the necessary personnel. Mayor Pasternak did not contact dispatch and attempted to bypass the prioritization of calls and, instead, sought

to direct first responders from the Public Works Department to a downed tree.

4. Mayor Pasternak's presence on the road immediately following a storm event was contrary to the interests of the public in that: (i) more vehicles on the road during an emergency hinder response by emergency personnel; (ii) his calls about a downed tree may have taken away from the response to true emergencies; and (iii) he did not follow established procedures to communicate storm-related and emergency conditions to dispatch who could prioritize the necessary response and alert appropriate personnel.

The observations of the City Administrator and the Director of Public Works that Mayor Pasternak was intoxicated during the evening of May 26, 2024, are credible. First, both individuals have had contact with Mayor Pasternak during the past few years and were able to discern differences in his speech which are indications of intoxication. Secondly, within days of this event, on June 5, 2024, Mayor Pasternak was arrested for driving while intoxicated. The police officer's Probable Cause Statement reveals that Mayor Pasternak's speech was slurred as was reported by both the City Administrator and the Director of Public Works on May 26. When arrested, Mayor Pasternak submitted a sample of his breath which registered a blood alcohol content of .288 – more than 3 times the legal limit. Lastly, Mayor Pasternak has appeared at other municipal functions, including the Missouri Municipal League Conference in September, 2022, in an intoxicated state.

ARTICLE II

Mayor Pasternak routinely demonstrates an animosity toward and has targeted specific staff members which has eroded the morale of certain employees and interfered with effective communication between elected officials and city staff.

Director and Department of Public Works

A. The Mayor sends numerous text messages to the Director of Public Works – even about the most minor of issues such as a stick in a culvert – to the point where the Director and employees within the Public Works feel harassed.

B. The Mayor filed a false complaint with the City Administrator stating that the Director of Public Works took a city vehicle to a baseball game in St. Louis. By filing such false complaint, the Mayor attempted to get the Director disciplined.

C. The Mayor publicly criticizes, without having legitimate grounds for such criticism, the members of the Public Works Department while refraining from criticizing other departments.

D. The Mayor constantly complains to the City Administrator about the Department of Public Works while not leveling complaints or having communications with her about other departments.

E. The Mayor submitted pictures of ponding water in a yard and blamed the Director of Public Works seeking to get the Director disciplined. The reasons for the ponding included actions of others including the private property owner.

F. The Mayor complains about and attempts to interfere with the use of a city vehicle by the Director of Public Works while not lodging complaints about any other employees in substantially similar circumstances.

G. The Mayor filed a false complaint with the City Administrator about an employee of the Department of Public Works stating that the employee was squealing tires and blowing smoke in the parking lot of a business.

City Administrator and City Clerk

H. The Mayor often will refuse to communicate with the City Administrator and the City Clerk regarding upcoming issues for meetings of the Board of Aldermen and will then "blindsides" them with questions or personal attacks in a manner where such staff members feel ridiculed in public.

I. The Mayor often will not recognize the authority of the City Administrator and will, many times, be dismissive of the City Administrator which undermines the City Administrator with respect to employees and members of the public. For instance, the Board of Aldermen authorized the City Administrator to work with the State of Missouri with respect to funding for a sewer line extension. Without authorization from the Board of Aldermen and without the technical knowledge of the project, the Mayor contacted the State at the same time which could have interfered with the City's attempts to obtain funding.

J. The Mayor attempted to have the City Administrator disciplined for closing City Hall during an ice storm although the City Administrator had authority to do so.

K. The Mayor engaged in bullying behavior toward the City Clerk at a public meeting by slamming a gavel directly in front of the City Clerk's face at a meeting.

ARTICLE III

The Mayor demonstrates disdain for decorum in certain instances, thereby treating members of the public differently, and a similar disdain for other elected and appointed officials.

A. The Mayor refuses to enforce rules of decorum and public comment at Board meetings when people who support him or his position become disruptive or abusive. By way of examples: (i) during a public meeting, one of his supporters yelled at Board members and shouted "bullshit" and the Mayor failed to even attempt to quell the disruptive and abusive behavior; (ii) he allowed, without any kind of rebuke, one of his supporters to yell at a female board member that they were all tired of her "running her mouth"; and (iii) he took no action to deescalate the situation or calm his group of supporters when one confronted the City Attorney in a face-to face manner at a public meeting.

In addition, he allows those attendees who support him or his position to speak in public meetings outside of citizen comments.

Thus, the Mayor allows those who support him or his positions to violate, without rebuke or consequence, rules and procedures to ensure decorum at public meetings. The Mayor's purposeful inaction and failures adversely affect the rights and interests of the public, chills others from attending and addressing the Board of Aldermen, has the potential to create First Amendment claims if the Mayor is not similarly lax with those who disagree with him, erode the public trust and breaks down the relationship between city government and its constituents.

B. The Mayor refers to one Board member as "sister" instead of appropriately acknowledging her and showing her the same type of respect that should be afforded to all elected officials equally.

ARTICLE IV

The Mayor does not appropriately respond to or pass along information about citizen complaints to city employees and officials.

The Mayor routinely states that he has heard from angry or disgruntled residents but will not follow through with a proposed resolution and will not

convey the information about the complaint to appropriate personnel for handling. In most instances, the Mayor will not even identify the complaining party so that staff can attempt to resolve the matter.

Although the Mayor may not have the knowledge or ability to adequately respond to all constituent complaints, it is his duty as an elected official to pass those matters on to those who have the skills and knowledge to respond and not just ignore them. The Mayor's refusal to properly obtain and transmit adequate information to city officials constitutes nonfeasance in office.

ARTICLE V

Mayor Pasternak has divulged confidential information to members of the public without authorization from the Board of Aldermen.

A. Mayor Pasternak has divulged attorney-client privileged communications to members of the public without a waiver of the attorney-client privilege by the Board of Aldermen.

The City, itself, is the client Mayor Pasternak is not authorized to unilaterally waive the attorney-client privilege on behalf of the City of Desloge. Section 120.060 of the Municipal Code prohibits the Mayor from disclosing such confidential communications unless the Board of Aldermen votes to make them public.

Depending on the nature of the disclosed material, disclosure of such privileged communication may hinder the City's ability to negotiate contracts, prepare for and handle existing and potential claims and lawsuits, and effectively perform other governmental functions.

B. Mayor Pasternak has spoken in public and divulged confidential information discussed in closed session about a potential new development within the City to a local newspaper.

The city officials privy to such information included the elected officials, the City Administrator and a very limited number of appointed officials.

No one was authorized by the Board of Aldermen to speak publicly about such prospective project. Again, Section 120.060 of the Municipal Code prohibits disclosure of closed information without a vote of the Board of Aldermen.

Given the nature of the information divulged and Mr. Pasternak's practice and history of going to the press with respect to any disagreement or issue within the city, it is clear that Mayor Pasternak was the source of such improper disclosure.

In addition, the City Administrator contacted the reporter who stated that Mayor Pasternak had provided the information for the story.

ARTICLE VI

Mayor Pasternak has provided false information to the public regarding the City's fees for trash service. The City has taken all lawful and necessary steps to impose fees for trash service. The City Attorney has opined that the trash service fees are lawful.

The Mayor has routinely attacked the fees in public as illegal which is false. In fact, at the most recent "State of the County" event, the Mayor falsely announced that the City of Desloge is charging illegal fees for trash service.

These false statements by the Mayor damage the public's trust. In addition, such false information may invite needless litigation against the city and cause higher delinquency rates thereby adversely impacting trash collection.

ARTICLE VII

Mayor Pasternak is not authorized to speak to the press concerning city business.

By enactment of Section 105.820 (J) of the Desloge Municipal Code, the Board of Aldermen has only authorized the City Administrator to provide information about city government to the press:

Press Releases. The Administrator shall be responsible for keeping the public informed in the purposes and methods of City Government through all available news media.

There are numerous instances of Mayor Pasternak initiating contact with the media about city business and/or providing statements. Some examples include November 24, 2023: *Desloge meeting tackles trash fee, holiday incentive*; December 11, 2023: *Desloge mayor clarifies comments made at city meeting*; December 14, 2023: *Desloge Board of Aldermen still*

disagree on trash pickup; March 13, 2024: Desloge mayor says he's 'at odds' with aldermen.

In addition, he has usurped, without concurrence of the Board of Aldermen, the City Administrator's authority under Section 105.820 of the Municipal Code by conducting routine radio interviews on behalf of the City.

ARTICLE VIII

In July, 2023, the Mayor sought a significant raise for Misty Boyer. Without authorization from the Board of Aldermen, the Mayor brought Ms. Boyer into a closed session of the Board of Aldermen so that she could ask for the raise. Ms. Boyer was excused from closed session. The next day, the Mayor informed Ms. Boyer of what happened in closed session after she left, specifically that the Board did not approve a raise for her.

Section 120.060 provides that all closed records, including information discussed by the Board during closed session, must remain confidential unless the Board of Aldermen authorizes the disclosure:

Section 120.060 Closed Records

All records that may be closed hereby are deemed closed records unless the governmental body votes to make them public. Before closing a meeting to the public, a majority of a quorum of the governmental body must vote to do so in a public vote. The vote of each member of the governmental body on the question of closing the meeting or vote and the reason for closing the meeting by reference to a specific exception shall be announced at a public meeting and entered into the minutes.

The Board of Aldermen did not authorize the Mayor to discuss the matter with Ms. Boyer and, therefore, his action is wholly improper and constitutes malfeasance.

CONCLUSION

The above-listed instances of malfeasance, misfeasance and nonfeasance by Mayor Pasternak damage the effectiveness of city services and government, bring about the erosion of public trust, and adversely impact the responsiveness to and relationship with the public.

WHEREFORE, the City of Desloge, Missouri, requests that the Board of Impeachment impeach Mayor Peter Pasternak on the Articles contained herein, each separately and all together, issue findings and fact and

conclusions of law consistent with and supporting the impeachment, and remove him from office, or such other discipline or action as the Board may find just and necessary.

Date: _____

FOR THE CITY OF DESLOGE

Stephanie E. Karr, #39593
130 South Bemiston, Suite 200
St. Louis, Missouri 63105
(314) 725 - 8788
Fax: (314) 725 - 8789
Email: skarr@chgolaw.com

SPECIAL PROSECUTOR