

Comments by Town Manager Ken MacNab at Special Council Meeting 4/14/21

OPENING

First, I want to acknowledge what a difficult time this is for the community and the Town. The allegations against the Mayor are shocking and, frankly, appalling. The conduct described is unacceptable and does not reflect our values.

I would also like to acknowledge the courage of the women who have come forward with their stories. We must stand strongly with them.

I want to express my empathy to anyone who has been a victim of harassment or sexual assault and those of you who know someone who has. I can only imagine the emotions this situation may be causing.

ACTIONS TAKEN BY TOWN OF WINDSOR

To start, I'd like to share the actions the Town has taken since learning of the allegations revealed in the story by the San Francisco Chronicle.

- Based on the appearance that crimes may have been committed by the Mayor, we referred the story to Windsor PD and Sonoma County Sheriff and asked them to investigate – which they are.
- Called for special meeting to consider demanding Mayor Foppoli resign.
- Have had multiple conversations with Councilmembers, who are very concerned about the situation – they are united in their view that the mayor should resign
- Consulted with Town Attorney regularly on range of complex legal issues around options available to Council to remove mayor from office, legal considerations regarding the victims, the Mayor and Councilmember Lemus.

- Issued a public statement on what the Town did regarding the response to emails alleging sexual misconduct by the Mayor – which we'll discuss in a moment.
- Have created a web page to serve as a repository of information and documents for the public and staff to review.
- Performed legal research on options for removing the mayor from office.
- It is important for the community to understand that neither the Town nor the Town Council can simply remove Mr. Foppoli from office since he is elected directly by Windsor voters.
- The Town recognizes that the community is seeking the immediate resignation of the Mayor to allow the Town to serve Windsor residents without these distractions.
- Beyond resignation, the options for removing Mr. Foppoli from office include recall by residents or conviction of a felony that would prevent him from serving

WITH RESPECT TO PROTECTING OUR EMPLOYEES . . .

The Town is committed to ensuring a safe and harassment free workplace.

- We have strong policies against harassment and discrimination and a proven track record in enforcing those policies.
 - Every Town employee gets periodic training in how to prevent and report harassment.
 - Every member of the Town's executive team is committed to preventing harassment from occurring wherever Town work is performed.
- Our employees have expressed concern about this situation and discomfort with being in the presence of Mayor Foppoli, virtually or in-person. Some specific actions taken to ensure the safety and well-being of our staff include:

- Have asked the Mayor not to come into the office – and if there's a circumstance where he must come in he must first call me.
- Disabled the FOB and alarm codes of all Councilmembers to prevent them from coming into Town Hall unannounced. Councilmembers will be able to access Town hall by appointment,
- Arranged for counseling services to help employees cope with this situation.
- Although we have no knowledge of any employee being subjected to harassment or assault by Mayor Foppoli, we are retaining a consultant to conduct a formal inquiry with staff and Council.
- OF NOTE: Town Councilmembers are not Town employees and not subject to the same internal policies as Town Staff. However, Town Councilmembers are expected to comport themselves professionally at all times as representatives of the Town, especially given the high visibility of their public service and the trust that residents place in their leadership. Allegations of sexual misconduct clearly undermine that trust.
- As the top administrator of the Town, I have no authority to discipline members of the Town Council. Therefore, in this case, the Town will rely on our law enforcement professionals to lead and conduct the investigation of the allegations that have been made.

GOING FORWARD

- we've been through a lot together, we will through this
- we will not let the actions of an individual elected official define who we are
- Town staff continue to navigate this rapidly-evolving situation and provide service to the community, which is still recovering from many pandemic-related issues.
- it is important that we continue to provide the very high level of services we always do to our residents; we will not be paralyzed by this situation

- Mr. Mayor, the Police Chief and I would like to address on-going concerns about the Town's response to the 2017 email. I am prepared to do this now or can wait – whichever is the Council's pleasure.

2017 EMAIL

There have been a number of questions regarding how the Town handled receipt of an email in 2017 that made accusations about then-Councilmember Foppoli.

The most significant question are: Did the Town report the content of the email to the Police Department; and Why was no investigation conducted at that time.

I want to first explain what took place when that email was received and then provide some very new information that has come up in the last 24 hours on these matters.

In November of 2017, then-Mayor Debora Fudge received an email from an individual whose name has not been released by the Town in order to protect her identity. The email accuses then-Councilmember Foppoli of inappropriate behavior in 2013 at a guest house at his winery.

Upon receipt, then-Mayor Fudge took the appropriate action of forwarding the email to the then-Town Manager and then-Town Attorney for review and guidance. She also contacted the individual who submitted the email letting her know that she appreciated her bringing this email forward, acknowledging how difficult it must have been and letting her know she was forwarding it to the appropriate people within Town Hall.

The 2017 email was sent to all Councilmembers, including Councilmember Foppoli, who denied the accusations. I have been told by various individuals present at the time that the Town's leadership team all were very focused on and actively discussing the accusation in the 2017 email. They viewed it as a high priority situation and were trying to determine the best course of action, knowing it was highly sensitive.

Individual meetings took place, including with council members, with Human Resources, with the Town Attorney and with the Town Manager regarding how to respond to the accusations.

As questions arose beginning last Thursday about how the Town handled the matter, we have worked tirelessly to review all the Town's records and email transactions to learn exactly who received the email and when, and what, if any, actions were taken.

When that electronic records review did not reveal what took place or if the Police Department was made aware of the email, we personally contacted nearly all the individuals who were present at the time to learn as much as possible about the Town's actions.

What arose during these conversations conducted in the past two days was information regarding the desires of the individual who wrote the email. It was recalled that the author expressed her desire to be anonymous in her accusations, that is, to not have the Town reveal her identity, and also that no charges be filed or investigation take place. We now understand that the Town did not forward the email to the Police Department in accordance with the authors wishes.

Upon hearing this aspect of the 2017 conversations among staff and councilmembers, we felt it was imperative that this recollection be confirmed with the author of the email.

Therefore, we did obtain confirmation from the individual that she did not want to pursue any criminal action at that time and still does not.