

SPECIAL MEETING OF THE CITY COUNCIL
CITY OF CALEDONIA, MINNESOTA
Monday, July 18, 2005

CALL TO ORDER: Following due call and notice thereof, Mayor Morey called the meeting to order at 6:30 p.m. in the Council Room, City Hall.

ROLL CALL: Members present: Mayor Michael J. Morey; Council Members Paul Fisch, Randi Vick, Gary Klug and Robert Standish. Members absent: None. Consultants and City staff present: Timothy A. Murphy, Randy Shefelbine and Robert L. Nelson. Visitors present: Jane Palen, reporter.

BUSINESS ITEMS

A. **EMPLOYMENT ACTION:** The Public Safety Committee (Morey and Fisch) explained the efforts over the past months to keep abreast of the circumstances relating to the unpaid leave of absence of Police Officer James Stemper since November 23, 2004, when Officer Stemper was placed on a paid leave of absence while under certain charges of Buffalo County, Wisconsin. The court issues were resolved on June 17, 2005. The Committee reviewed their coordination with City Attorney Murphy and League of Minnesota Cities Attorneys regarding authorized actions of the City in considering conditions for Officer Stemper's return to work. Those efforts resulted in the Agreement presented to the Council for adoption this evening. Cit Attorney Murphy explained the rights and restrictions applicable to the City under the laws involving employer/employee relationships. Attorney Murphy then reviewed the conditions of Officer Stemper's return to work, item by item. Following discussion, a motion was made by Mayor Morey, seconded by Member Fisch, to enter the Agreement with Officer Stemper under the terms and conditions described (as presented hereafter in full), having confirmation that Officer Stemper had already accepted those terms. Members voting in favor: Morey, Fisch and Standish. Opposed: Vick. Abstaining: Klug. The motion was declared carried.

AGREEMENT

This agreement entered into this ____ day of July, 2005 between the City of Caledonia, hereinafter referred to as "City" and James Francis Stemper, hereinafter referred to as "Stemper".

Recitals

1. Stemper has been employed by the City as a police officer.
2. Stemper was charged in Winona County with a basic speed violation in violation of Minnesota Statute 169.14 and loud muffler in violation of Minnesota Statute 169.69 occurring on September 11, 2004.
3. Stemper was charged in Buffalo County, Wisconsin with obstructing an officer in violation of Wisconsin Statute 946.41(1) on September 13, 2004.
4. Stemper was placed on administrative leave with pay on November 23, 2004 by Chief of Police, Duane L. St. Mary.
5. Stemper has entered a plea to the charges in Winona County.
6. Buffalo County, Wisconsin has deferred prosecution on the charge of obstructing an officer with the charge to be dismissed on November 17, 2005, provided the following conditions are satisfied: (a) no violation of any laws of any state; (b) submit to alcohol and drug assessment by July 17, 2005; (c) no entry into any bar or tavern; (d) no possession or use of alcohol; (e) letter of apology. Stemper plead Guilty/No Contest to failure to obey a traffic officer signal in violation of Wisconsin Statute 346.04(1) and reckless driving 346.62(2). He was fined a total of \$523.20.
7. Stemper desires to return to active duty as an officer with the City.

IT IS HEREBY COVENANTED AND AGREED:

1. The employee shall be allowed to return to full time active duty on the following conditions:

- a. A probationary period beginning July 18, 2005 through July 17, 2006 to be supervised by Chief Shefelbine;
 - b. Comply with all requirements of the City of Caledonia Personnel Policy, Labor Agreement between the City of Caledonia and Caledonia Police Association and all Minnesota Laws throughout the probationary period;
 - c. He shall remain law abiding throughout the probationary period;
 - d. Abstain from the use of alcohol or other mood altering drugs, no entry into any bar or tavern unless on official business through the probationary period;
 - e. Provide the City with a copy of the alcohol assessment completed as required by the Buffalo County Court;
 - f. Follow all recommendations of the alcohol assessment;
 - g. Unpaid leave of absence consisting of 60 days, plus the forfeiture of 20 days of presently accrued comp and vacation time;
 - h. Letter of apology to be approved by the Public Safety Committee to the citizens Caledonia to be published in the Caledonia Argus;
 - i. Mr. Stemper turn in his keys to the City while he is on unpaid leave of absence.
2. Failure to comply with the terms, stated in paragraph 1 above, shall be grounds for disciplinary action and/or dismissal.
 3. Stemper represents and agrees that (a) he has fully read this Agreement; (b) he has been given an opportunity to discuss and negotiate the terms of this Agreement; (c) he has been advised by the City to consult an attorney before signing this Agreement; (d) he has had an opportunity to consult with an attorney and agrees that he has received full, fair and competent representation; (e) he understands and fully agrees with the Agreement's provisions and has voluntarily and without duress entered into this Agreement.
 4. This Agreement is governed by the laws of the State of Minnesota, both as to interpretation and performance. Any term or condition of this Agreement found to be invalid, illegal or unenforceable shall not render this Agreement void or unenforceable. If any particular provision of this Agreement shall be adjudicated to be invalid or unenforceable, the parties specifically authorize the tribunal making such determination or replace the invalid or unenforceable provision to allow this Agreement, and the remaining provisions thereof, to be valid and enforceable to the fullest extent allowed by the law and/or public policy. The rule of construction of interpreting a contract against its drafter will not apply to this Agreement.
 5. This Agreement shall be binding on Stemper and his heirs, agents, administrators, representatives, or executors, and upon the City, its successors and assigns.
 6. This Agreement contains the entire Agreement between the parties. The parties have no other written or oral Agreements. This Agreement supercedes any and all prior Agreements. Any amendment or modification of this Agreement, or any subsequent Agreement between the parties must be in writing.

I, James Francis Stemper, agree to the aforementioned terms.

Dated: _____

James Francis Stemper

I, James Francis Stemper, do not agree to the aforementioned terms.

Dated: _____

James Francis Stemper

Dated: _____

CITY OF CALEDONIA

By: _____
City Clerk

By: _____
Mayor

ADJOURNMENT: There being no further business before the Council, a motion to adjourn was made by Member Fisch and seconded by Member Vick. All members voted in favor, the motion was declared carried and the meeting then adjourned at 6:50 p.m.

Michael J. Morey

Robert L. Nelson
City Clerk - Administrator