



BEFORE THE CITY OF MUSCATINE, IOWA CITY COUNCIL

IN THE MATTER OF:)
DIANA L. BRODERSON) PROPOSED DECISION
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)
)

COMES NOW, Mayor Diana L. Broderon, by and through her undersigned counsel, and provides her Proposed Decision as directed by the City Council of Muscatine:

This matter comes before the City Council of Muscatine, Iowa on written charges for removal filed by the City Council of Muscatine and drafted by the City Attorney for the City as ordered by the City Council of Muscatine, Iowa. The charges for removal were filed under Iowa Code 1-7-6, pursuant to Iowa Code Chapter 66.29.

On March 23, 2017 and April 1, 2017, the City Council of Muscatine heard evidence and testimony on the charges filed in this matter. Based on the testimony of the witnesses, the evidence presented and offered to the adjudicator and fact-finder, the Council **FINDS** there is no basis for removal of Mayor Broderon as Mayor of Muscatine under the City Code of Muscatine and Iowa Code Chapter 66. Iowa Code sets forth that findings of willful misconduct and maladministration of office must be committed knowingly, with an evil intent, and a purpose to do wrong. State v. Callaway, 268 N.W.2d 841, 842 (Iowa 1978). The evidence presented to the Council did not rise to the level of a finding of evil intent or purpose to do wrong, and as a result, the Council cannot find that Mayor Broderon should be removed for willful misconduct or maladministration of office.

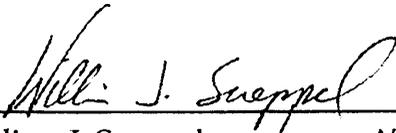
Further, the Mayor cannot be removed from office for willful or habitual neglect or refusal to perform the duties of her office. The City produced no evidence that showed Mayor Broderson failed to properly perform her duties, or willful refusal to perform the duties set forth for Mayor under the law or Code of Muscatine. As a result, the Council will not find that Mayor Broderson should be removed from office for willful or habitual neglect or refusal to perform the duties of her office as Mayor of Muscatine.

THEREFORE, IT IS ORDERED that the charges against Mayor Broderson for removal under Muscatine City Code 1-7-6 under Iowa Code 66.29 are dismissed. Costs of this action are assessed to the City, including the Mayor's costs and attorney's fees. Mayor Broderson and her counsel are ordered to submit an affidavit and itemized billing of costs and attorney fees to the City Council and City Clerk of Muscatine for payment upon receipt pursuant to Iowa Code Chapter 66.

Respectfully submitted this 2nd day of May, 2017

Respectfully submitted,

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