



City of Fredericksburg

**CITY COUNCIL REGULAR MEETING
MONDAY, JUNE 6, 2022 ~ 6:00 P.M.**

Jeryl Hoover, Mayor
 Tony Klein, Councilmember
 Bobby Watson, Councilmember

Sharon Joseph, Councilmember
 Emily Kirchner, Councilmember
 Clinton Bailey, City Manager

WRITTEN COMMENT

| Comment Form # | Name | Address |
|----------------|-----------------|--------------|
| 1 | Annette Bennett | Not provided |
| 2 | Wesley Hesker | Not provided |
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| 8 | | |

Shelley Goodwin

From: Annette Bennett <anetbenet@live.com>
Sent: Saturday, June 4, 2022 9:49 AM
To: Shelley Goodwin
Subject: city council submission public written comments

Shelly, please accept the following for my written comments, thanks

I would like to thank all those who are dedicated to this community and have chosen to run for office or participate in government. Those of you who are elected have been HIRED by the voters of Fredericksburg to manage this city according to the Constitution and the desires of the citizens.

You may wonder why so many of us harp on the constitution over and over. Because that is the people's contract with the government allowing it certain delegated powers. As in any business contract between two parties, the contract can be modified only with the consent of both parties. However, it cannot be changed just because one party decides to change it or circumstances change. If that happens – it is no longer a contract.

We are in challenging times and the temptation is to react without considering the contract often resulting in action taken in conflict with the contract. We have certainly seen this happen in the recent past. Those of us that get up and speak do so to express our concerns when the contract is not being followed. We the people are the ultimate guardians of both the effectiveness and limitations of government. We are not radicals or troublemakers but rather concerned citizens expressing our grievances (as we are guaranteed by that contract) and should be given the respect that we guardians deserve.

I will close with a quote from Thomas Jefferson...

"When government fears the people, there is liberty. When the people fear the government, there is tyranny."

Annette Bennett

713-201-1451

"Where law ends, tyranny begins. Unlimited power is apt to corrupt the minds of those who possess it."

-William Pitt the Elder

As a citizen, I feel it important to impart to this council, specifically the mayor as it is his words and conduct towards the public present at the prior meeting and not the council that needs public redress. There is no doubt that difficult tasks have been placed before the council and will come before the council. I do not envy the task and responsibility that goes into it. As a student of history, I have come to understand many decisions will be executed to some or many citizens in hot disagreement. This disagreement will certainly come in the form of a public that believes a set of circumstances that may or may not be of optimal optics to everyone in the room. In that measure, there is certain to be insinuations or outright accusations the receiving party feel are unjust.

The responsibility of governance is a very precarious position. Effects of decisions and policies rendered will always affect public perception as beneficial or detrimental to the future of the community or individual freedom. As such, an expectation that someone will have a redress of grievances to express is an absolute certainty and by our constitution an absolute right.

The first amendment explicitly states Congress, shall make no law abridging the freedom of speech, the right of people to peaceably to assemble, and to petition the government for a redress of grievances. This means no legislative, judicial, or executive component of government in the United States can alter this right in any way shape or form. It is an absolute right or The Constitution has failed to exist as the ruling law of the land and we are no longer a representative republic.

We derive our right to redress of grievances from the Magna Carta. I feel it important to express why this is the case, because I heard threats spoken to the public during the May 27th city council meeting that sound similar as precursor and pitfall that came later in British History. The consequences were a government that felt superior and unaccountable to the public and hope to dispel this conception as a deterrent to representative government risking sedition. It is also important to note this because it gave rise to why such language was directly incorporated in the United States Constitution. Article 61 of the Magna Carta provided for the presentation of grievances to the king, and required the king to redress grievances within 40 days or risk rebellion. The Magna Carta's Right to Petition includes, if the right is abridged, the right to wage whatever war against government needed to get just redress.

In the 17th century the crime of Seditious Libel was defined as communicating words, pictures, or signs, that defamed, discredited, criticized, embarrassed, or questioned the government, its policies, or its officials. Government officials could justify use of Seditious Libel and prosecute it under the notion that criticism undermined and reduced the public's respect for government's honor and authority, ultimately

threatening national security. This meant that government justified punishing criticism no matter how unlikely it was to undermine security.

Ultimately this mentality led to a degenerative relationship between the American Colonies and the British Empire. Colonial petitions addressed a wide range of public and private subjects including religion and the established church, slavery, relations with Great Britain, debt (public and private), taxes, government structure, divorce, appeals from judicial decisions, and naturalization. This wasn't just a right of voting citizens but of everyone including women, children, and slaves. If we look to the Declaration of Independence it lists 27 grievances against King George III and others. "In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury."

The representatives of the public, the government, are bound to this superior right of the people to speak without fear of prosecution, prejudice, or reprisals as an absolute right. It does not say anywhere in the first amendment that people only have the right in certain circumstances or venues. It is absolute.

Furthermore, we see the court more explicitly guard this freedom in its address of the press and its first amendment rights to make the press immune to slander or libel and has enjoyed such immunity as was granted by Justice Hugo Black of the Supreme Court. He wrote regarding the 1966 case of *Rosenblatt v. Baer*: "The only sure way to protect speech and press against these threats is to recognize that libel laws are abridgments of speech and press and therefore are barred in both federal and state courts by the First and Fourteenth Amendments. I repeat what I said in the *New York Times* case that 'An unconditional right to say what one pleases about public affairs is what I consider to be the minimum guarantee of the First Amendment.' "

I feel it important to state the aforementioned in relation to the previous City Council meeting that took place May 27, 2022. In response to public comments, which the majority were respectfully articulated, some were aimed at insinuating something was awry about the timing of Katy O'Neil's departure given recent elections just held for seats. Whether agreeable or not such statements have a point of perspective and reasoning. Many people can get facts wrong or insinuate something without proof simply because they find a logical progression of events that give rise to their belief. It doesn't mean they are true and can be dispelled simply by making a statement of reassurance to the public that the

appearances that give rise to such notion are simply not true, yet it could be seen as to why that perception might be held. That alone would put a stop to it and respectfully addresses the notion as a false one. Citizens wanting to push that narrative then are tasked with providing the burden of proof or abandoning it altogether to focus on more pressing matters. The decision as is clearly stated in the charter is the duty of the council on appointment if a seat is vacated. Even with the timing of the election it doesn't matter. It does state that the council will choose. Nothing states that the council has to listen to the people on public commentary and do as requested. Nothing states that if it happens around an election that should be the basis of selection. It is brief and direct to the point that the existing council will choose: "Sec. 3.07. Vacancies. When a vacancy occurs in the city council, the remaining members of the council shall, within thirty (30) days, appoint a qualified person to fill the vacancy until the next regular city election, at which time the unexpired term of such vacancy shall be filled by election."

What I find objectionable is the mayor's response to a minority of public comments and even if it were the majority I would still see it as improper. Again, I emphasize that the majority of comments were very respectful and well-articulated. The mayor addressed the public assembled in the room after the council rendered its decision to appoint a person of its own choosing to fill the vacant seat. The mayor stated that people had "No right and no evidence to accuse us of", "Accusations were false", "You find evidence about your accusations before you make them in public comment", "You need your facts straight before accusing the council of things and expect us to do what you want because you're a little bit of a bully", "You have a place at the table UNLESS you behave the way you did today", and "You will not accuse the council." I feel the mayor should speak to his actions that I believe were emotional in the moment and rooted in the justification because he personally felt wronged and took exception to it. We are imperfect and will occasionally take actions that do not impart the best example in the moment. I stand guilty in that capacity many times over as a flawed human being. The danger here is that happened and by using the power of his authority threatened the public assembled with contempt. When a member of the public did attempt to speak to his rebuking he quickly spoke over a person with a resounding "NOPE."

I truly hope the mayor finds regret that the meeting transpired in such a fashion because it sets a poor path for the public in commentary and the council to have a positive interaction. We, the public assembling at city council meetings, already had to deal with this in the prior mayor and council where

their response to public commentary of a few individuals was to erect a barrier between the public and council, stand fully armed peace officers at each entrance to the meeting room, and threaten to do away with public commentary altogether. I hope this is not the direction things will transpire towards again.

Unfortunately, public officials must endure unfair criticism in a republic. It was no different for Washington, Adams, Monroe, or Jefferson in the early days of The Republic where they had to endure the vitriol of public opinion that was rooted in complete opposition to the decisions they rendered. As a representative of the governed in a republic, such actions should be expected. I understand this is not a desirable position and it can be personally consuming in negative sentiments; However it must be endured.

The second our representatives separate themselves from the basic rights afforded to each citizen in freedom of speech with veiled threats, is the moment people begin to rightfully suspect the governing representatives intend to attack their right to address grievances. I believe, as a member of the public, that is the most worrisome aspect that was exhibited during the prior meeting on May 27th. The majority of the public comments were respectful and well-articulated. This should be the focus rather than a minority of comments inferring a hidden agenda was at play. Even if such were true, I will publicly state that is the prerogative of the council in the matter that occupied the agenda that day, however the decision was rendered. Clearly the public present for that meeting was not going to agree with the decisions of the council. There is nothing wrong with either. The council has the right to choose as it may and the public to dissent in its manner. We should see that is a strength in our republic that the two can coexist with respect for one another, despite some factions that will detract from a beneficial relationship. Public input that derides respect for their representatives will only erode the value of their input for consideration of matters before the governing body, as evidenced by ongoing baseless accusations repeatedly over time. It should not be seen in as an absolute in any given moment unless there is reason and evidence to support such.

I would argue that the public that assembles to give commentary generally gives their input to offer wisdom and consideration to the council for contemplation as they are consistently taking from what they could otherwise be doing with their time to have a voice of input in public meetings. These are members of the public who care deeply for the community, as each of you do in accepting the obligation

of setting the direction of our community from a position of official responsibility. We understand this task as a mayor and as city council members is not an easy job and at times difficulty will come about in rendering what the correct path is on issues. That path can be just plain wrong, exceptionally wise, or of mixed effect. It takes time to see what bears fruit and what does not. We can only proceed forward in the knowledge that above all our first and most important right must prevail in all circumstances no matter how distasteful to receive, and hope that above all things cooler, more deliberative minds will prevail.

Regards,

A handwritten signature in black ink, appearing to read 'Wesley Hesker', with a long horizontal flourish extending to the right.

Wesley Hesker