City of Carthage, Missouri
SPECIAL CITY COUNCIL

May 21, 2024 - 7:00 PM
CITY HALL COUNCIL CHAMBERS

AGENDA

1. **Call to Order**
2. **Invocation**
3. **Pledge of Allegiance to Flag**
4. **Calling of the Roll**
5. **New Business**
    1. The setting of a date for a public hearing for the impeachment of Mayor Rife
    2. C.B. 24-27 -- Ordinance concerning the removal of Dan Rife from the office of Mayor of the City of Carthage
6. **Resolutions**
    1. Amendment to the bill of impeachment set out in substituted Resolution 2042 to add a new paragraph, to state, "On May 17, 2024, at a special council meeting to consider Resolution Number 2042 concerning his impeachment, Mayor Rife vacated the chair because of his conflict of interest on the question. After the resolution was amended and adopted by the Carthage City Council, Mayor Rife acted to veto the resolution, despite his conflict of interest, and so violated Subsections 1 and 4 of Section 105.452.1 of the Revised Statutes of Missouri and Section 4.1 of the Carthage City Charter and Section 2-521(2) of the General Ordinances of the City of Carthage."
7. **Adjournment**

PERSONS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE CALL 417-237-7000 (VOICE) OR 1-800-735-2466 (TDD VIA RELAY MISSOURI) AT LEAST 24 HOURS PRIOR TO MEETING

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May 15, 2024

Mr. Paul Martin
Attorney at Law
paul@paulmartinlaw.org

Re: Hearing Officer – City of Carthage

Dear Mr. Martin:

I was asked to provide you a letter of my willingness and availability to serve as the hearing officer for a proceeding to consider impeachment proceedings against Mayor Dan Rife.

I have been appointed or hired to handle various aspects of municipal disciplinary actions, including impeachment in my career and I am familiar with the Missouri Administrative Procedure Act and the Missouri Rules of Evidence. I have over twenty years of municipal judging experience and currently serve as the municipal judge for the city of Creve Coeur and the consolidated court serving O'Fallon, Lake St. Louis and Weldon Spring.

If appointed by the City Council it is my understanding that I will make all rulings on any procedural, evidentiary or other necessary matters and shall take all actions necessary or desirable to facility the prompt and fair hearing and consideration of the charges.

If you wish to engage me to serve as the hearing officer in this matter, my rate for services is $250.00 per hour. I charge $125.00 per hour for travel time. Thank you for your consideration in this matter.

Sincerely,

/s/ Timothy A. Engelmeyer

_____

Timothy A. Engelmeyer

Accepted on Behalf of the City:

_____

Presiding Officer Date

COUNCIL BILL NO. 24-27 **ORDINANCE NO. _____**

ORDINANCE CONCERNING THE REMOVAL OF DAN RIFE FROM THE OFFICE OF MAYOR OF THE CITY OF CARTHAGE

WHEREAS, Dan Rife is the duly-elected Mayor of the City of Carthage; and

WHEREAS, since his election Mayor Rife is alleged to have committed certain acts which may constitute grounds for his removal from office; and

WHEREAS, the Council of the City of Carthage desires to consider such allegations, and if determined to be true, further consider and determine whether Mayor Rife should be removed from office; and

WHEREAS, at a special meeting on May 17, 2024 the Carthage City Council adopted Substitute Resolution No. 2042 calling for Mayor Rife's impeachment, but Mayor Rife attempted to veto the resolution; and

WHEREAS, while the Council rejected this veto at a special meeting on May 20, 2024, the Council acknowledges the possibility that Mayor Rife may attempt to delay the impeachment proceedings under the resolution by filing a lawsuit; and

WHEREAS, the Council accordingly desires to avoid further delay by proceeding with this Ordinance authorizing the impeachment of Mayor Rife as an alternative to Substitute Resolution No. 2042; and

WHEREAS, the Council of the City of Carthage finds that the people of the City of Carthage, the city's elected and appointed officials, and the city's employees have a vital interest in, and need for, a prompt resolution of the controversy surrounding the office of mayor and the speedy return to the orderly administration of municipal affairs; and

WHEREAS, the Council accordingly declares this legislation an emergency ordinance as allowed by Section 3.9(e) of the Carthage City Charter;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, MISSOURI AS FOLLOWS:

Section One. The Carthage City Council hereby adopts the Bill of Impeachment prepared by the city's special counsel, attached and incorporated by reference. Mayor Rife is accordingly charged with the violation of Missouri law, the Carthage City Charter, the Carthage City Code, and for the breach of his official duties and obligations, as provided therein.

Section Two. Mayor Rife is hereby provided notice of the charges presented in the Bill of Impeachment, which such charges can be amended, revised, or supplemented at the request of the city's special counsel and as may be approved by the Carthage City Council.

Section Three. The Carthage City Clerk shall immediately prepare a certified copy of this executed Ordinance, including its Bill of Impeachment, and deliver same to the Carthage Chief of Police, who shall effect immediate personal service of same on Mayor Rife. The Chief shall file his return attesting to such service with the Carthage City Clerk.

Section Four. The Carthage City Council shall hold a public hearing on June 6, 2024 at 3:00 p.m. to consider the charges, and if not concluded on such date, the hearing shall be continued to June 7 at 3:00 p.m . The hearing shall be conducted as follows:

A. The City's special counsel shall have the burden of proving the alleged charges, and Mayor Rife may be represented by counsel at the hearing.

B. The parties shall be entitled to present evidence and cross-examine witnesses in accord with Section 536.070 of the Revised Statutes of Missouri.

C. Hearing testimony shall be recorded and preserved by a court reporter who shall also maintain exhibits as part of the record of the hearing.

D. After the conclusion of the hearing the Council shall consider the evidence presented and shall determine whether Mayor Rife is guilty of one or more of the charges presented, and if so, whether he should be removed from office.

E. The Council shall approve a written summary of its determinations, including findings of fact and conclusions of law in support of its decisions, and on approval shall immediately deliver notice thereof to all interested parties.

F. Any aggrieved party may appeal the Council's judgment to the Jasper County Circuit Court within 30 days of the delivery of notice to said party.

Section Five. The Council of the City of Carthage hereby appoints the Honorable Timothy Englemeyer as the officer to preside over the impeachment hearing, and the council further authorizes President Pro Tem Alan Snow to execute an agreement with Mr. Englemeyer, attached as Exhibit A and incorporated by reference, for such services. Mr Englemeyer make all rulings on any procedural, evidentiary, or other necessary matters, subject to the authority of the City Council sitting as a Board of Impeachment, and shall take all actions necessary or desirable to facilitate the prompt and fair hearing and consideration of the charges.

Section Six. This Ordinance shall be in full force and effect from and after its adoption by the Carthage City Council.

PASSED AND APPROVED THIS ___ DAY OF _____, 2024.

ATTEST: **CITY OF CARTHAGE**

_____ _____

CLERK **PRESIDING OFFICER**

BEFORE THE CITY COUNCIL
CITY OF CARTHAGE, MISSOURI

In The Matter of the Removal From the Office of Mayor:	)
City of Carthage,	)
Relator,	)
v.	)
Dan Rife,	)
Respondent.	)

Bill of Impeachment

WHEREAS, Dan Rife is the duly-elected Mayor of the City of Carthage, Missouri; and

WHEREAS, on May 21, 2024 the Carthage City Council, through the adoption of Ordinance No. ____ and in accord with the authority provided by the Charter of the City of Carthage and the State of Missouri, authorized proceedings to consider the removal of Dan Rife from the office of Mayor of the City of Carthage for acts of misfeasance, malfeasance, and/or nonfeasance as described in this Bill of Impeachment;

NOW, THEREFORE, Mayor Dan Rife is hereby charged as follows:

1. On April 1, 2022 the Carthage City Council approved the hiring of Greg Dagnan as the Carthage City Administrator. On or about April 7, 2022 Mayor Rife, without the authority of the Carthage City Council, "confirmed" that Mr. Dagnan was given a ten year employment term, a "for cause" removal standard, and a severance payment. Mayor Rife's action violated Sections 5.3 and 5.4(b and c) of the Carthage City Charter, Section 2-160 of the Carthage City Code, and Section 432.070 of the Revised Statutes of Missouri.

2. On June 15, 2023 Mayor Rife called a special closed meeting of the Carthage City Council.

A. The meeting was called with less than 24 hours' notice and without the consent of all the members of the council in violation of Section 4.11 of the Carthage City Charter and Section 610.020.4 of the Revised Statutes of Missouri.

B. The meeting was closed pursuant to Section 610.021(3) of the Revised Statutes of Missouri, but the subject matter of the meeting did not involve

employees of the City. The meeting thus violated Section 610.011of the Revised Statutes of Missouri.

C. The minutes of the meeting failed to state "good cause" for holding the meeting with less than 24 hours' notice in violation of Section 610.020.4 of the Revised Statutes of Missouri.

D. Mayor Rife called the meeting to discuss and effect the removal of the members of the Carthage Water & Electric Plant Board, which such removal was accomplished without notice of charges to the members or an opportunity to be heard in violation of Sections 2-121 and 2-122 of the Carthage City Code.

3. On April 9, 2024 Mayor Rife failed to enforce the Carthage City Council's right to receive a forensic audit of the city's golf course operations, commissioned by the council in accord with its investigatory and audit authorities as conferred by the Carthage City Charter, and so violated Sections 3.7, 3.8, 4.1, and 4.12 thereof.

4. On April 9, 2024 Mayor Rife refused to permit an investigation by the Carthage City Council of an arrest by the Carthage police for a "leaving the scene of an accident" incident in violation of Section 3.7 of the Carthage City Charter.

5. On April 9, 2024 Mayor Rife refused to permit the Carthage City Council's consideration of a motion to terminate City Administrator Greg Dagnan's employment in violation of Sections 5.3 and 5.4(b and c) of the Carthage City Charter and Section 2-160 of the Carthage City Code.

6. On April 11, 2024 Mayor Rife refused for a second time to permit the Carthage City Council's consideration of a motion to terminate City Administrator Greg Dagnan's employment, ruling the motion "inappropriate". After the council's successful appeal of the mayor's ruling, the motion to terminate was renewed and was passed by a 7-2 vote. Mayor Rife responded that the motion "was not binding". Mayor Rife's efforts to prevent, and his refusal to enforce, the termination of Mr. Dagnan's employment violated Sections 4.1, 4.12, 5.3, and 5.4(b and c) of the Carthage City Charter and Section 2-160 of the Carthage City Code.

7. On April 23, 2024 the Carthage City Council approved a motion calling a special meeting on April 29, 2024 for the purpose of considering certain legislative bills. The motion required that the prepared bills be filed with the city clerk by April 25, 2024. The bills were submitted by the deadline, but on April 26, 2024, the City Attorney refused to approve the bills as prepared. At the meeting on April 29, 2024, the council moved to amend the agenda by adding the excluded bills. Mayor Rife refused to add the items to the agenda, thus interfering with the legislative authority of the Carthage City Council and violating Sections 2.1, 3.1, 3.9, 4.1, and 4.12 of the Carthage City Charter.

8. On May 9, 2024 three members of the Carthage City Council called a special meeting for May 10, 2024 and requested that six items, including certain legislative

bills, be placed on the agenda. The city attorney responded that he could not prepare the bills due to lack of time. At the meeting on May 10, the council approved a motion to amend the agenda by adding the excluded bills, which such bills, as prepared by council members, were also presented. Mayor Rife refused to acknowledge or enforce the motion or call for a vote on the bills. Mayor Rife's actions in this regard interfered with the legislative authority of the Carthage City Council and violated Sections 2.1, 3.1, 3.9, 4.1, and 4.12 of the Carthage City Charter.

9. At the special city council meeting on May 10, 2024, the Carthage City Council also voted to add the legislative bills previously excluded from consideration to the agenda of the May 14, 2024 regular meeting. The agenda items and proposed bills were provided to the city clerk and city council in printed format on May 10. The agenda items and bills did not appear on the May 14 agenda. Mayor Rife either failed and refused to place the items on the agenda, or he failed to enforce the motion of the council to do so. Mayor Rife's actions in this regard interfered with the legislative authority of the Carthage City Council and violated Sections 2.1, 3.1, 3.9, 4.1, and 4.12 of the Carthage City Charter.

10. On or about May 15, 2024, Mayor Rife executed a contract with the Lauber Municipal Firm for special counsel legal services on behalf of the City of Carthage. He did so without the approval of the Carthage City Council and in violation of Section 432.070 RSMo. and in violation of the council's April 9, 2024 actions terminating the Lauber Municipal Firm's representation of the city and requiring any future attorneys to be approved by a majority of the council.

11. On May 17, 2024, at a special council meeting to consider Resolution No. 2042 concerning his impeachment, Mayor Rife vacated the chair because of his conflict of interest on the question. After the resolution was amended and adopted by the Carthage City Council, Mayor Rife acted to veto the resolution, despite his conflict of interest, and so violated Subsections 1 and 4 of Section 105.452.1of the Revised Statutes of Missouri and Section 4.1 of the Carthage City Charter.

12. By failing or refusing to act in one or more the preceding particulars, Mayor Rife violated his duties and obligations to the City of Carthage and his oath of office as Mayor of the City of Carthage.

Respectfully Submitted:

Paul Martin, MBE#34428
Carthage Special Counsel

5/21/24
Date