



**MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF STACY IN THE COUNTY OF CHISAGO
AND THE STATE OF MINNESOTA PURSUANT TO DUE
CALL AND NOTICE THEREOF**

**CLOSED - SPECIAL MEETING
OPEN AT THE REQUEST OF THE EMPLOYEE
JANUARY 12, 2017, 7:00p.m.
STACY CITY HALL**

Call to Order

The meeting was called to order by Mayor Utecht at 7:00pm.

Roll Call

Present: Jim Ness, Mark Utecht, Tony Olivolo, Mark Ness, and Chuck Lucia

Absent: None

Others Present: Kathryn Schultz, Jill ?, Rod Olson, and Ted Alliegro

Purpose of the Closed Meeting

The purpose of the Closed Meeting is to give preliminary consideration to allegations of performance by a city employee.

Meeting Opened at Request of Employee

City Attorney, Ted Alliegro, confirmed with Ms. Schultz that she wanted the meeting to be open. He explained by opening the meeting the content of the meeting is made public. She confirmed that she desired the meeting to be open.

Order of Meeting

Mayor Utecht said that the order of meeting would take place as follows:

- Input from Rod Olson
- Reply by Kathryn Schultz
- Ability for Rod Olson to respond

Ms. Schultz said she was confused about the purpose of the hearing. Attorney Alliegro stated the purpose of the meeting as stated in the letter sent to Ms. Schultz on January 5, 2017, from him:

1. To discuss allegations that you violated city policy and failed to perform your job appropriately by failure and/or refusal to carry out legitimate instructions, orders, or requests to perform assigned work regarding inventory at the liquor store on December 28, 2016.
2. Engaged in behavior not in keeping with City standards involving truthfulness at a meeting with your supervisor and the City Clerk on January 4, 2017.

The supervisor is recommending termination from employment; the purpose of this meeting is for the council to gather information to



**Wine & Spirits Manager
Rod Olson**

determine if termination will occur.

Mr. Olson referenced the incident reports he prepared. They are attached to these minutes. He also pointed out:

- She refuses to do tasks stating she does not make enough money to perform them; she also encourages other employees to do the same.
- In processing the inventory she stated to Mr. Olson that he was making errors; she was helpful on one occasion and refused to help further.
- He doesn't know if he can work with this person, she doesn't respect direction from him.

Attorney Alliegro summarized:

- She was asked to do an inventory and refused.
- She lied that she was asked to do the inventory.

**Employee
Kathryn "Kitty" Schultz**

Ms. Schultz stated in summary the following:

- She has worked for the liquor store for five years and wants the business to succeed.
- Customer service is her priority.
- She would like a full investigation, to include contacting the previous manager.
- She feels inventory is important but the time leading up to the inventory is the extremely busy holiday season.
- Stated she was not requested to do the inventory on Schweppes.
- Did not refuse to do the inventory.

Attorney Alliegro summarized again:

- Did she refuse to do the inventory?
- Did she lie about being asked to do the inventory?

Ms. Schultz then read from her rebuttal:

- Concern that what Mr. Olson presented was not an accurate reflection of what happened.
- She said she was not able to do the inventory and provide stocking and customer service at the same time.
- She performed the requested cigarette inventory immediately.
- Regarding the Polar inventory, there was a barcode issue which would require more time and attention and did not want to "screw up" what Jess had already done. She did not want to be the "scape goat" because of problems with the product, holes on the shelf, empty coolers and customers not being taken care of.
- She has not seen the typical duties that Mr. Olson was referring to. Mayor Utecht asked if she was given an opportunity to read the Personnel Policy, she said in 2011. He then asked about the Job Description she said she

believes she's never seen one.

- Mr. Olson refused to speak to her on two occasions; December 31 and January 3, she felt that this created a hostile work environment.
- On January 3 as she was punching out for the day Mr. Olson asked her to stay for the presentation of an employee write-up? She was unable to stay as she used public transportation. She said Mr. Olson became agitated and told her to stay. She said we will need to handle tomorrow and left.
- On January 4 Mr. Olson presented the write-up in the presence of the City Clerk, Sharon Payne. She stated to Ms. Payne that she wasn't requested to do the inventory. Ms. Payne told her to prepare a response in writing to the write-up. During the meeting Mr. Olson stated he is the manager, you will do what I say pretty loudly; it was intimidating. She never said he wasn't the manager. He did state he hopes we can put this behind us and move forward. She told the clerk she would be submitting a rebuttal; (note not submitted to the clerk as of this meeting date).
- Received notice from the city attorney; she thought the matter had been handled.
- She feels she is being defamed, and harassed for disagreeing with Mr. Olson.
- She was told that the discipline paperwork was left lying in plain view for all other staff to see, this violates her data rights, and might be a deliberate attempt to make her look bad in front of her coworkers.
- She never shirked her duties due to the pay received.

Mayor Utecht asked if she had offered to provide the inventory issues to Ms. Payne that she refused to give to Mr. Olson; she said she did not refuse to give them to Mr. Olson.

Council Member J. Ness asked if she told Mr. Olson why she did not want to do the inventory, she said yes.

- She said she hasn't had a lot of time to review the second write-up. Said she just saw it for the first time tonight.

Member C. Lucia said that when a supervisor asks you to do something and you don't do it you are putting a stop in his procedure. From what he reads this happened on more than one occasion.

Attorney Alliegro asked if when meeting with Mr. Olson and Sharon Payne did she acknowledge she refused to do the inventory and provide an explanation. She said yes she needed to have the cases put out. Attorney Alliegro said so you acknowledge you refused to do the inventory. She said she didn't do it, she received

no inventory sheets, and Jess was working on it. Mr. Alliegro said that on December 28, 2016, you prioritized and did not do what your supervisor requested; yes, she acknowledged she did not do the inventory.

**Wine & Spirits Manager
Rod Olson**

Mr. Olson made the following points:

- The inventories had to be done by the end of the year.
- Regarding the second write-up if she didn't have something to hide why did she say she would show Ms. Payne the inventory issues.
- When she said we need beer in the coolers, she is giving the orders; I am supposed to be prioritizing and the one who is in charge.
- Addressing not speaking to her on the two occasions, that is not true.
- Regarding raising his voice, the clerk said he had held his composure during the meeting.

Break

Motion by J. Ness to take a five minute break. Second by C. Lucia. J. Ness, C. Lucia, T. Olivolo, and M. Ness voted yes. M. Utecht voted no. Mayor Utecht declared the motion carried

**Employee
Kathryn "Kitty" Schultz**

Ms. Schultz said:

- Thinks she did a good job for Stacy; she does not harbor any animosity that appears to be implied.
- Never said that Mr. Olson needed to prioritize; she needed him to confirm what needed to be done first – thought she expressed herself good enough.

Member C. Lucia asked if she accepts any responsibility to the situation; question not directly answered.

**Council Discussion and
Decision**

Mayor Utecht asked if the members had any further questions of Mr. Olson or Ms. Schultz; none expressed. The following points were made:

- Member C. Lucia said that this appears to be a volatile situation between the manager and employee and not sure it will ever be resolved.
- Member J. Ness the reality is that Ms. Schultz was asked to do something included in her job description and he feels by her replies she undermined the manager. The clerk's job is not to try and manage the store, her job is to do what the manager directs.
- Mayor Utecht said the recommendation from the manager is to terminate Ms. Schultz for insubordination. He reminded the council that we don't need cause to terminate we are an "at will" employer.
- Attorney Alliegro said that she is a public employee and "at will" this is her due process hearing.
- Mayor Utecht said he doesn't think things will improve at the

store if Ms. Schultz continues employment. He does believe that insubordination has been proven twice: one instance when the inventory was requested be done and not done, the other when Ms. Schultz offered to show Ms. Payne where the inventory discrepancies are and would not show Mr. Olson; this fact was verified by Ms. Payne. That is two instances of insubordination.

Motion by M. Utecht based on the two instances of insubordination and referencing the City's Personnel Policy section setting forth dischargeable actions; I make a motion to terminate Ms. Schultz employment at the Stacy Wine and Spirits. Second by J. Ness. M. Utecht, J. Ness, M. Ness, T. Olivolo, and C. Lucia voted yes. Mayor Utecht declared the motion carried.

Adjourned at 8:32pm

Motion by J. Ness to adjourn. Second by T. Olivolo. J. Ness, M. Ness, T. Olivolo, C. Lucia, and M. Utecht voted yes. Mayor Utecht declared the motion carried.

Sharon MT Payne

Incident report Kathryn Schultz

12-28-16 by Rod Olson (Stacy Wine and Spirits manager)

On Wednesday, Dec 22nd 2016, Kathryn (Kitty) Schultz approached me and stated that she felt that I was handling the store inventory very poorly and I was screwing everything up. Former manager Brian Hachey had stated roughly a month earlier that he had not done a full inventory in years and I could quickly tell upon beginning the inventory that there were going to be significant adjustments that would need to be made, thus confirming in my mind that a full inventory with lots of documentation would be required. Kitty said that I had zeroed out a product that I had asked her if she knew what it was and she had said at the time she did not know of it (Patron XO Cocoa Café). I had asked other employees if they knew it and when they didn't I had zeroed it. I asked her to help me out and direct me to it and I would make the correction, also pointing out that assistant Jessica Anderson was in charge of a full and complete liquor inventory so she would in fact catch the mistake when she got to it on her inventory rounds. I pointed out that I had not given away or thrown out any inventory so if I happened to make a mistake, it would be caught later and we weren't out any money. I then pointed out the inventory that I had been working on which was Archery Summit Pinot Noir (\$59.99 retail/btl) was showing a <1> in the system but was in fact 5 bottles in inventory on our shelf. That was further proof that a complete inventory was in order as we had to get a handle on it. She said as a citizen of the city of Stacy she felt that her concerns should be noted, which I found interesting as at least I was trying to remedy a very screwed up situation. Kitty continued to complain that I was making matters worse.

On Tuesday, Dec 27th, I asked Kitty to perform an inventory on all tobacco products which she initially refused to do. I had to almost beg her to do it and she finally relented and completed the task.

On Wednesday the 28th at about 2 PM I asked her to do an inventory of all Polar products which was roughly ten types and maybe 10 total cases in our store. She refused saying that due to UPC issues that the task would be large and it would not be her to do it and I would have to handle that myself. I then said she would need to do instead the Schweppes products of which again we had maybe ten cases in stock so these were both relatively small tasks. She then said that she would not take part in any further store inventory as she wanted no part in it because I was screwing everything up. She said I was not handling it properly with credits (which she would have no idea that I was already taking them into account). I again pointed out that nothing had left us and future inventories would catch them and that the wine inventory which was maybe 60% accurate I was going to bring up to 99% accuracy, but it would take time as things were so far off and we had to start somewhere. We would have the most accurate inventory numbers in well over 5 years if not longer upon completion. We would continue to do inventory until it was done to my satisfaction which could take months or more. I have stated this will be a work in progress as there are many issues.

Earlier in the day Kitty saw me doing inventory and said that I should be tending to the store's day to day business rather than doing an un-needed inventory for the mayor that I was screwing up anyway. Firstly, accurate inventories are a job requirement. Secondly, the mayor never directed me to undertake the scope of inventory I was undertaking as that was my decision based on how inaccurate the numbers were. Lastly, Kitty was inferring that I was not doing my job which is not her business nor was it the case.

These are not the sole incidents of her dislike of how I have handled other things in the store. She was very clear that she was against my swapping the place in the store where the bubbly was with the box wines, which were in absolutely the opposite places where they should be as the vast majority of liquor retailers would agree. Industry standards are such that the final area by the registers should have impulse items for customers to talk themselves into buying. When I arrived at the store, there were box wines in the last aisle where the registers

are and box wines are the least impulse worthy items probably in the whole store. Swapping with an impulse item like bubbly is what virtually all of the trade magazines recommend.

Another major area that she took issue with is our first ever off-site liquor seminar that featured Single Malt Scotches and got us 33 folks that were very pleased with the show. Two days after the event, Dec 10th 2016, Kitty said that the sales had not warranted the time that my assistant and I had put into it. I pointed out that many people wait for even a couple/few weeks after an event before purchasing especially when it is expensive items like those we were showcasing. Some came though the store to buy Rum and Bourbons that I had discussed with them after the event. One could even say that such an event could be considered an advertising expense as it created so many positive reviews from those attending. I had told the mayor of Stacy, Mark Utecht, that as this was our first event I would be happy with 10 people attending, which obviously we got far greater turn-out. Again, we have to start somewhere to get these events going well. Kitty has repeatedly stated that this was a waste of time and taxpayer money. On Dec 28th she again stated that the event was worthless and costly, which I strongly disagree.

The description of her job as described by the City of Stacy says in item number 4 under Typical Duties Performed that she should "Assist in unloading of all deliveries, and assist in the ordering and inventorying of merchandise as directed." In the same Retail Liquor Clerk duties, number 7 says "Perform such other duties related to the position as assigned and/or necessary." Her decision to refuse my direction on the two inventories I requested is insubordination which will not be tolerated. Her noncompliance also made me fall behind in the completion of said inventory.

At this time, all employees will be actively helping with inventory work. The goal will be to have Kitty return to being an employee that will willingly undertake assignments all assignments given to her by her superiors in a timely fashion including inventories. If there is a reoccurrence of similar nature, there may be a suspension or possible termination.

In a related area, on Tuesday, January 3rd, 2017, I approached Kitty at the end of her shift at 3PM and told her I needed to talk to her. This was in regards to having her sign her write-up. She said she was punched out. I said she should punch back in so she would be paid for the time. She refused saying that her schedule said she was to work until 3PM and it was 3PM and she was leaving. I again said I needed to talk to her, this time adding that it was in regards to a write-up that I needed her to read and sign. She again refused and said it was 3PM, her shift was over, her ride was waiting and she was leaving and we would have to discuss it when she came in for her shift the following day. I said I would prefer to do it now. She refused, said what she said again, said we would discuss it the next day, said goodbye and left. Assistant manager Jessica Anderson was standing right there as we were both planning to talk to Kitty privately and she heard the entire conversation. There were no other people at all in the store so our conversation was completely private.

Kathryn Schultz Write –Up 1/4/17

By Rod Olson (Stacy Wine & Spirits manager)

After informing Kathryn (Kitty) Schultz after her shift on 1/3/17 that she was going to have to read and sign a write-up for Insubordination from the previous week, we had a meeting at 10:10 AM with the two of us as well as City Clerk Sharon Payne who was sitting in strictly as a witness. I explained to Kitty that she was being written up because she had refused to do two inventories the previous week (see previous write-up for details). She countered and said that on the Polar mix products that she knew that assistant manager Jessica (Jes) Anderson had completed that inventory two days previous so it didn't need to be done. That would have been on Monday, Dec 26th. I explained that even if Jes had done an inventory of that product or any other, that if I asked for another inventory, even 15 minutes later, she would be required to perform that task. When I reminded her that I had then asked for a Schweppes mix inventory she then refused that to which she replied that she knew what the inventory was because there was none in back. I said that wouldn't have helped me because what I needed was the numbers to cross-check it against the computer inventory. She replied that I never gave her a sheet to write down the inventory to which I replied that in both instances she had refused to do the inventories before I could hand her the sheet. She reiterated this blatant misrepresentation of the truth a couple times saying she had never refused to do the inventory and hadn't even been asked, before I suggested we move on as what I had to say on the issue was in my write-up that she was holding. Her denial of the insubordination after she had been so strongly opposed and verbally hostile in refusal to do any inventory as I was "screwing it all up because I didn't know what I was doing" seemed so opposite that it is remarkable. I find that the fabrication of my failure to ask her to do inventories, especially when inventory needed to be concluded by the end of December in preparation for the inventory auditor, is further Insubordination. I made it clear that all employees, regardless of how long they had worked for the store, would be involved fully in the work on inventory of the store.

During the conversation about the Insubordination issues, multiple times Kitty brought up that she knew where there were inventory issues that she knew I had made mistakes on. Weeks earlier, again see previous write-up for details, she had said she knew of errors I had made. She pointed out the one on Patron XO Cocoa and I said at the time and later that if she knew of other issues, she should tell me so we could adjust them. When I asked to see more of the "mistakes" so we could rectify them, she completely refused to tell me where they were. Any mistakes I made were not malicious or intentional and I want them fixed. I don't understand why an employee would want to intentionally keep hidden issues and not reveal them so they could be repaired. This is not being a team player. This is not being a responsible employee who should be dedicated to the betterment of the organization. This is definitely not being a noble citizen of the city of Stacy who should be attempting to fix an inventory issue, but rather thwart the attempt to correct ongoing issues. This suggests that Kitty was working on another mission, with deception and deliberate intention of concealment of inventory issues that I repeatedly asked her assistance to remedy. In the Insubordination write-up meeting, she asked Sharon if she would like to see the issues she was keeping under wraps from me. Sharon said that was not her place to review. Either way, I find this to be Insubordination as she refused to help me locate these "mistakes".

In light of these issues, I recommend and will incorporate a suspension for Kathryn Schultz pending a decision from the city council. I would recommend termination immediately. I base this feeling on the foundation that going forward we cannot count on her to be dedicated to the improvement of the current inventory situation at Stacy Wine and Spirits.