

Fortuna City Council Special Meeting
September 22, 2004 5:30 PM
City Hall

PRESENT

Mayor Tom Cooke
Councilwoman Debi August
Councilman Mel Berti
Councilman Dean Glaser
Councilman Odell Shelton

STAFF

City Manager
City Attorney
Deputy City Clerk

Mayor Tom Cooke called the meeting to order at 5:30 PM and Council reviewed the memo presented to them from the City Attorney.

BUSINESS

**CONSIDER SENDING A LETTER TO THE STATE ATTORNEY GENERAL
CONCERNING THE MATTER OF THE PEOPLE VS DEBI AUGUST**

City Attorney Dave Tranberg briefly reviewed his memo and said that the procedure to disqualify the District Attorney or his office is performed by the filing a motion with the court. The motion must be served at least ten court days before the court is scheduled to heard the case. He said the statute does not authorize disqualification to be raised through a letter to the State Attorney General. He also stated that because the City is not a party to the matter, the City has no standing to file a Motion for Disqualification.

Attorney Tranberg said that because the City of Fortuna is not a party to the litigation, it cannot take advantage of Penal Code Section 1424 and seek to recuse of the District Attorney's Office.

Laura Angelel told Council that she did research and came up with other options. She suggested the City could ask for an investigation based on activities and a motion to change the jurisdiction. She also said the City could make a State Bar complaint.

Attorney Tranberg said that anybody could ask the Attorney General to investigate the proceedings by the District Attorney's office.

Dean Winkelhaus questioned who watches over the grand jury and determines whether they acted properly. He said the transcripts do not indicate the grand jury is self-guided.

City Attorney Tranberg said this case started at a lower level and at one point the District Attorney's office became involved. He reported the law says the DA's office provides legal counsel to the grand jury.

Attorney Tranberg said that Councilwoman Debi August or her attorney could bring a motion to recuse the DA's office but the City is not in a position to participate.

Wally Wright questioned if anyone is familiar with the referendum process, if the citizens submit a petition instructing the City of Fortuna to pay Debi's legal bills it could be put on the ballot.

Matt Galt said that at the Planning Commission meeting two people spoke against the Carmen Smith subdivision and they were both members of the grand jury. He said they should have said they have a conflict of interest and recused themselves to maintain their objectivity.

Councilman Odell Shelton said that everybody deserves to be treated fairly and said he does not think the District Attorney is serving the citizens of Humboldt County by doing this.

Councilman Dean Glaser said the Attorney General was here 2 weeks ago to talk about legalizing marijuana. He felt that for the City to attempt to send a letter is hypocrisy. He said that he has so much compassion for Debi and that he and Councilman Shelton both felt they should make some fleeting attempt to make them aware of the inappropriate spending of citizens funds.

Councilwoman August said she does have different options and has been exploring them.

Councilman Shelton indicate that Attorney Dave Tranberg explained it well and said there are better ways for the County to be spending their money. Odell said he doesn't know what the next step will be and hopes Debi and her attorneys can make the best decision on which way to go.

Mayor Cooke announced that no action will be taken.

There being no further business, the meeting adjourned at 6:12 PM.