



**Bridgeport
City Council**

Thomas C. McCarthy
City Council President

Denese Taylor-Moye
President Pro Tempore

Lydia Martinez
Majority Leader

Rick Torres
Minority Leader

Richard M. Paoletto, Jr.
Deputy Majority Leader / Sgt at Arms

Michelle Lyons
Deputy Majority Leader

Richard DeJesus
Deputy Majority Leader

Susan T. Brannelly
Rick Torres
130th District

Jack Banta
Denese Taylor-Moye
131st District

Patricia Swain
Robert E. Halstead
132nd District

Howard Austin Sr.
Thomas C. McCarthy
133rd District

Michelle A. Lyons
AmyMarie Vizzo-Paniccia
134th District

Mary A. McBride-Lee
Richard D. Salters, Sr.
135th District

Richard DeJesus
Alfredo Castillo
136th District

Lydia N. Martinez
Milta I. Feliciano
137th District

Michael J. Marella, Jr.
Richard M. Paoletto, Jr.
138th District

James Holloway
Eneida L. Martinez-Walker
139th District

Bill Finch
Mayor

Fleeta Hudson
City Clerk

January 12, 2015

Thomas McCarthy, President
Bridgeport City Council
City Hall Annex
999 Broad Street
Bridgeport, CT 06604
(Via email)

Re: *Allegations of misconduct/sexual harassment against City Council member
Richard Paoletto*

Dear City Council President McCarthy:

On October 17, 2014, you sent 18 members of the City Council, including the undersigned, an email regarding the sexual harassment complaint filed against City councilperson Richard Paoletto. In the email you detailed what you described to be "a few things about the situation."

While you listed six (6) items that you considered noteworthy about the situation, I am writing to you seeking additional information on item number three (3):

3) The Council will wait until there is a determination in any investigation before making any decisions. We, as a Council, will deal with any investigation decisions as a Council, when the investigation is over."

According to published reports, due to a second allegation of sexual harassment, City Councilperson Paoletto has been suspended, with pay, from his position with the Executive Branch. This translates into more than eleven (11) weeks of taxpayer dollars going into the private coffers of a City Employee accused of inappropriate behavior. It is generally understood that he will remain in this suspension until the city investigation is concluded.

Since the accusation involved his duties as a paid public servant employed by the Mayor and his staff, this decision was made by individuals who answer to the Mayor, rather than to the City Council.

Indeed, in your email you state, that you have "recused myself from any Labor Relation's investigation because of my role as City Council President. I am not involved and, therefore, don't have any additional information."

While you have unilaterally ruled that the Council will not begin any inquiry into this matter until the City investigation is over, as a member of the City Council, I am seeking an update on the status of the City's investigation.

In addition, I request that you immediately clarify the parameters of the moratorium that you have imposed on any legislative investigation into this matter. Have you determined that the City Council, as an independent body, is without any recourse or option into developing a response to this most embarrassing situation? How long is the taxpayer expected to wait before a determination is made on this matter?

In 2009, the City Council, under your leadership, was faced with a situation involving claims of wrongdoing by a member of the City Council towards a colleague. At that time, you wrote to the City Attorney requesting "legal advice and counsel concerning the legal authority of the City Council to investigate and if warranted, discipline" the City Councilperson in question.

In response to your inquiry, on December 3, 2009, Associate City Attorney Mitola advised you to call for a meeting of the City Council for a "Referral to the Committee as a Whole to be chaired by the Council President."

You complied with his advice and on December 21, 2009, the matter appeared on the City Council agenda. The matter was referred to the full City Council acting as a Committee of the Whole.

On December 23, 2009, Associate City Attorney Mitola responded to the leadership of the City Council and issued an opinion regarding the "legal authority of the Bridgeport City Council to investigate and discipline a Councilperson" (See City Attorney opinion of December 23, 2009.)

Associate City Attorney Mitola concluded that pursuant to *Chapter 5, Section 5(b) of the Bridgeport City Charter*, the City Council has the authority to punish its members for disorderly behavior and expel a member for due cause."

Furthermore, the Associate City Attorney cited Bridgeport City Ordinance 2.04.140, "*Removal from Office-Procedure*" in support of the argument that a City Council member could be expelled from office. According to Attorney Mitola, this section establishes a "detailed due process procedure for usage when a person who holds a city office is being considered for removal from that office."

It is reasonable to ask why, in your capacity as President of the City Council, you have not engaged in a similar pursuit of truth and accountability this time. After all, both cases involve a City Council member accused of wrongdoing. Clearly all reports of the 2009 situation highlight your determination to expose any wrongdoing allegedly done by any member of the Council. One cannot help but wonder if your hesitation to move forward with this case is that the council member involved is a political ally of the Mayor, unlike the councilmember involved in 2009.

As stated above, it is true that in your email of October 27, 2014, you stated that you have 'recused yourself' from this matter. However your personal conflict of interest in this matter should not stop a legislative inquiry from moving forward. Perhaps you can designate the President Pro Tempe, to lead the inquiry into this matter. It is after all, the process established by law in cases involving the inability of the President to act in his/her official capacity. Furthermore, in view of the precedent established by the City Attorney in the 2009 matter, the required City Council actions are very straightforward.

I have been receiving inquiries from many of my constituents and other city residents on this issue. As a response, I am asking that the attached Resolution be placed on the City Council agenda for the next meeting.

The Resolution is asking for the appointment of the City Council as a Committee of the Whole to investigate this matter and to act in accordance with the advice given by the City Attorney to the City Council on December 23, 2009.

Thanking you for your cooperation in this matter, I remain,

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Halstead', written in a cursive style.

Robert Halstead, Member
City Council, District 132

CC: All members City Council
(Via email)

Request/Resolution for City Council to Act as a 'Committee of the Whole' in the matter of an investigation into the allegations of Sexual Harassment pending against a City Councilperson/City Employee.

The undersigned, Robert Halstead, pursuant to the advice and counsel provided to the City Council by the Office of the City Attorney in the attached City Attorney opinion on December 23, 2009, does hereby call upon the President of the City Council, Thomas McCarthy to refer the matter of the alleged wrongdoing/sexual harassment claim of a City Council member/City Employee, to the full City Council to act as a Committee of the Whole to begin an inquiry into the allegations pending against the said City Council member/City employee.

The President of the City Council has informed the City Council that his dual position as a City Employee and President of the City Council creates a conflict of interest for him. In light of the clear conflict of interest expressed by the President of the City Council, the undersigned suggest that the Committee of the Whole be chaired by the President Pro Temp of the City Council, Denise Taylor-Moye:

Whereas, on or about October 27, 2014, the Executive Branch suspended one of its employees, who is also an elected member of the Bridgeport City Council; and

Whereas, the City Council member/City Employee was suspended, with pay, from his city position due to accusations of sexual harassment; and

Whereas, the City of Bridgeport's Executive Branch is believed to be conducting an investigation into the alleged wrongdoing; and

Whereas, the President of the City Council, Thomas McCarthy, is also a member of the Bridgeport Executive Branch in that he serves as the City of Bridgeport Deputy Labor Director, the City department charged with oversight of the investigation; and,

Whereas, President McCarthy, advised members of the City Council in an email dated October 27, 2014, that he had recused himself from "any Labor Relations investigation" due to his role as an Employee of the City's Labor Department and President of the City Council; and

Whereas, on or about December 23, 2009, under the leadership of President Tom McCarthy, the City Council sought and received legal counsel and advice on an issue involving the alleged wrongdoing of a member of the City Council (the opinion is attached to this Resolution/Request); and

Whereas, on December 23, 2009, the City Attorney advised the City Council, in a written opinion, to convene the City Council as a Committee of the Whole and begin an investigation into the matter since "under Charter Section 5(b) the authority to punish and remove a city council member is plainly vested solely in itself; and

Whereas, the City Council, as an independent and co-equal branch of city government, does not have to await the results of an Executive Branch investigation before proceeding on its own with an investigation into this matter; and

Whereas, the allegations made are serious and must be taken as serious by the Bridgeport City Council; and

Whereas, the City Council has received no information regarding the status of the investigation conducted by the Executive Branch, and the City Employee/City Council member remains on a paid suspension,

Therefore, Be it Resolved:

That the Bridgeport City Council, sitting as a Committee of the Whole, shall conduct an investigation, following the procedures outlined in the December 23, 2009 of the Office of the City Attorney, so as to make an appropriate determination into actions to be taken by the Council regarding the City Employee/City Council member at issue.

Signed on this 12th day of January, 2015

A handwritten signature in black ink, appearing to read 'R. Halstead', written over a horizontal line.

Robert Halstead, Member
City Council, District 132

CITY ATTORNEY
Mark T. Anastasi

CITY OF BRIDGEPORT
OFFICE OF THE CITY ATTORNEY

999 Broad Street
Bridgeport, Connecticut 06604-4328

DEPUTY CITY ATTORNEY
Arthur C Laske, III



ASSISTANT CITY ATTORNEYS

Salvatore C. DePiano
R. Christopher Meyer
Eroll V. Skyers

Telephone (203) 576-7647
Facsimile (203) 576- 8252

ASSOCIATE CITY ATTORNEYS

Gregory M. Conte
Betsy A. Edwards
Melanie J. Howlett
Richard G. Kascak, Jr.
Russell D. Liskov
John R. Mitola
Ronald J. Pacacha
Lisa R. Trachtenburg

MEMORANDUM

To: City Council Members
From: John R. Mitola, Associate City Attorney
Date: December 23, 2009

Re: Statements of Councilperson Robert S. Walsh, 132nd District

I. Issue

What is the legal authority of the Bridgeport City Council to investigate and discipline a Councilperson for alleged racist or otherwise inappropriate comments to a fellow Council member?

II. Background

The Office of the City Attorney has been requested to render advice and counsel concerning the legal authority of the City Council to investigate and if warranted, discipline Councilperson Robert S. Walsh for alleged comments made by him and recorded on the cell phone of fellow Councilperson Mary Evette Brantley. This matter was brought to our attention by the Mayor's Office, Councilperson Brantley, and the City Council Leadership (Council President Thomas C. McCarthy, Council President Pro Tem Carlos Silva, and Council Majority Leader Richard K. Bonney).

City Attorney Mark T. Anastasi assigned this matter to Associate City Attorney John R. Mitola with direction that the evidence be preserved and a written legal opinion be drafted for

issuance to the Council leadership. The Office of the City Attorney's role in this matter was to obtain the relevant facts concerning the context in which Councilperson Walsh's statements was given, preserve evidence (namely the recordings left by Mr. Walsh), and render legal guidance to the City Council as to what measures it may undertake, if any, concerning the comments made by Mr. Walsh.

On November 4, 2009 at 12:30PM Councilperson Brantley met with Attorney Mitola to discuss the circumstances that led up to a caller identified as Councilperson Walsh leaving messages on her cell phone and for the purpose of preserving the recorded statements. When Ms. Brantley arrived at the Office of the City Attorney located at the City Hall Annex she and Attorney Mitola immediately went downstairs to the Office of Internal Affairs (OIA) for the purpose of having the messages transferred from her cell phone onto a tape so that the recording could be preserved as evidence. OIA has the technical taping capabilities to preserve recordings from devices like cell phones.

Upon arriving at OIA Attorney Mitola and Councilperson Brantley met with Sgt. John Andrews. Sgt. Andrews obtained a tape recording device and made two tape recordings of the comments that were preserved and saved by Ms. Brantley on her cell phone messaging system. "Tape 1" is a recording of the statements allegedly made by Councilperson Walsh and "Tape 2" records the same statements but also records the messaging system information that details the date/time that the calls were made and messages left on Ms. Brantley's cell phone. On both tapes there are two (2) distinct messages claimed by the caller as being left by Mr. Walsh. The first message left by Walsh was on October 15, 2009 at 8:21PM. The second message was left on October 22, 2009 at 2:05PM.

The background provided by Councilperson Brantley as to the facts and circumstances that preceded the Walsh messages being left on her cell phone is the following: Ms. Brantley was one of several city council members who traveled to Miami, Florida on October 10, 2009 for the purpose of touring development projects completed by Robert Christophe who is the lead principal for Bridgeport Landing Development L.L.C. ("BLD"). BLD is the chosen developer to develop the shore line area in Bridgeport commonly referred to as Steelpoint. At that time the City Council was actively considering a certain proposed "Amended and Restated Developer and Acquisition Agreement ("Agreement") between the City and BLD. The City Council's Economic Community Development and Environment Committee (ECDEC) was conducting a series of committee hearings on the Agreement. On Thursday October 15, 2009 the ECDEC met for additional consideration of the matter and to vote the Agreement out of committee and back to the full City Council for action. Although not serving on the ECDEC, Ms. Brantley attended the October 15, 2009 meeting. While at that meeting she expressed her thanks and

gratitude to the principals of BLD for having hosted Bridgeport Councilpersons in Florida and for showing sincere interest in developing Bridgeport.

As stated Mr. Walsh left two separate messages on Ms. Brantley's cell phone, the first at 8:21PM on October 15, 2009 following the ECDEC meeting, and the second on October 22, 2009. Due to her concerns regarding the tone, tenor, and content of the messages, Ms. Brantley played the recorded comments from her cell phone to the leadership of the City Council which prompted leadership to respond by contacting the Office of the City Attorney to request legal assistance concerning the scope of the Council's jurisdiction to investigate and if warranted, discipline one of its members for improper conduct, and the process for exercising such authority in this instance.

III. Legal Authority of City Council to Address Conduct of its Members

Bridgeport City Charter, Chapter 5, § 5(b) provides that:

"The city council may determine its rules of proceeding in conformity to the general principles of parliamentary law, may punish members for disorderly behavior, and, after notice and hearing, may, by a two-thirds vote of all council members, expel a member for due cause. A quorum shall consist of eleven council members. At the request of any council member, the vote upon any question shall be taken by roll call vote."

Pursuant to Section 5 (b) the Bridgeport City Council has the authority to punish its members for disorderly behavior and expel a member for due cause. Procedural due process requirements dictate that a Councilperson be notified of all charges being levied against him and be afforded the right to a hearing on any such charges, prior to the issuance of any actual discipline.

Bridgeport City Ordinance 2.04.140 "Removal from Office-Procedure" (attached as Exhibit A) sets forth a detailed due process procedure for usage when a person who holds a city office is being considered for removal from that office. Section 2.04.140(B) provides two alternative means in which this removal process can commence.

Firstly, Section 2.04.140(B) (1) states that the mayor may summons an officer to appear before the city council at a designated time and place to show cause as to why the officer should not be removed. Such summons shall specify the charges against the officer.

Secondly, Section 2.04.140(B)(2) states that removal proceedings can commence upon the affirmative vote of eleven city council members on a resolution summoning the officer to appear before the council at a time and place specified to show cause why he/she should not

be removed. Such resolution shall specify the charges against the officer whose removal is sought.

It would appear based on the plain language of Charter Section 5(b) and Ordinance Section 2.04.140 (when read together) that the City Council under Ord. Sec. 2.04.140 (B)(2) as a whole (rather than the mayor) would be the more appropriate party to decide in what manner, if any, it wants to proceed concerning Mr. Walsh's alleged statements. This is so because under Charter Section 5(b) the authority to punish and remove a city council member is plainly vested solely in the Council itself. In contrast, it would appear that Ord. Sec. 2.04.140 (B)(1), which gives the mayor the authority to summons an officer to the council for removal purposes, applies when there is a claim that a city officer serving on a commission/board has engaged in conduct that warrants removal from office. This position is further supported by Charter Chapter 2 Section 16 which gives the mayor authority to seek removal of any person he or his/her predecessor has appointed to an office if the mayor believes that such person is incompetent, is guilty of misfeasance or malfeasance, or is in violation of the ethics rules.

It is respectfully recommended that in order to determine how to proceed, the City Council must listen to the recordings made by Mr. Walsh. At that point it can then decide, if it so chooses, whether charges against Mr. Walsh are warranted. In the event the council determines that charges are warranted it must determine whether removal from office is an anticipated appropriate disposition.

IV. Conclusion

The removal process may occur only if eleven members of the council vote on a resolution to remove Mr. Walsh from office under Ordinance Section 2.04.140 1 (B) (2) cited above. If that happens then the procedural process outlined in City Ordinance Section 2.04.140 must be followed. In the event that after hearing, the charges are sustained (proven) the Council must then determine appropriate discipline up to and including removal from office.

If on the other hand the Council believes that charges should be brought, but nevertheless even if the charges are proven the council does not believe that the conduct rises to a level where removal from office is warranted, then the Council does not have to strictly adhere to the procedural requirements of City Ordinance 2.04.140. However, the council still must draft the charges, serve them upon Mr. Walsh and give him a reasonable opportunity to be heard on said charges before the City Council can consider and administer any form of punishment against Mr. Walsh. Although the Council would not have to strictly adhere to the provisions of City Ordinance 2.04.140 under such a scenario, the procedural process outlined in that section can be used as guidance in order to afford Mr. Walsh an opportunity to be heard on any charges being brought against him.

EXHIBIT A

2.04.110 Bonds—Penalty for failure to execute.

If any officer shall neglect to execute the bond required of him by Section 2.04.080 within ten days after the commencement of his term of service, or the date of his appointment, his office may be declared vacant by the common council. (Prior code § 2-54)

2.04.120 Bonds—Payment of premiums.

The premiums on the bonds of all city officers, excepting sheriffs, shall be paid by the city when the surety thereon is a recognized surety company. (Prior code § 2-55)

2.04.130 Filling of vacancies.

A. Whenever any vacancy shall occur in any city or town office not otherwise provided for by law, the city Charter or this code, caused by the death, resignation or disqualification for any cause, of any of the city or town officers, it shall be the duty of the city council to fill such vacancy for the unexpired term.

B. It shall be the duty of the mayor, whenever any vacancy arises as provided in subsection A of this section, immediately thereafter to call a special meeting of the city council for the purpose of filling such vacancy. (Ord. dated 12/21/92 § 33; prior code § 2-42)

2.04.140 Removal from office—Procedure.

A. No person shall be removed from office pursuant to the authority vested in the city council by the city Charter except in accordance with the provisions of this section.

B. A removal proceeding may be initiated by:

1. The mayor summons an officer to appear before the city council at a place and time specified in the summons to show cause why he/she should not be removed from office as provided in the city Charter. Such summons shall specify the charges against the officer whose removal is sought. A copy of such summons shall be filed with the city clerk;

2. The affirmative vote of eleven council members upon a resolution summoning the officer to appear before the council at a place and time specified in the resolution to show cause why he/she should not be removed from office. Such resolution shall specify the charges against the officer whose removal is sought.

C. Whenever the city council votes to summon an officer to appear before it, as provided in the Charter and this section, the council president shall cause a summons, containing the information required by the Charter, to be served on such officer.

D. The officer whose removal is sought shall have the right to appear at any proceeding conducted pursuant to the provisions of this section; to be represented by counsel; to confront and cross-examine all witnesses; to

produce witnesses in his own defense and to the same compulsory process as is available to the city council under Chapter 5, Section 5(e) of the city Charter.

E. The city council, sitting as a committee of the whole, with the council president presiding (or in his/her absence a council member elected by a majority of the council members present) shall conduct a public hearing to determine whether cause exists for removal and shall prepare and submit a recommendation to the full council for its action thereon. A transcript of any such hearing shall be prepared and filed with the city clerk, as required by Chapter 2, Section 17(c) of the city Charter. The mayor or the independent counsel appointed pursuant to subsection I of this section, as the case may be, shall have the burden of proof as to the complaint. A finding by the ethics commission of a violation of the ethics ordinance shall constitute prima facie evidence supporting removal under this section. The record of transcript of any proceeding before the ethics commission shall be included in the record and made available to the members of the city council. Conformity to legal rules of evidence shall not be required. All witnesses shall be sworn. The council shall be the judge of the relevance and materiality of the evidence offered. Council members may question witnesses at any point in the proceeding. The council may receive and consider the evidence of witnesses by affidavit, but shall only give it such weight as deemed proper after consideration of any objection made to its admission.

F. The committee of the whole and city council shall act upon the proposed removal within thirty (30) days of the conclusion of the hearing required by subsection E of this section, provided that the time limit may be amended by a majority vote of the whole number of council members, for reasonable cause shown.

G. No officer shall be removed except upon the affirmative vote of two-thirds of the members of the city council, as required by the city council, as required by the city Charter.

H. Any complaints pending before the city council on the effective date of the ordinance codified in this section shall be handled pursuant to its provisions.

I. Whenever the city council votes to summon an officer to appear before it, pursuant to Chapter 2, Section 17(b) of the city Charter, it shall, by majority vote, appoint an independent counsel to prosecute the complaint. (Ord. dated 12/21/92 § 22)

2.04.150 Negotiation of personal loans restricted.

No elective or appointive official of the town or city shall negotiate any loan from any person that is doing business with the town or city except a person, firm or corporation legally engaged in the business of making loans. (Prior code § 2-47)