

MEMORANDUM

TO: City Council
FROM: Michael Rose
DATE: October 16, 2017
RE: Conduct of Mayor Ken Cockayne

On August 15, 2017, acting Mayor Anthony D'Amato contacted this office in order to retain the firm to counsel the Bristol City Council ("City Council" or "the Council") on the appropriate manner in which to address an allegation that Bristol Mayor Ken Cockayne disparaged City Councilwoman Jodi Zils Gagne in an earlier council meeting. The request for advice came after the Council decided to seek guidance about its legal obligations once Mayor Cockayne read an open apology at a Council meeting on August 8, 2017. During that meeting, it was confirmed that a harassment complaint had been made against Mayor Cockayne around June 6, 2017, and that the apology, and complaint, were linked. The Council voted to authorize Acting Mayor Anthony D'Amato to contact the undersigned.

I. INITIAL INQUIRY

The City of Bristol, through its City Council, requested advice as to what its proper role and legal obligations were as they related to the allegation that Mayor Cockayne had published personal and compromising pictures of Councilwoman Jodi Zils Gagne to Councilman Dave Preleski on May 9, 2017. During the August 29, 2017 meeting, I advised them that the City had a legal obligation to determine the validity of any potential complaints about the Mayor (irrespective of the later desires of the complaining party). Because the Mayor could not participate in leading the investigation, the Acting Mayor would be authorized to direct an inquiry. Moreover, the Council was within its rights to seek legal guidance from outside the Corporation Counsel's office since the inquiry involved the actions of the Mayor, who had appointing authority over the Corporation Counsel.

At the time of my initial meeting with the Council, Ms. Zils Gagne had not provided the Council with the specific nature of the photographs; however, the City Council knew, in some fashion, that they were of an embarrassing and personal nature. Moreover, members noted that the photographs were shown immediately after the Council had advocated for expedited processing of the Bristol Beat's (or "the Beat") request to broadcast Council meetings. A concern was raised that that the publication was in response to Preleski's advocacy for the Beat, in that the Mayor allegedly stated, "These are the people who you are defending." Ms. Zils Gagne's husband owns the Beat.

The Council sought to determine what authority they had to investigate and reprimand the Mayor should it be found that he engaged in an impropriety. By letter dated August 18, 2017 (Exh. A, Engagement Letter), Acting Mayor D'Amato retained our firm based on authorization provided in the August 14, 2017 resolution. Thereafter, when challenged on a lack of authority by Mayor Cockayne's personal counsel, the undersigned expressly requested that the Council pass a resolution that would authorize me to interview Mayor Cockayne and any other employees on the events relating to the Zils Gagne photographs.

Over the course of the approximately six (6) weeks in between retention and October 2, 2017, I interviewed the following witnesses: Tom Conlin, Diane Ferguson, Jodi Zils Gagne, Steve Gagne, Steve Savino, Bruce Gould (limited), David Preleski, Joanie Sutter, and, by way of letter, Ken Cockayne.¹ It is worth noting that Mayor Cockayne is the senior executive of the City of Bristol and is well cognizant of the fact that most investigations of sexual harassment require that the employee submit to an *in-person* interview with the investigator. Indeed, both Mayor Cockayne and Ms. Ferguson, as well as Attorney Krawiecki, worked with the undersigned to secure the in-person statement of Noel Bates in a separate 2016 investigation.²

In addition to live witnesses, I reviewed Council minutes for May 9, 2017, June 13, 2017, August 8, 2017, August 14, 2017, August 29, 2017 as well as the audio recordings of each (in full or in part). I reviewed the City Charter, City Ordinances, and City Personnel Policies. I accessed the subject website and reviewed postings on the Bristol Press and Bristol Talks. Finally, I reviewed documents provided to me by witnesses, including texts between Gagne and Mayor Cockayne.

A. Jodi Zils Gagne

Ms. Zils Gagne initially contacted the undersigned in May 2017 because she was concerned that she had been sexually harassed by the Mayor. I did not take notes during that conversation and directed her to contact either Attorney Mark Mercier (the ombudsman in the Bates matter), Diane Ferguson or the City Council. Ms. Zils Gagne advised me that she had contacted Attorney Mercier, but he felt that he was not authorized to conduct such an investigation. She also advised that she was not comfortable speaking with Ms. Ferguson due to her perceived close relationship with Mayor Cockayne. I left her with the suggestion to apprise the Council of her concerns as a personnel matter in executive session.

I did not hear again from Ms. Zils Gagne until August 29, 2017. I spoke to her during and after the meeting. She advised that the Council was not told the specifics about the nature of the pictures and that Mayor Cockayne had somehow obtained pictures of her that were housed on an [REDACTED] webpage. She described the pictures as depicting her in a partially clothed format and that Mayor Cockayne had displayed the pictures in order to humiliate her.

¹ I interviewed Chief Gould about a September 27, 2017 meeting between him, Mayor Cockayne, Cockayne's sister (Cindy LaMarre), his mother and the Gagnes. The Gagnes had stated Cockayne denied showing the photographs, but Chief Gould did not hear the denial.

² Ms. Bates initially refused to participate in an in-person interview, and thereafter, insisted that she have the right to an attorney during the interview. The City agreed with the undersigned and instructed her to cooperate with the inquiry.

She suggested he was upset with her husband. At this point she wished to maintain as much confidentiality and privacy as possible, and I advised her that the drafting of a written report may well make that difficult. She advised me that her primary concern was the well-being of her children and that she would have to think about what steps she wanted to take going forward. However, she made it clear that she thought that Mayor Cockayne had acted inappropriately and she believed, as did the Council, that the matter should be looked into.

I again spoke with Ms. Zils Gagne, several days later. During that discussion, she advised that Councilman Preleski told her approximately two weeks after being shown the photographs. She told me that at that point she changed her profile and her husband “blocked” the transmission of all photographs. She noted that based on website privacy settings they had chosen, she expected a degree of privacy, and her photos were not accessible except to paid members of the site. Once Mr. Preleski told her, she contacted Diane Ferguson on June 6, 2017 to ask for a copy of the City’s sexual harassment policy.³ Ms. Ferguson asked if there was anything she could do. Zils Gagne reported that she told her that “The Mayor violated the harassment policy.” Thereafter, Ms. Ferguson called her and Zils Gagne advised that based on Ferguson’s perceived close relationship with the Mayor, she wanted Attorney Rose to conduct the investigation. Councilwoman Zils Gagne reported that Ferguson stated that “Rose was compromised because he knows what it is about.” They discussed, and exchanged texts over who should be appointed. Ms. Ferguson hired Attorney Robert Noonan on June 8, 2017.

Eventually, Zils Gagne and the Mayor discussed what happened and she demanded a public apology for his display of the photographs. She told me that Mayor Cockayne’s mother had the photos printed out, and they agreed to a truce so as not to worsen an already bad situation.

Ms. Zils Gagne advised me Mayor Cockayne told her that he was not on the website as a member, and the profile photographs had been given to him. She thought this was untrue, and concluded that Mayor Cockayne was part of the “scene.” She stated that she and her husband had asked a friend to “fish” him out over the summer on the same website and had obtained his communication with an unknown member. [This contention is only relevant, if true, to disprove the Mayor’s assertion that he brought the matter up to Preleski to “stop rumors” about the couple.]

B. David Preleski

I first spoke with Councilman Preleski in the initial retention meeting. I spoke with him again on several occasions, addressing: 1) his recollection of the publication of the Zils Gagne photographs; and 2) scheduling a meeting of the City Council based on the failure of the Mayor to meaningfully respond to my call. We also spoke about derogatory information about Mr. Preleski that was distributed publicly and immediately after the September 25, 2017 meeting

³ That policy defines sexual harassment as, inter alia, “sexual innuendo, suggestive comments, jokes of a sexual nature, sexual propositions, threats, gossips involving an individual’s sex life, or comments about an individual’s sexual activities” See, City of Bristol Workplace Harassment Policy, Dated March 10, 2009. The City’s policy requires a prompt, thorough, and objective investigation by the Personnel Director or her designee.

publicly which had clarified that Cockayne was the subject of a City investigation for possible violation of the City's policies.

Mr. Preleski's initial discussion with the undersigned, in executive session, addressed the events of May 9, 2017. Mr. Preleski explained that on May 9, 2017, the Council had completed a regular meeting, during which the internet radio station the Bristol Beat ("the Beat") was discussed. As Mr. Preleski recalled, during the meeting he had pressed the issue of the Beat being allowed to broadcast from the Council chambers during Council meetings. As the meeting ended, Mayor Cockayne approached him in anger, showed Mr. Preleski two (2) photographs, a [REDACTED] and another photograph of what looked like her husband (Steve Gagne), and exclaimed, "These are the people you are defending. This is who they are."

Mr. Preleski was taken aback by the photographs, and after several seconds of processing the altercation, he stated that he realized what he had been shown. He recalled telling the Mayor, "I don't want to see that." As the moments wore on, he began to feel anger towards the Mayor for bringing the photographs into a government building, and for using them to push back on the Beat's request.

He acknowledged that he told Zils Gagne about it several weeks later.

C. Mayor Ken Cockayne

After the Council voted to retain this firm, Councilman and Acting Mayor Anthony D'Amato contacted Mayor Cockayne to advise him that I would be reaching out to him; this was between August 29, 2017 and September 6, 2017. I called the Mayor's office in early September 2017, and told the administrative assistant that I wished to speak with Mayor Cockayne about the resolution passed by the Council and in regards to a complaint made about his conduct. Several hours later, I was contacted by the same employee who advised that Mayor Cockayne had retained an attorney, and would not respond to me personally, but that his attorney would reach out to me. After not hearing from anyone affiliated with Mayor Cockayne for several days, I advised the Council that it appeared we were at an impasse. Acting Mayor D'Amato suggested that he expected the Mayor would reach out to me. After approximately another week or more, I updated the Council as to the status. I requested a special meeting on September 17 (to be held on September 25, 2017 to discuss the reluctance of the Mayor to subject himself to an interview. In the interim, I was contacted by Attorney Mario Cerame on September 21, 2017. We eventually spoke on September 25, 2017.

During the meeting of September 25, 2017, the Council gave the Mayor until October 2, 2017 to respond to any inquiry I might have. Because Attorney Cerame advised that his client would not subject himself to direct examination/interview by the undersigned, and while I believed such a position constituted non-compliance, I nonetheless provided a series of questions that I directed Mayor Cockayne to answer and sign. Mayor Cockayne did not sign the answers, and apparently directed his attorney to answer questions for him in the third person.

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Mayor Cockayne was asked if he showed indiscreet photographs of Councilwoman Zils Gagne and her spouse. He admitted that he did, but claimed it was part of an altruistic effort to caution the Councilwoman about what he feared would be rumors and unwanted gossip that would “detract from the work for the people of Bristol.” Specifically, Mayor Cockayne responded:

The images concern Councilmember J. Zils Gagne’s membership, with her husband, Steve Gagne to a website [REDACTED] [REDACTED].... Visitors can join for free or chose to pay a membership fee. Images on the site are generally about as accessible as those on Facebook or the average dating website. In other words, the site is open to the public and so are the images.

There is nothing particularly wrong about such membership. [REDACTED]

[REDACTED] Membership could become a point of embarrassment. Moreover, some members of the public would make a great deal out of such a membership. This could detract and distract from the work for the people of Bristol.

Mr. Cockayne was concerned that the open nature of the membership could give rise to such. Mr. Cockayne became aware of rumors [REDACTED] [REDACTED] and that people in the community were aware of their membership to the website. Mr. Cockayne was worried the issue could be embarrassing to the City as well as to Mr. Cockayne’s family, being that Councilmember J. Zils Gagne is his cousin.

At that time, Mr. Cockayne believed Councilmember Preleski was a respected member of the Council. Accordingly, Mr. Cockayne elected to confide in him in this matter. They had confided similarly in the past. It was Mr. Cockayne’s hope that Councilmember Preleski could help to put an end to people talking about it before rumors escalated.

Mr. Cockayne hoped Councilmember Preleski would treat the matter discreetly. Mr. Cockayne is disappointed that the matter has been transformed into a political weapon against him.

Mr. Cockayne has no recollection of showing Councilman Preleski the subject images on or about June 13, 2017. He does recall however, showing such images on some other date, perhaps in May 2017....

It is worth noting, in making his public apology to Zils Gagne, Cockayne stated “There has been tension between myself and Gagne and this has been caused by a family matter that was taken too far and into politics. We are looking to move past this and iron out our differences.” He

never mentioned a concern for the couple's privacy or any altruistic goals. He expressly mentioned a "family matter" that was taken "into politics."

Regarding whether the Beat could broadcast Council meetings, Mayor Cockayne, through counsel, stated that he first received a request on March 16, 2017. (Exh. B, pg. 2 Q.1). This was inaccurate: records indicate that Steve Savino called on or prior to March 6, 2017 and wrote on March 6, 2017. (Exh. D). On October 13, 2017, Attorney Cerame contacted me and verified this was a typographical error.

When asked if the appearance of Ellen Zoppo-Sassu on the Beat played a role in his decision to approve the radio project he denied it, noting that he voted for approval and moved quickly to facilitate it. He did not mention his repeated attempts to seek compensation from the Beat as a condition for broadcast rights.

Mayor Cockayne was also asked if he had threatened Steve Gagne in a text dated September 27, 2017. In particular, I had been provided with a text series in which Mayor Cockayne had stated "You and Jodi will all pay." (Exh. E, pg. 53-55). The Mayor admitted that he sent the text, but insisted it was taken out of context. Mayor Cockayne, through his attorney, stated that he made the threat because he intended to file a criminal complaint after Mr. Gagne had sent harassing texts to him and his family⁴.

D. Steven Savino

Mr. Savino is the Beat's former General Manager/On-Air Personality. Mr. Savino advised the undersigned that he first contacted Mayor Cockayne in late January, or early February, 2017 to request permission to broadcast the Council meetings as a public service. He did not receive a response and followed up on March 6, 2017. (Exh. D). He did not receive a response to that inquiry. Again, he followed up on April 6, 2017 at approximately 11:30 a.m. (Exh. F). Mayor Cockayne responded that he had assigned the matter to Corporation Counsel, who was "working on it," but noted that the project had been delayed due to the hospital project. (Exh. G).

Mr. Savino stated that he felt the application was being stalled. At the time, he did not have a suspicion as to why, but he later learned that there had been bad blood between Mayor Cockayne and Mr. Gagne since November 2016, when the Beat invited former Mayoral candidate Ellen Zoppo-Sassu on the program.

Mr. Savino advised that he had planned to broadcast audio from Nutmeg TV's broadcast feed. His correspondence appears to confirm his statement. (Exh. H). Mr. Savino claims that Nutmeg TV was initially in favor of the project, but later seemed to find areas of concern that slowed the project down. In fact, he noted that in late May 2017, he had a meeting with Corporation Counsel Tom Conlin and Nutmeg TV's Executive Director/CEO Joanie Sutter. During that meeting, Nutmeg TV stated that they were unsure if he could broadcast live because

⁴ Gagne admitted sending texts purportedly showing Mayor Cockayne's profile on the subject website. Those were sent to Mayor Cockayne's fiancée, and mother. That transaction no doubt played a role in escalating this matter.

there were licensing issues with Comcast. Nutmeg TV also stated that the Beat could not broadcast edited portions of the program and that it must play the program in a complete format at all times, and further, that the Beat could not allow any sponsor to be affiliated with the program.

Given the two (2) to three (3) month delay, and the realization that these restrictions could limit his ability to rebroadcast as needed in a news format, Mr. Savino decided to withdraw his request to work with Nutmeg.

E. Attorney Tom Conlin

Thomas Conlin is Assistant Corporation Counsel for the City of Bristol. He was assigned as my contact person for matters relating to the Beat request by Corporation Counsel Ed Krawiecki. His testimony is illustrative on several fronts.

First, Attorney Conlin stated that the first time he had heard about any request of the Mayor to review the Beat radio's request to broadcast was on April 6, 2017 or later. He provided an e-mail from the Beat to the Mayor and Council requesting assistance in the Beat request. (Exh. I). He provided me with the Mayor's follow up, stating that he (Mayor Cockayne) had assigned the matter to Corporation Counsel but that the hospital project had taken precedence. (Id.). Attorney Conlin stated that at the time of the Mayor's response, he had not been assigned to perform any work on the inquiry. Upon my inquiry, he noted that the office file was not opened until April 6, 2017. In the documents I requested, I was provided with a note from Attorney Krawiecki to Mayor Cockayne asking if he had assigned the request to one of the attorneys in the Department. (Exh. J). Mayor Cockayne answered in the negative, notwithstanding his earlier assurance to Mr. Savino that the project had been assigned but was held up due to the hospital project. (Id.).

Additionally, in the documents provided in response to my request from the Corporation Counsel's office, there was an e-mail from Mayor Cockayne that stated that since the City had to pay to broadcast and tape the Council meetings, Mayor Cockayne wanted the Beat to pay for the rights to broadcast the public meetings of the City Council. (Exh. K).

Attorney Conlin stated that he never felt that the Mayor tried to slow down or stymie the request. However, Attorney Conlin was at a loss to explain an e-mail, dated April 20, 2017, from Ms. Sutter to him that implied Nutmeg TV would honor the Mayor's desires as it related to the Beat request, no questions asked:

The BEAT contacted us. If the City decides for whatever reason not to provide the feed to them that is fine with us. If the City wants to provide the feed, we will comply. The reasons to provide or not to provide will not be discussed by Nutmeg TV with anyone other than City or the Mayor's office.

Our allegiance is with the City and the Mayor.

(Exh. L, pg. 2).

Three (3) days earlier the radio station had written to Mr. Savino and had advised him that with the execution of an addendum, permission could be granted. (Exh. M).

Attorney Conlin stated that he worked on the project through the June 13, 2017 meeting and drafted the resolution for Council approval of the permission. The Council approved the request and directed Corporation Counsel to draft the contractual language. (Exh. N). Attorney Conlin did so and forwarded it to the Beat, which declined to execute the draft agreement.

F. Diane Ferguson

Ms. Ferguson is the longtime Director of Personnel for the City of Bristol. She was interviewed September 29, 2017.

Ms. Ferguson reported that she was first contacted by Ms. Zils Gagne on June 6, 2017. (Exh. O, pg. 2). Ms. Zils Gagne requested a copy of the Town's Policy on Sexual Harassment in the Workplace. (Id.). Ms. Ferguson provided it to her on the same day, and invited Ms. Zils Gagne to contact her personally if she had any issues that she wished to discuss. (Id.). Later that morning, Ms. Zils Gagne wrote:

This new investigation involves the Mayor and violates the sexual harassment policy that you attached in your prior e-mail. He created a hostile work environment that was humiliating to a city official while in Council Chambers. This included verbal conduct, including gossip and comments about sexual activities, as well as non-verbal conduct, including pictures.

(Exh. O, pg. 1). Ms. Zils Gagne noted that she had reached out to the Bates' Ombudsman but was advised that he was only charged with investigating retaliation charges brought by witnesses in the Bates' investigation. (Id.). She asked that the City assign the undersigned to investigate. (Id.).

On June 6, 2017, Ms. Ferguson called Ms. Zils Gagne and took notes on the call. According to those notes, and as relayed by Ms. Ferguson, Ms. Ferguson told her she needed details to retain the investigator. (Exh. P). Ms. Zils Gagne was reticent to give more information beyond the fact that "he made comments about her and had pictures." According to Ms. Ferguson, Ms. Zils Gagne indicated that she had contacted the undersigned, who advised her to report the conduct to the Council and call a special meeting. (Id.).

On or about June 8, 2017, Ms. Ferguson reported that she had reached out to hire Attorney Robert Noonan, a labor and employment attorney, who had provided training to staff in the aftermath of the Bates Report. (Exh. Q). Ms. Zils Gagne inquired about hiring Attorney Rose as an outside investigator. (Id.). Ms. Ferguson told her that the prior investigation conducted by Attorney Rose had nothing to do with this investigation and stated that she would hire Attorney Noonan. During this e-mail conversation between Ms. Ferguson and Ms. Zils Gagne, which occurred between June 9-16, 2017, Ms. Zils Gagne requested Attorney Rose, and Ms. Ferguson continued to insist on Attorney Noonan. (Exh. Q). When pressed, Ms. Ferguson

told Ms. Zils Gagne that the undersigned's prior knowledge of the parties and background precluded her from hiring the undersigned. (Id.). Ms. Ferguson later advised the Mayor of the charge initiated by Ms. Zils Gagne.

In any event, on June 15, 2017, Ms. Zils Gagne contacted Ms. Ferguson by phone message and told her she did not wish to pursue her complaint. Ms. Ferguson verified that Ms. Zils Gagne did not feel coerced to drop the complaint. (Exh. O).

Ironically, on June 14, 2017, the Mayor reported to Ms. Ferguson that he had felt physically and verbally assaulted by the Gagnes at the June 13, 2017 Council meeting. (Exh. R). The Mayor stated that Mr. Gagne had shown him pictures that he felt were inappropriate to be shown after the meeting.⁴ (Id.). Mayor Cockayne alleged that he felt he was being blackmailed by the Gagnes. (Id.). Ms. Ferguson responded by instructing the Mayor to act professionally, and if necessary, report the matter to the police. (Id.). She stated that she did not feel the complaint was a personnel matter.

Ms. Ferguson responded that she knew the Mayor had agreed to apologize and observed that apology on August 8, 2017. She stated that she did not know what the apology was for, and admitted being puzzled and confused regarding the public nature of the apology.

Ms. Ferguson also relayed the following. As a result of the apology, Councilman Calvin Brown began to question the Mayor about what he had done and why he had to make the apology in public. After the Mayor demurred, Mr. Brown called up Ms. Ferguson and asked if there were any recent sexual harassment complaints made against the Mayor. Ms. Ferguson responded more broadly and noted that "Councilwoman Zils Gagne made a sexual harassment complaint" but that the underlying matter was resolved. In hindsight, Ms. Ferguson acknowledged that she should not have disclosed Ms. Zils Gagne's name in public, but rather should have simply answered generally or insisted on an executive session. Ms. Ferguson stated that she felt she had been trapped or "sandbagged" by the Council since she was immediately asked questions about the sexual harassment complaints following the public apology by the Mayor.

I asked Ms. Ferguson repeatedly why she did not pursue the complaint made by Ms. Zils Gagne based on the serious nature of the allegations. In sum, Ms. Ferguson's response was as follows: a) she thought the matter was a personal and/or family dispute that had been resolved; and b) she was unsure of the specific facts. Ms. Ferguson stated that she was unsure of specific detail when she first heard about "photographs" but that the e-mail chain plainly reveal the topic was addressed on June 6, 2017. When pressed, Ms. Ferguson acknowledged that she knew Title VII and state law require an inquiry or assessment by an employer when faced with allegations of this nature, as did City policy, but responded that she hesitated also because she was unsure whether Ms. Zils Gagne was considered an employee of the City and thought the matter was resolved. She also insisted that she never felt pressured by her reporting relationship with the

⁴ Based on the statement of Steve Gagne to the undersigned, this was a photograph and profile that allegedly belonged to Mr. Cockayne [REDACTED].

Mayor to end Attorney Noonan's investigation; she simply made the choice on her own that the matter was moot because of the withdrawal by Ms. Zils Gagne and warranted no further inquiry.

G. Steve Gagne

I spoke with Mr. Gagne, husband of Councilwoman Zils Gagne, on numerous occasions. His testimony was important since he had both the texts from Mayor Cockayne, which serve as a timeline in the breakdown, and screenshots of private photographs of he and his spouse that were on certain websites which were the subject of this investigation. Immediately *after* the Council publicly voted to expressly authorize the undersigned to interview Mayor Cockayne and other City employees as part of its inquiry, the screenshots referenced were posted publicly.⁵ It is important to note that according to the Gagnes, their profiles had been removed by that time, and thus, the profiles and photographs were retained by some unknown, but likely ascertainable actor.

Mr. Gagne reported that he had a good relationship with Mayor Cockayne based on his familial relationship and his business relationship. That relationship broke down on November 4, 2016, when Mr. Gagne advised the Mayor that his radio show had booked Ellen Zoppo-Sassu to speak on the "State of the City" show. (Exh. E, pg. 21). Mayor Cockayne responded negatively, asking, "Why are you giving her the spotlight? Who is she to the DTC?" (Id.). When Mr. Gagne explained his rationale, Mayor Cockayne exclaimed, "Bullshit but whatever. You are legitimizing her. She's no one." (Exh. E, pg. 22). He followed up with such comments as, "[n]eed to keep her out of the spotlight." (Id.).

The texts make it clear that Mayor Cockayne tried to steer Mr. Gagne away from having his former opponent on the show. (See Exh. E). The Mayor made his displeasure evident when he wrote, "You think you might want to keep your mayor happy so [sic] show up again on your show."⁶ (Exh. E, pg. 23). Later he advised Mr. Gagne that "many in the RTC are very pissed that you're putting Zoppo on the show ..." (Id.). And, "Maybe OK when RTC members start telling people not to listen to your show. I'm just passing it along you [sic]. Do [sic] whatever the fuck you want with that information." (Id.). The entire text chain is appended as Exhibit E.

Mr. Gagne described a continual downward spiral in their relationship, which led to attacks on his wife. In February 2017, Mayor Cockayne mentioned Ms. Zils Gagne's "law license," saying "hopefully you didn't cost your wife her license." (Exh. E, pg. 25). By June 2017, Mr. Gagne complained about more personal attacks on Ms. Zils-Gagne, alluding to the

⁵Based on Ferguson's statement that Cockayne did not know he was being investigated, I asked the Council to expressly make clear that Mayor Cockayne was to answer my questions in a timely manner. The Council voted unanimously to authorize such contact on September 25, 2017. The very next day, [REDACTED] and texts were published on "Bristol Talks" by a "Mandy Woods." Immediately following the posting, a Republican activist congratulated "Woods" on publishing the private details of the purported profile, and suggested that "Woods" had beat her to the punch. This made it clear that there was some degree of an orchestrated smear campaign in the works. The timing of the publication leads to the inference that someone close to Mayor Cockayne orchestrated the smear, as it occurred within hours of the Council vote.

⁶ Mayor Cockayne made it even clearer when he wrote, "pretty interesting when those who say they support you stick it to you. Once a failure always a failure. Good luck saving your failing radio station." This was on or around the time the radio station began to inquire about broadcasting Council meetings.

incident in which Mayor Cockayne shared partially clothed photograph of Ms. Zils-Gagne with Mr. Preleski. Mr. Gagne noted that after this, Mayor Cockayne realized he had gone too far, and after Ms. Zils Gagne threatened him with harassment charges following the incident, Mayor Cockayne and the Gagne family agreed to a truce and a public apology. Mayor Cockayne agreed to destroy any compromising photographs that he had of Ms. Zils Gagne, but more “chatter” began to occur after Ms. Zils Gagne explained the nature of Mayor Cockayne’s apology in a statement on or about August 14, 2017. Thereafter, pictures and comments were discussed on a closed Facebook site (Bristol Talks), and Mr. Gagne began to hear that Mayor Cockayne’s mother had shown the photographs referenced herein to friends. He knew that Mayor Cockayne’s mother had the photographs because he was told by his brother in law (Matt LaMarre), the Mayor’s sister’s husband) that he had seen them in hard copy at the Mayor’s mother’s house.

Matters began to truly deteriorate when Council members began questioning the origin of the dispute. The Council called an executive session to discuss the matter, and thereafter, Mr. Gagne saw his wife repeatedly maligned. He released a photograph allegedly of Mayor Cockayne’s [REDACTED] and admitted that he had earlier sent the same photograph to the Mayor’s mother and fiancée.

Once the investigation commenced, Mr. Gagne noted that things continued to worsen, leading to September 26, 2017, when Ms. Zils Gagne and Mr. Gagne’s profile and photographs [REDACTED] were published on Bristol Talks by a “Mandy Woods.” This occurred even though they had blocked the pictures months earlier.

H. Joanie Sutter

Ms. Sutter is the Executive Director/CEO of Nutmeg TV. Ms. Sutter was initially contacted by voice message in late September 2017. She was on vacation and upon return, contacted the undersigned on several occasions. Attorney Rose was out-of-state on business and then on vacation, but reached Ms. Sutter on October 12, 2017.

The purpose of Ms. Sutter’s interview was to address the possibility that Mayor Cockayne had served to delay or inhibit the Beat’s request for broadcast rights. Ms. Sutter stated that she never felt any pressure – express or implicit – that lead her to believe Mayor Cockayne wanted to stall or defeat the project.

Ms. Sutter described an initial inquiry from Mr. Savino in January 2017. At that time, Mr. Savino toured the Nutmeg TV facility and had begun to discuss a proposal to broadcast (or rebroadcast) audio from Nutmeg TV. (Exh. S). Ms. Sutter provided additional e-mails covering April 17, 2017 to May 19, 2017. (Id.). She also reported participating in a meeting with the Beat on May 31, 2017, and meeting personally with Mayor Cockayne and Attorney Conlin shortly after May 9, 2017. Mayor Cockayne requested that the Beat pay for the rights to broadcast the City Council meetings.

Ms. Sutter stated that when advised of the Beat proposal, she and her Board had several concerns. Nutmeg was purportedly concerned about editing a copyrighted broadcast by the Beat

radio.⁷ She was also concerned about selling commercials during the broadcast. She assumed the broadcast was non-commercial (later told by Attorney Conlin that it was commercial) and that the Beat simply wanted to obtain a copy of the broadcast for retransmission at a later time.

On April 17, 2017, Ms. Sutter told Attorney Conlin that the agreement could proceed and forwarded an amendment to the Corporation Counsel. (Exh. M). The document was executed by Nutmeg TV (Ms. Sutter) and only required a signature by Mayor Cockayne. (Id.). Mayor Cockayne never executed the document; on April 20, 2017, Ms. Sutter sent an e-mail to Attorney Conlin stating the following:

There is one thing I'd like to clarify as decisions at the City, regarding an audio feed going over to the Beat, are made.

The Mayor and the City of Bristol are our clients. That relationship is very important to me and the Board [sic] Directors of Nutmeg TV as its [sic] been long standing for over 25 years.

The Beat contacted us. If the City decides, for whatever reason not to provide the feed to them that is fine with us. If the City wants to provide the feed, we will comply. The reasons to provide or not to provide will not be discussed by Nutmeg TV with anyone other than the City or Mayor's office.

(Exh. L, pg. 2).

On April 26, 2017, rather than returning the executed document, the Mayor asked Attorney Conlin to advise Nutmeg TV that "[t]he Mayor is considering requesting Bristol Beat pay a 'license' fee to rebroadcast." (Exh. L, pg. 2). In an e-mail from Attorney Conlin to Ms. Sutter, he stated, "Again, paragraph 7 of our agreement seems to indicate that if the City did so, and received compensation, the City would then have to pay Nutmeg. What is your interpretation of this?" (Id.). Ms. Sutter responded on May 2, 2017, stating, "You are correct in your assumption of paragraph 7. We also still have the issue of them being a commercial entity and selling advertising." (Id.).

Moments later, Attorney Conlin responded:

I misunderstood, then. I thought the amendment to the agreement was a consent, of sorts, even after considering the Bristol Beat was a commercial radio broadcaster. I thought your concern was limited to paid sponsorship or advertising for the City Council meeting broadcast (bumpers, promos, in program ads). Can we discuss this again more thoroughly?

(Exh. L, pg. 1-2).

⁷ As a matter of law, a municipal entity cannot "copyright" a public record, which is what the recording is. See, e.g., Conn. Gen. Stat. § 1-210(a). The recording is a public record, and accessible to the public free of charge.

Ms. Sutter stated, "...you are correct. The signed addendum to the agreement will allow you to give the audio feed to the Bristol Beat..." (Exh. L, pg. 1). On May 9, 2017, Ms. Sutter received a request to speak directly to the Mayor about the proposal.⁸ (Exh. S). She recalled stopping by for a personal meeting with the Mayor and Attorney Conlin. She told the undersigned that the Mayor and Attorney Conlin were interested in whether or not the Beat could edit the broadcast under the agreement. She did relay that both seemed concerned about legal technicalities.

On May 18, 2017, Ms. Sutter contacted the City and advised that Mr. Savino had contacted it and assumed the station had the matter resolved. (Exh. S). In that conversation, Mr. Savino referenced a "live feed," which according to Ms. Sutter, was the first time she had heard of it. (Id.). Nonetheless, the parties met with each other on May 31, 2017, and thereafter, the Corporation Counsel drafted an agreement to execute after the Council voted on the proposal on June 13, 2017. (Exh. N). According to Ms. Sutter, notwithstanding any resolution by the Council, she could not allow the Beat to broadcast the meeting live off of Nutmeg's live feed due to restrictions imposed on Nutmeg by Comcast. She maintains that position to this day – the Beat will not be allowed to pull live audio off of Nutmeg's feed for contemporaneous broadcast due to legal concerns with Comcast.

II. DISCUSSION

A. Legal Authority

Throughout this investigation, two (2) witnesses have, either expressly or implicitly, questioned the authority of the Acting Mayor and/ or the City Council to retain legal counsel to advise it on the legal ramifications of the Mayor's alleged conduct and to engage in fact finding relative to that conduct.

First, under the Charter, the Corporation Counsel performs all legal services for the City of Bristol. See also, Code of Ordinances, Chapter Two, Division 4, Sec.2- 53. However, there are occasions when the Corporation Counsel may conclude his office is precluded by the Rules of Professional Responsibility from providing legal advice. The case of Noel Bates was one example in which Corporation Counsel was not involved due to the obvious nature of the potential conflict of interest. In the Bates case, Personnel Director Ferguson, with the presumed approval of the Mayor, retained Rose Kallor, LLP to investigate Ms. Bates' complaints of sexual harassment and related claims. It is self-evident that the City is empowered to retain counsel to assist it when the Office of the Corporation Counsel believes it cannot, or should not, conduct an inquiry or investigation.

It is also evident that the Mayor, as the subject of a complaint, is implicitly precluded from organizing his own investigation. The Charter requires Mayor Cockayne, and every other Mayor of the city, to designate one of the Council members as Acting Mayor. See, Charter, Sec. 16. In this case, our firm was retained by Acting Mayor D'Amato following a binding resolution

⁸ Attorney Conlin did not provide this e-mail to the undersigned, nor did he reference the meeting in his interview. Accordingly, I was unable to address it when I met with him.

of the Bristol City Council. A copy of the engagement agreement is appended. (Exh. A). Moreover, the initial assignment by the Council was to engage in fact-finding relative to the claim that Mayor Cockayne showed Mr. Preleski compromising photographs of Ms. Zils Gagne and her spouse in Council Chambers. The implication and/or assertion was that the photographs were published in response to Mr. Preleski's request to advance the Beat's petition.

The charges, once made by Ms. Zils Gagne, triggered a duty on the part of the City to investigate and remediate. See, Personnel Policy. This is all the more so based on the prior charges of sexual harassment brought by Ms. Bates and the conclusion that Cockayne retaliated against Bates and Attorney Lacey for requesting an investigation.

Put simply, the Acting Mayor and Council's authority to investigate the conduct of Mayor Cockayne, acting in his official capacity, is vested in, and arises out of, the City's obligation to investigate potential violations of state and federal law; an obligation made clear by the City's own Personnel Policy.

B. Factual Findings

In November, 2016, the Bristol Beat invited former Democratic Mayoral candidate Ellen Zoppo-Sassu to appear on its internet radio program. The owner of the station invited Ms. Zoppo-Sassu because he was told that the chair of the Democratic Town Committee was unavailable. In fact, the selection of Ms. Zoppo-Sassu would likely draw more listeners than a party chair, as would the inclusion of Mayor Cockayne. Mayor Cockayne reacted negatively at first, then angrily. He referred to Ms. Zoppo-Sassu as "no one" and reprimanded Mr. Gagne, stating, "You need to keep her out of the spotlight." On November 4, 2017 at 5:35 p.m., Mayor Cockayne wrote:

I'm letting you know passing it along [sic] to you that many in the RTC are very pissed that you're putting Zoppo on the show. She's not even a DTC member as far as we know. And you're just giving her a platform to talk and this is not coming from me this is coming from many in the RTC. Hope it's worth pissing off so many to get one person on.

(Exh. E, pg. 23).

Mr. Gagne responded by instructing Mayor Cockayne that "no one tells me how to run my business." (Id.). Mayor Cockayne replied moments later, "Maybe OK when rtc members start telling people not to listen to your show. I'm just passing it along [sic] you. do whatever the fuck you want with that information." (Id.).

While it is unclear whether the two exchanged further texts, on Sunday, February 5, 2017 – after another "State of the City" show – Mayor Cockayne expressed his disapproval of the show stating, "Pretty interesting when those who say they support you stick it too [sic] you. Once a failure always a failure." (Exh. E., pg. 24). Mayor Cockayne was clearly upset that what he perceived to be a negative question regarding him had been asked, and a panelist (Mike

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Nicastro) had negative things to say about the Mayor. Gagne tried to apologize by text, but Mayor Cockayne responded sharply, stating “[a]nd you’ve become one of the bottom feeders. Just a matter of time before the door close [sic] another successful Gagne business.” (Exh. E, pg. 25). A minute later, the Mayor stated, “Hopefully you didn’t cost your wife her license.” (Id.).⁹

As discussed below, I conclude that: 1) Mayor Cockayne’s reluctance to approve the Beat’s request was motivated, in some substantial manner, by his disdain for Mr. Gagne’s perceived lack of support; and 2) his publication of [REDACTED] photographs of Mr. Gagne and his wife was not based on his concern for the couple’s well-being and possible detraction from the public’s business.

On March 3, 2017, Mr. Gagne extended an olive branch. (Exh. E, pg. 27-29). Mayor Cockayne responded, “Enjoy ur time with the Dems Not interested. You’ve shown exactly who you are and what your [sic] about. Have enough backstabbers around me. Don’t need another.” (Exh. E, pg. 30). Three (3) days later, Mr. Savino wrote the Mayor’s office proposing a public service broadcast of City Council meetings. Mayor Cockayne ignored the request. The fact that Mayor Cockayne apparently sat on the request for a month due to his anger over the Beat’s programing choices arguably constitutes a violation of the First Amendment; it certainly is inconsistent with the hands-on approach he took in seeking compensation from the Beat for the right to re-broadcast public meetings.¹⁰

After hearing nothing from the City for a month, on April 6, 2017 at 11:17 a.m., Mr. Savino wrote a second e-mail to Mayor Cockayne and all members of the City Council, which stated:

As a public service to the area The Beat would like to broadcast Bristol City Council meetings on our stream and mobile App. Having the meetings broadcast, on-line and on the mobile app, through The Beat will make the meetings more accessible for those who are not nearby a cable TV and for those who do not own cable service.

Added with the broadcast the weekly promos will also help with increased awareness.

⁹ Interestingly, Cockayne, through his attorney sent a draft lawsuit against the Gagnes that alleges some legal improprieties. It has not been served and does not contain a return date. He asserted that the suit should affect my assessment of the Gagnes’ credibility. His possession of such a document on October 13, 2017 and his comment earlier this year seem to show a proclivity for using embarrassing information to attack an adversary’s credibility. For the record, an allegation by a client against Zils Gagne does nothing to affect my credibility assessment of Cockayne. It is his conduct and motivations which are at issue. Zils Gagne’s credibility is not at issue, since Cockayne admitted showing the photos.

¹⁰ It is for this reason that I assessed the history of the Beat request; the publication was retaliation for the Beat’s (i.e. Steve Gagne’s) programing choices and end-around the Mayor. He was angry the Council seemed to rally to the side of the Beat on May 9, 2017, and chose that moment to retaliate against Steve Gagne’s through Gagne’s spouse.

All we need from the city is permission, because where we are getting the audio from, and will start carrying the meetings through Nutmeg.(no added cost) See Nutmeg's e-mail below....

(Exh. F).

At 11:41 a.m., Mayor Cockayne responded, "I have our city attorney looking into this. The hospital project has been a priority." (Exh. F). That was not entirely true, because up until 11:38 a.m. on April 6th, the Mayor had not told anyone about the request he was forwarded a month earlier.¹¹ At 11:38 a.m., the Mayor asked Attorney Conlin to call him. (Exh. U). However, the Mayor had not spoken to Attorney Conlin by 1:43 p.m., when he told Attorney Krawieki that he had not spoken to anyone yet in Corporation Counsel's office: "didn't speak to anyone yet. we pay nutmeg 500.00 a month to film. [REDACTED] (Exh. C). The Corporation Counsel's office opened a file on April 6, 2017.

Attorney Conlin noted that the Mayor's concern was whether he could charge the Beat. Mayor Cockayne mentioned it to Attorney Conlin on at least two (2) occasions. Following his own analysis, Attorney Conlin told the Mayor twice that the City could not force the Beat to pay, because it would mean the transmission of funds which violated Nutmeg TV's non-profit, government-funded rules. Moreover, although not mentioned by Attorney Conlin, if what they really thought was that Mr. Savino wanted a recording, the Freedom of Information Act plainly barred such a charge. *See* Conn. Gen. Stat. § 1-212. Eventually, Nutmeg TV's counsel signed off on it, but the Mayor still demanded to hear why the City could not charge the Beat.¹² He requested that Attorney Conlin ask Ms. Sutter to participate in a phone call to discuss why he could not charge the Beat money for having the rights to broadcast City Council meetings. While there are no notes of this meeting, Ms. Sutter recalled that the Mayor and Attorney Conlin discussed the ability to edit the broadcast.

As discussed above, Attorney Conlin worked with Ms. Sutter for over a period of two (2) months to iron out a contract that would purportedly allow the Beat to rebroadcast Nutmeg TV's audio feed.¹³ Once approved by Nutmeg TV on April 17, 2017, all the City had to do was execute the agreement. (Exh. M). It did not. By May 2017, the City Council followed up. Councilman Dave Preleski spoke during the "New Business" portion of the May 9, 2017 hearing. Immediately afterward, Mayor Cockayne showed the indiscreet photographs, stating "these are the people you are defending." From there the die was cast, as Mr. Preleski told Ms. Zils Gagne, the instant complaint was lodged.

¹¹ In his responses, Mayor Cockayne stated he first received the request on March 16, 2017, but it was later clarified by his attorney that he received it on March 6, 2017.

¹² This was around the same time he cited the Beat as a struggling business. As such, if Cockayne knew the Beat was struggling to get on its feet financially, why would he insist on charging them for public information that would benefit the public at large. To ask the question is to answer it.

¹³ It is our contention that there should have been no controversy over the request to broadcast a prior recorded meeting because: a) under the contract, Bristol "owns" the rights; and b) state law mandated that it allow transmission. Conn. Gen. Stat. § 1-226(a).

Perhaps recognizing the egregiousness of his conduct, Cockayne and Zils Gagne agreed to a truce shortly after Cockayne learned from Ferguson that a charge had been filed. However, Cockayne became angry when Zils Gagne read a statement on August 14, 2017 stating that indeed the issue involved was “city business.” Over the course of the next six weeks, the Gagnes have had their personal profiles and photographs published on Bristol Talks and have been threatened directly by Mayor Cockayne, who advised them, “you and Jodi will pay.”¹⁴

Based on the above factual findings, I conclude by more than a preponderance of the evidence, that Mayor Kenneth Cockayne published compromising photographs of Steven Gagne and Jodi Zils Gagne to David Preleski not to spare the Gagnes from future embarrassment, but rather to cause such embarrassment. Mayor Cockayne was plainly angry that Mr. Gagne allowed his former opponent, Ellen Zoppo-Sassu, to appear on the State of the City. The factual foundation for this conclusion comes not from conjecture or circumstantial evidence, but rather from direct evidence in the form of Mayor Cockayne’s own statements. The Mayor’s assertion that Mr. Gagne “might want to keep [his] Mayor happy so [sic] show up again on your show,” uttered moments after telling Mr. Gagne, “bullshit, she’s no one,” leads to a reasonable inference that Mayor Cockayne was piqued that Mr. Gagne’s radio station was not following his instruction.

Mayor Cockayne, through his attorney, offered the explanation that he displayed [REDACTED] photographs from an [REDACTED] website out of concern for the Gagnes’ privacy. The Mayor claimed that he feared that if word of their involvement in such activities surfaced, it would detract from the work of the people of Bristol. That contention is false. Mr. Preleski is credible in his contention that Mayor Cockayne stated, “these are the people you are defending.” Mayor Cockayne’s contemporaneous statements to Mr. Gagne (“another failing Gagne business” and “enjoy your time with the Dems”) demonstrates his contempt for, and anger with, Mr. Gagne. Moreover, on July 17, 2017, the Mayor admitted that his family had participated in retribution toward the Gagnes, stating “I have deleted everything” and “my family has stopped.” Further, according to his statement, the Mayor was alerted to the couple’s membership on an [REDACTED] website approximately 18 months earlier. As such, his concern – to the extent it existed – would have arisen then, and not after Ms. Zoppo-Sassu’s appearance on the Beat. Thus, the contention that the compromising photographs were published out of public concern is a false statement made in the context of a sexual harassment inquiry.¹⁵

Further, as alluded to above, I conclude that Mayor Cockayne was either complicit in, knew of, or participated in the spreading of rumors and possibly the profiles of Zils Gagne. This conclusion is based on the fact that he admitted “my family has stopped [spreading rumors],” and the fact that he admitted to “deleting everything.” Further, Mayor Cockayne admitted that his mother had photographs as well (stating, “She doesn’t even have them anymore.”). How did the septuagenarian mother of the Mayor obtain compromising photographs of Ms. Zils Gagne? Is it

¹⁴ The leaks and foul play has affected both camps, as Gagne of course leaked a compromising profile of Cockayne to his mother and fiancée, and persons unknown circulated an unattributed “hit piece” the past weekend by U.S. Mail. Those actions are beyond the scope of my retention but have done nothing to dampen passions.

¹⁵ This is the same defense Mayor Cockayne previously used, after he told Attorney Lacey that he would expose another complainant’s alleged sex life if the complainant pursued her complaint against him.

credible that, given that the Mayor knew his mother had the photographs, he did not know how she obtained them? Or, is it more likely that he or an associate were the ones who in fact gave the photographs to her?

Additionally, after months of threats, braggadocio and contempt, Mayor Cockayne changed his tenor on August 8, 2017. By that date, Ms. Ferguson confirmed that a harassment complaint was filed and Councilman Brown had demanded additional information. The Council scheduled a special session for August 14, 2017. (Exh. T). Mayor Cockayne asked Ms. Zils Gagne to call off the meeting (“...Monday meeting will snow ball everything huge. Big mistake” and “Should cancel meeting Monday and let this pass. It’s only going to get worst [sic]” (Exh. E, pg. 37-38)). Further, contrary to Mayor Cockayne’s perception (as relayed through Ms. Ferguson) that he was not under investigation, again his own words betray him – “Mark my word they will come out of executive session even after Jodi says she’s done and they will make a motion for an investigation that continues the story going in [sic] continues both our supporters hammering each other.” (Exh. E, pg. 39). Accordingly, Mayor Cockayne knew that he would be under investigation following the executive session. Thus, his statement (as relayed through Ms. Ferguson) that he did not know he was under investigation, and thus did not respond to my inquiries for several weeks, rings hollow. Rather than not knowing an inquiry would take place, Mayor Cockayne affirmatively took steps to thwart the inquiry by attempting to get Zils Gagne to have the Council “cancel” Monday’s meeting.

Finally, I conclude that Mayor Cockayne handled the Beat request with a level of personal scrutiny reflecting a retaliatory animus toward Mr. Gagne. Mr. Savino made the request on March 6, 2017 and Mayor Cockayne and his office did nothing; the request was dormant. When Mr. Savino contacted them again on April 6, 2017, Mayor Cockayne replied that he had the Corporation Counsel “looking into it” but that they were tied up with the hospital project. Rather, Mayor Cockayne had not assigned it to counsel in the prior month; he asked Attorney Conlin to speak with him on that very day, *after* he received the second request. Moreover, his initial communication to the Corporation Counsel’s office was not “how do we get this done” but rather “didn’t speak to anyone yet. we [sic] pay nutmeg 500 a month to film. [REDACTED]” (Exh. C). Thereafter, when Attorney Conlin explained to Mayor Cockayne that Bristol could not charge the Beat, Mayor Cockayne refused to accept it and asked Attorney Conlin to pursue the matter; this was asked to be pursued even though anyone with a passing knowledge of open records laws would know that government records must be turned over at a nominal cost and digital records turned over for free. *See* Conn. Gen Stat. § 1-212.

Moreover, after learning that he was precluded from charging the Beat by Nutmeg’s agreement, the Mayor again asked Attorney Conlin to have Ms. Sutter speak with him personally on or about May 9, 2017 to revisit the issue. This level of personal involvement is outside the ordinary role of a sitting mayor. According to Attorney Conlin, he did not recall Mayor Cockayne even seeking legal advice prior to executing the contract with Nutmeg a year earlier.

Given the above, and concluding that both Ms. Sutter and Attorney Conlin are credible in their statements that they did not feel pressured to “drag out” the process, I nonetheless conclude that Mayor Cockayne exerted a heightened level of scrutiny to this minor request, which given his

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knowledge at the time, was comprised merely of a request for a recording. The exacting scrutiny suggests to the undersigned a desire to retaliate against the Beat and Mr. Gagne; that conclusion is weightier given his admonition to Mr. Preleski after Mr. Preleski picked up the Beat request on May 9, 2017 (“these are the people you are defending!”).

The Mayor’s attorney wrote that he did in fact support the request and that he even voted for it on June 13, 2017. However, by that point in time, the Mayor may have already realized that he had lost. The personal involvement, the desire to charge a possibly struggling business for free, public information, and the level of disapproval expressed in texts only months earlier compel me to conclude that it is more likely than not that Mayor Cockayne acted to thwart the Beat request, and then reacted with retaliation by publishing the photographs once the Council took steps to act on its own accord. In sum, his acts constitute both sexual harassment and retaliation for protected speech (the giving of airtime and a forum for parties aligned politically against him).

III. CONCLUSION

Based the above, I conclude that Mayor Cockayne has violated City Policy as to the concerns raised by Zils Gagne and possibly violated the First Amendment rights of Steve Gagne. He retaliated against Gagne by showing compromising photographs, in retaliation for Gagne’s editorial decisions and seeking the Council’s assistance in obtaining broadcast access. Options for the Council can be discussed in executive session if requested.

EXHIBITS

- Exh. A Engagement Letter
- Exh. B October 2, 2017 letter from Attorney Cerame re: Mayor Cockayne's Responses & all attachments
- Exh. C April 6, 2017 e-mail from Mayor Cockayne to Attorney Krawiecki
- Exh. D March 6, 2017 e-mail to Mayor re: first request from Beat
- Exh. E Text chain between Mayor and Steve Gagne
- Exh. F April 6, 2017 e-mail chain re: the Beat
- Exh. G April 6, 2017 response e-mail re: hospital project delayed Beat request
- Exh. H April 6, 2017 e-mail re: Mr. Savino's plan to broadcast audio on Nutmeg TV
- Exh. I April 6, 2017 e-mail from Mr. Savino to Mayor and Council requesting assistance in the Beat request and also reply e-mail
- Exh. J April 6, 2017 e-mail from Attorney Krawiecki to Mayor asking if Mayor had assigned the request to one of the attorneys in the Department and Mayor's response
- Exh. K April 6, 2017 e-mail from Mayor Cockayne that stated that since the City had to pay to broadcast and tape the Council meetings, Mayor Cockayne wanted the Beat to pay for the rights to broadcast the public meetings of the City Council
- Exh. L April 20, 2017 e-mail from Ms. Sutter to Attorney Conlin that implied Nutmeg TV would honor the Mayor's desires as it related to the Beat request
- Exh. M April 17, 2017 letter from Nutmeg TV to Attorney Conlin advising that with the execution of an addendum, permission could be granted
- Exh. N June 13, 2017 motion approving Beat request
- Exh. O June 6, 2017-June 18, 2017 e-mails between Ms. Ferguson and Ms. Zils Gagne
- Exh. P Ms. Ferguson's handwritten notes
- Exh. Q June 9-13, 2017 e-mails between Ms. Ferguson and Ms. Zils Gagne regarding MJR

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- Exh. R June 14-20, 2017 e-mails between Mayor and Ms. Ferguson
- Exh. S April 6, 2017 to May 19, 2017 e-mails provided by Ms. Sutter
- Exh. T August 14, 2017 Special City Council Meeting
- Exh. U April 6, 2017 e-mail between Mayor Cockayne and Attorney Conlin

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