LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

IN THE MATTER OF CHARGES AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON

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MOTION FOR SUMMARY DISPOSITION

Comes the Charging Committee, by Counsel, and pursuant to Rule 7 of the Louisville Metro Council Removal Hearing Rules and Procedures adopted July 2011, moves this Court to enter Summary Disposition in favor of the Charging Committee on the ground there is no genuine issue of material fact regarding the charges against Respondent, and the Charging Committee is entitled to disposition as a matter of law based on the facts presented.

INTRODUCTION

The removal of a member of the Louisville Metro Council is an administrative function of the Council based on a centuries-old recognition that legislative bodies like this Council must discipline members who disrupt the body and bring shame on its members. As members of the legislative branch of government, Council members cannot be controlled or corrected by the judicial or executive branches, so the power and responsibility of the Council to police itself is recognized as an essential function to maintain legislative order. Removal is *not* a penalty imposed on a "guilty" party. It is a remedy, the only remedy available to this Council to remove impediments and disruptions that undermine the work of the Council and the respect of the public.

The General Assembly has authorized this Council to use its removal powers on charges that a Council member has been found at fault for misconduct, incapacity and wrongful neglect of duty. Defining misconduct, incapacity and wrongful neglect of duty is left to the Council, as only members

of the Council can decide judge how those words apply to them collectively as well as individually.

The Council has been given this great discretion in order to address behavior that violates the standards of common decency, civility and competence, and not just violation of criminal law and ethical standards. A finding that misconduct, incapacity and wrongful neglect of duty occurred requires broad consensus and agreement within the Council as to both the moral standards of the Council and the seriousness of the violation, hence the requirement for a 2/3 super majority.

In other words, this is a simple case on simple questions: where does the Louisville Metro Council draw the line that Council members cannot cross and retain their elected office? When does a Council member's behavior become so outrageous, so insulting, that his peers can no longer tolerate his disregard of normal standards of decency and civility and truthfulness? How does the Council work with a member who has no respect for them, their elected leaders or even the government they have sworn to serve?

The Charging Committee offers clear and convincing evidence to support its allegations that:

1.) Councilman Johnson is at fault for misconduct for his improper behavior with Councilwoman Jessica Green, Legislative Aide Erin Hinson and an employee of Greater Louisville, Inc.;

2.) Councilman Johnson is at fault for misconduct by his physical intimidation and threats of legal action and caucus complaints against Councilwomen Green and Leet, Legislative Aide Erin Hinson, Councilman David James and former Council President David Tandy;

3.) Councilman Johnson is at fault for misconduct in his personal attacks on Jessica Green, Erin Hinson, GLI, David Tandy, Steve Gahafer, David James and the Kling Center;

4.) Councilman Johnson is incapable of performing his duties as he lacks capacity to remember his own actions;

5.) Councilman Johnson has willfully neglected his duty to be truthful by lying in public about Jessica Green, Erin Hinson, GLI, David Tandy, Steve Gahafer, David James and the Kling Center;

6.) Councilman Johnson has willfully neglected his duty to respect his peers, the Council, the Metro Government and the public by insulting and defying the majority caucus and the office of the President, and

7.) Councilman Johnson has willfully neglected his duty to prudently manage public funds by hiring Legislative Aide Mathews despite Mathews attacks on fellow Councilman James.

The evidence presented that proves Councilman Johnson's misconduct, incapacity and willful neglect is drawn from Johnson's own public statements, witness affidavits, and documents available to the public. The evidence clearly demonstrates that Johnson has grossly and repeatedly violated Council rules and violated the Council's moral standards. If the Council does not act on the evidence presented it will have failed itself and the public.

This Motion of Summary Disposition, or summary judgment as it is called in judicial proceedings, is designed to avoid an unnecessary trial. It is used when the party making the summary motion can show the court that the opposing party cannot prevail at trial because the facts are against them. The moving party carries the burden to demonstrate to the court, via sworn statements and documentary evidence, that all the facts needed to decide the outcome of a hearing can be determined without the time and expense of a trial.

The Charging Committee is entitled to summary disposition herein because Councilman Johnson cannot overcome the evidence presented herein of misconduct, incapacity and willful neglect as the evidence is found in Johnson's own words and deeds, all within the public eye. As Johnson cannot refute his own words and deeds, his statements and actions constitute irrefutable evidence of misconduct, incapacity and willful neglect.

BRIEF IN SUPPORT OF MOTION FOR SUMMARY DISPOSITION

STATEMENT OF FACTS

On the evening of June 7, 2017, Councilwoman Jessica Green hand delivered a sealed letter to the locked mailboxes of Council President David Yates, Majority Leader Bill Hollander and Majority Caucus Vice Chair Cheri Bryant Hamilton reporting that she had been inappropriately touched by Councilman Dan Johnson during a public event at Wyandotte Park. (Exhibit 1, Green letter, June 7, 2017). Green asked the Council President and the Majority Caucus leaders to address Johnson's behavior with corrective action. Councilman Johnson's first response in the Courier Journal on June 9, 2017 was to denounce the complaint as "totally ridiculous." The published report included Johnson's tweet (later deleted) that, "Truth is she touched me first when she nestled against my left side. I was harassed, too!"

Three days later, Johnson changed his position as the real victim of sexual harassment and victim of a ridiculous attack to the position of penitent: he apologized to Green and pledged to "maintain personal boundaries." (Exhibit 2, Johnson letter, June 12, 2017). Two days after Johnson's apology, Green received a letter from his attorney directing that she cease and desist from saying Johnson had touched her when she knew it to be false (Exhibit 3, McAdams letter, June 14, 2017)

The Majority Caucus began an investigation of Green's allegations pursuant to Democratic Caucus Rules, and on June 21, the Caucus leaders hand delivered a letter to Johnson reporting the results of their investigation and recommendation to the Caucus, and informing him of his right to respond and confront witnesses at the July 13, 2017 meeting of the Caucus (Exhibit 4, Majority Caucus Memo, June 21, 2017). Rather than defend himself before his peers, Johnson responded to the Caucus in a memo attacking Councilwoman Green, blaming his situation on leaks in a total

abdication of responsibility for his actions, and resigning from the Caucus (Exhibit 5, Johnson Response, June 29, 2017).

That same day, in a press conference described as "bizarre" by Insider Louisville and "surreal" by the Courier-Journal, he said, "I did not ever sexually harass Councilwoman Green or the legislative aide. This has been another desperate and malicious act by a few Democratic caucus members wishing to install their handpicked crony as a Council Member." He did not explain how "a few" Democratic Caucus members managed to convince the majority of the Caucus to expel him, or why the legislative aide to a Republican Caucus member was participating in a Democratic plot.

When the Caucus met its members considered Johnson's response and the Leadership's findings of fact. The Caucus leaders were clear that they could not prove which version of the incident was indisputably true, so the members would have to decide who they believed, Councilwoman Green or Councilman Johnson, and that they could consider "other reports of this type of misconduct by Councilman Johnson" in deciding who to believe (Exhibit 4). The Caucus voted to accept the Caucus' findings of fact and recommendation that Johnson be expelled from their ranks for bringing embarrassment and public scorn upon its members. The Caucus urged Johnson to resign from the Council by August 1, 2017 in order to avoid a Council removal proceeding (Exhibit 6, Caucus Resolution, July 13, 2017).

The reference to a legislative aide, and mention of "other reports of this type of misconduct by Councilman Johnson" in the caucus findings is a reference to two reports of improper conduct by the Councilman, one in August 2016 in Congress Alley, the second while on a GLI trip to Austin, Texas in September, 2016. Neither incident was investigated, but the events have been widely reported in the media and are corroborated by Johnson's public statements.

The first "report of this type" refers to an incident that occurred on or about August 26, 2016,

but was not publicly reported until after the incident with Green on June 7, 2017. Erin Hinson, Legislative aide to Councilwoman Angela Leet, was twice "mooned" by Johnson in Congress Alley and the City Hall parking lot. Hinson reported the incident to Leet, but took no further action immediately following the incident because she did not want to embarrass the Councilman, she did not want the public attention, and there was no remedy for the Councilman's impropriety. (Exhibit 7, Hinson Affidavit).

Later, when the incident became publicly known, Councilman Johnson apologized to Hinson (Exhibit 8, Johnson letter, June 14, 2017). His apology and admission of responsibility was followed by a threat of legal action against Hinson from Johnson's attorney (Exhibit 9, McAdams letter, June, 14, 2017). The sheer irrationality Johnson's confusing and contradictory justifications of his behavior alarmed Hinson, and her concern was justified when Councilman Johnson attempted to physically intimidate Hinson (Exhibit 10, Hinson memo, June 28, 2017). Councilwoman Leet took personal responsibility for ensuring that Hinson remained safe at work (Exhibit 11, Leet Affidavit). She arranged for private security when she or Hinson were in City Hall while Johnson was present (Exhibit 12, security invoices). When private security became infeasible Leet brought her concerns to President Yates (Exhibit 13, Leet email, June 28, 2017). Yates tried to defuse the situation by asking Johnson to avoid the second floor (Exhibit 14, Yates letter, July 4, 2017). Johnson defied the president and bragged about it in his July 12, 2017 interview with Terry Meiners, while Hinson's and Leet's efforts to avoid Johnson's intimidation were assisted by others, including Councilman Rick Blackwell (Exhibit 15, Blackwell Affidavit).

The second "report of this type" refers to an incident that occurred on September 13, 2016 and was publicly reported October 19, 2017.

In September, 2016, GLI officers and about 150 business and civic leaders took a trip to Austin, Texas, to study Austin's successful workforce talent and retention program. Johnson was present on the trip and on September 13, 2016, he cornered a female GLI staffer and aggressively described his sexual habits to her. The staffer got away and evaded him during the rest of the day but Johnson found her at dinner that night and repeatedly insisted that she come to his hotel room for margaritas. The staffer reported these events privately to Sarah Davasher, the Chief Operating Officer of GLI, but refused to go public due to the stigma attached to accusing an elected official of improper behavior.

Like Hinson, all the GLI staffer asked was that she would never have to face the Councilman again. But GLI was obligated as an employee to take some affirmative action to protect their employee from further harassment as well as public exposure, and found only one solution - to ensure ban Johnson from all GLI functions. Ms. Davasher made a quiet call to President Yates explaining the unprecedented situation and asked that the President inform the Councilman that he was not welcome at any future GLI events. (Exhibit 16, Davasher Affidavit).

When the GLI ban became public on October 19, 2016, Johnson issued the following statement: "It is certainly not in my character to be offensive, so I do apologize if I came across that way in Austin. GLI has not contacted me personally about any incident during the Austin trip. At the time, I was not aware that my words were offensive to anyone. I wish someone had brought this to my attention a month ago so I could have apologized." Yet the same media reports make clear that someone, the President, did bring it to his attention weeks earlier.

Johnson publically apologized, then, as he would later do with Green and Hinson, he attacked. The Courier-Journal reported he posted on Facebook that the GLI ban was the result of a "bar issue, and I was supporting Hillary (Clinton) and they were not." By July 12, 2017, the

Councilman had lost all memory of the evening and told Terry Meiners during an interview on WHAS Radio it was because GLI was "force feeding" him beer at dinner. Then, in his interview with LEO Magazine published August 9, 2017, Johnson attacked the object of his harassment by implying his remarks were just a pick-up line gone bad: "The other thing that happened, happened in a bar and that is baloney. Anything that happens in a bar is legal as heck, as far as talking to people, as far as I'm concerned." Councilman Johnson's legal analysis may explain his statement to the Beechmont Neighborhood Association and reported by Insider Louisville on June 21, 2017, that all the allegations against him of sexual impropriety are "bulls**t."

Councilman Johnson's attack on GLI recalls a similar attack on another agency, the Kling Center, a nonprofit providing free meals to impoverished elderly in Old Louisville. The media reported in June, 2014, that Councilman Johnson's newly hired Legislative Aide Bryan Mathews had been fired from the Kling Center in January over his poor management of agency funds and his use of racial slurs. When Johnson was called upon to defend his decision to hire Mathews, he called Kling Center Board president Steve Gahafer a liar and told Theo Keith of WAVE3 News, "The Kling Center threw him (Mathews) out at a certain councilman's demand. That councilman was worried someone was going to run against him who worked there at that place. That's why he got him fired. It had nothing to do with a racial slur."

Gahafer never discussed Mathews with any other Council member, though he was aware that Mathews had moved into the 6th Council district to establish residency before the next primary so that he could oppose the incumbent. Gahafer was also aware that Mathews had been staying at Councilman Johnson's address. (Exhibit 17, Gahafer Affidavit).

While Steve Gahafer and the Kling Center Board suffered this public attack, they were mere collateral damage; the intended object of Johnson's attack on Gahafer was the "certain councilman"

Johnson refused to name, Councilman David James. James had been repeatedly attacked by Mathews on social media, both before and after his hiring by Johnson. James filed a complaint against Mathews with the Majority Caucus Personnel Committee on June 19, 2014 which was upheld, and Councilman Johnson was directed to file a plan of corrective action (Exhibit 18, Caucus Personnel Committee to James, June 20, 2014).

Instead of a corrective plan, Johnson filed a retaliatory complaint against James with the Caucus committee. The Caucus committee found Johnson's complaint was "not valid" and recommended no further action (Exhibit 19, Caucus Personnel committee to Johnson, June 20, 2014). Councilman Johnson never filed a corrective plan. This flaunting of the Caucus proceedings foreshadowed his recent attacks on the Caucus (Exhibit 15, Blackwell affidavit).

Councilman Johnson's displays of incivility to his fellow Council members and the Council's institutions was demonstrated by his public defiance of President Yates' peace-keeping efforts to keep him off the second floor of City Hall. But his lack of respect for the office of Council President is not a new phenomenon. After an unremarkable conversation with Johnson about security in city Hall, immediate past Council President David Tandy read in the Courier-Journal on May 28, 2015 of Johnson's Facebook post (later deleted) that he "was threatened by David Tandy tonight over the phone. He said he was going to take me out. I believe this was unbecoming of a president to a fellow council person. This was all over safety to the council." (Exhibit 20, Tandy Affidavit; Exhibit 21, Engel Affidavit).

LEGAL ARGUMENT

Removal is a process inherent in deliberative bodies, a self-disciplinary action necessary to protect the integrity of parliamentary institutions and their proceedings. It is found in the United States Constitution in Article I, Section 5, recognizing this innate power of the Congress: "Each

House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two-thirds, expel a Member." (Attachment 1) It should be noted that while Congressional removals have occurred for causes ranging from fisticuffs on the floor to bribery, no law or court has ever defined "disorderly Behaviour."

Robert's Rules of Order, the common law for every council and congregation and adopted in the Rules of the Metro Council, covers removal: "Every deliberative assembly, having the right to purify its own body, must therefore have the right to investigate the character of its members." The Rules outline a process very similar to the Metro Council Removal Hearing Rules and Procedures. (Attachment 2).

As a parliamentary body, removal is an innate power of this Metro Council, and it is recognized in Kentucky's Constitution:

> **Section 160. Municipal officers -- Election and term of office -- Officers ineligible -- Fiscal officers**
> ...The General Assembly shall prescribe the qualifications of all officers of towns and cities, the manner in and causes for which they may be removed from office, and how vacancies in such offices may be filled... (Attachment 3)

The "manner and causes for" removal prescribed by the General Assembly are laid out in Kentucky Revised Statute 67C.143:

> **KRS 67C.143** – Removal of elected officers of consolidated local government -- Hearing -- Vote of council -- Appeal -- Restrictions on eligibility for office or appointment following removal.
> Unless otherwise provided by law, any elected officer of a consolidated local government in case of ***misconduct, incapacity, or willful neglect*** in the performance of the duties of his or her office may be removed from office by the legislative council, sitting as a court. (Attachment 4)

Just as the term "disorderly Behaviour" in the U.S. Constitution is undefined, so is the phrase "misconduct, incapacity or willful neglect" as it applies to this Council. The Council has adopted definitions of these terms by a Resolution addressed to the General Assembly, but there is no statute,

ordinance or regulation that lays out the three, or five, or seven facts that must be proven in order to establish that misconduct, incapacity or willful neglect occurred.

The lack of definition is not a defect, however: it is a recognition that the standards for removal of a member of the Council are not imposed from the outside. These standards arise from the body itself, and are a reflection of the body and each of its members.

A simple illustration: the Humane Society has a purpose to end animal cruelty. If a Humane Society Board member is found to be an owner and trainer of fighting cocks, which is not a crime, the Society would likely find this cause for removal. Otherwise the Humane Society would appear hypocritical and unworthy of respect, which cripples the Society.

Robert Rules again offer the time-tested explanation:

> "...it must be borne in mind there is a vast distinction between the evidence necessary to convict in a civil court and that required to convict in an ordinary society or an ecclesiastical body. A notorious pickpocket could not even be arrested, much less convicted by a civil court, simply on the ground of being commonly known as a pickpocket; while such evidence would convict and expel him from any ordinary society." (Attachment 2)

So while removal trials *may* result from violations of statutes and ordinances, a finding of criminal or civil violation is not necessary. Removal is intended to be an administrative action of the body when one of its members has acted in violation of the rules and standards of the body itself.

Metro Council has a legitimate interest in the behavior of a member when that behavior reflects poorly on the Council as a whole and each individual member of the Council. When one member is put on trial to answer for actions reflecting on the body, the integrity of the Metro Council as an institution and the rationality of its proceedings is on trial.

The goal of this proceeding is to determine whether any of Councilman Johnson's actions rise to the level of misconduct as a member of the Metro Council, whether he lacks the capacity to perform the duties of a Metro Council Member, or whether he has intentionally neglected a plain

duty to the public and the Council. The Charging Committee has inquired into the actions of Councilman Dan Johnson, not because of a violation of law or ordinance, but because those actions violate the Council's own rules and standards and damage the Council, its members, and the citizens.

This case is not about the totality of the circumstances; each voting member need find only one instance in which Councilman Dan Johnson has crossed the line from acceptable behavior to behavior that interferes with the goals of the Council or damages the reputation of the Council. If so, he must be removed.

MISCONDUCT

Misconduct is defined by Metro Council Resolution as, "a transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, willful in character, improper or wrong behavior. Said definition shall also include misdeeds, misbehavior, mismanagement, but not negligence or carelessness." (Attachment 5) Misconduct is therefore a subjective standard without precise definition because the definition is created by the Metro Council in decisions such as removal. It is not a collection of words; it is a pattern of actions.

Metro Council has the opportunity to draw the line on Councilman Johnson's behavior by removing him from office, and if his conduct is deemed to have crossed the line into misconduct even once, it is the Council's obligation to vote for removal. Councilman Johnson has repeatedly engaged in misconduct while representing the Metro Council as an elected official; he has brought embarrassment and scorn to Metro government by engaging in sexual impropriety, by bullying and intimidating others physically and verbally, and by leveling personal attacks at Metro employees, Council members, and citizens.

Count 1. Misconduct: Improper Sexual Behavior

Councilman Johnson has been accused of sexually improper behavior with Councilwoman

Green and Legislative Aide Hinson by inappropriately touching Green and exposing himself to Hinson. He admitted to his improper behavior in his apologies to them and his promise to "maintain personal boundaries" in the future. Councilman Johnson has been accused of sexual impropriety after aggressively propositioning a GLI staffer while on Council business in Austin, Texas. He did not deny the accusation and apologized, later claiming 1.) a memory failure, 2.) drunkenness, 3.) socially acceptable bar talk, and 4.) he was set up for political reasons. The last two claims are admissions of sexually improper conduct with the GLI employee.

Councilman Johnson has subsequently recanted these admissions regarding his sexual misconduct, offering a variety of explanations for his repudiation of his own words: his accuser was a political opponent, he was ordered to apologize, he wanted to make the women involved feel better, etc. He will not be able to present evidence to overcome his own explicit and implicit admissions of improper sexual behavior rising to the level of a "forbidden act."

By engaging in improper sexual conduct with a GLI staffer, a Council employee, and a peer on the Council, Councilman Johnson has brought embarrassment and ridicule to the Metro Council.

Count 2. Misconduct: Intimidation

After each of incident of improper sexual conduct, Councilman Johnson first apologized, then attacked and degraded the source with tweets and on Facebook, in the media, and through his attorney. In the case of Erin Hinson and Councilwoman Angela Leet, Councilman Johnson continued to physically intimidate both women by lurking in hallways and outside their offices. He attempted to silence Hinson and Councilwoman Green with threats of legal action. In the case of the GLI staffer, he used his access to the media as an elected official to accuse GLI of political skulduggery and promoting drunkenness. He tried to intimidate former President Tandy with by threatening to file a criminal charge against him and Councilman James with a complaint to the

majority caucus.

By physically and verbally refusing to keep his distance from Erin Hinson and Councilwoman Leet, by issuing legal threats to Hinson, Green, Tandy, by portraying his propositioning of a GLI staffer as a bar pick-up instead of a business dinner, and by abusing the majority caucus complaint process, Johnson's behavior in any of the above-referenced incidents rises to the level of a "forbidden act"

Count 3. Misconduct: Personal Attacks

The Metro Council has adopted a specific rule of conduct prohibiting personal attacks: "No council member shall personally attack, malign, or impugn the character or integrity of citizens who come before the Council nor of any fellow Council member." (Attachment 6)

The Rule contains no exceptions and needs no interpretation. It absolutely forbids personal attacks that belittle and dismiss the object of the attack as unworthy of good faith belief. The Rule does not forbid debate or silence a voice that argues for an unpopular position. It does not muzzle Council members, but instead demands that Council members speak truthfully and deliberately, with civility, and without accusations of a bad faith motive. The Rule demands respect for citizens and other Council members.

Councilman Johnson has demonstrated that he can successfully advocate without violating this Rule. His dogged insistence on sports venues earned the grudging admiration of those who thought his vision was unrealistic and his work on drainage issues is well known. Councilman Johnson worked hard and proved the skeptics wrong without maligning his opposition and attributing bad motives to them.

But Councilman Johnson has shown an increasing and disturbing propensity to engage in personal attacks maligning and impugning the character and integrity of individual citizens, fellow

Council members, and civic organizations. His personal attacks against Jessica Green, Erin Hinson, and employees of GLI inexplicably followed on the heels of seemingly sincere apologies. He falsely accused the Kling Center Board President of a wrongful firing, and a fellow Council member who supposedly requested the illegal firing to gain a political advantage. He personally attacked David Tandy without provocation and included false accusations of threatening behavior.

None of these attacks occurred in the course of advocating for his constituency; instead these attacks arise from Councilman Johnson's desperate attempts to evade responsibility for his own words and deeds.

Councilman Johnson has not provided a viable explanation to overcome the evidence or defend his violations of the Metro Council Rule forbidding personal attacks. Furthermore, his incidents of misconduct have shown a pattern of acceleration and broadening to affect more of the Council's members and institutions as well as individual citizens and organizations. If Councilman Johnson's behavior in any of the above-referenced incidents can be described to "personally attack, malign, or impugn the character or integrity of citizens who come before the Council [or] of any fellow Council member," the Metro Council must vote for removal.

INCAPACITY

Incapacity is defined by Metro Council Resolution as "the physical or mental inability for an individual to perform the functions of their elected office or a condition of impairment that substantially limits an individual's ability to perform the functions of their elected office." There is no job description for a Metro Council member, but the Charging Committee expects agreement from this body that a basic ability to recall important facts and events is a basic requirement for any Council member.

Count 4. Incapacity: Memory

Councilman Johnson lacks the physical or mental ability to perform the functions of a Metro Council Member as evidenced by his persistent memory problems. The Councilman has defended himself against media accusations of misconduct by claiming memory lapses and blackouts, and he is particularly at a loss to recall highly significant public events such as his conduct in Austin, Texas and in the Congress Alley parking lot.

Either the claims of Councilman Johnson that he has no memory of certain misdeeds are true and he is incapable of remembering his own words and actions, or he is deliberately and intentionally misrepresenting the truth. There is no alternative. If his claims to have no memory of polarizing events is true, then Councilman Johnson suffers from a physical or mental impairment that renders him incapable of performing his duties, and the Metro Council must vote for removal. If he is intentionally misrepresenting the truth, his dishonesty renders him unfit for office.

WILLFUL NEGLECT

Willful neglect is defined by Council Resolution as "the intentional disregard of a plain or manifest duty in the performance of which the public or the person injured has an interest. Willful neglect suggests intentional, conscious, or known negligence – a knowing or intentional mistake."

The duties of a Metro Council member are not defined, but the standard the Council has adopted for the conduct of its members is found in Rule 12 of the Rules of the Metro Council: "Members of the Council and employees will conduct themselves in the performance of their official duties at all times in a manner which manifests the highest moral and ethical standards." (Attachment 7).

Clearly this is an aspirational standard, a goal that Metro Council members hope to achieve but sometimes fail because they are human. It is a subjective standard defined by words like integrity, honesty, civility, prudence, and respect, and the result of this removal hearing will serve

notice what those high moral standards are and whether Councilman Johnson's words and actions manifest them.

At a minimum, the high moral duty of a Council member includes a duty to be truthful, a duty to be respectful of the Council and its leadership and proceedings, and a duty to prudently manage the public's money.

Charge 5. Willful Neglect: Dishonesty

Councilman Johnson's many breaches of the duties of honesty, truthfulness, and integrity have been enumerated herein. He was dishonest in accusing Councilwoman Green of sexually harassing him and defaming him. He fabricated accusations on Facebook that David Tandy had threatened "to take him out." He misled the public to believe the Kling Center participated in a political plot to remove a worthy employee. He claimed to be unaware of behavior in Austin so egregious it led to an unprecedented ban, then too drunk to remember, then the victim of a political attack by the political party that all GLI members belong to, and now finally it's all just bar talk.

These incidents, and others, chronicle multiple failures on the part of Councilman Johnson to demonstrate high moral standards. In many of his political endeavors, the Councilman has demonstrated a passing relationship with the truth, and if the Metro Council aspires to protect its standard of morality, it must vote for removal of Councilman Johnson.

Charge 6. Willful Neglect: Disrespect

Respect for the government is fundamental to the rule of law and essential to a civil society. When elected officials show disrespect for the government, its leaders and its institutions, they give license to citizens to dismiss and disengage from government as corrupt, lazy, privileged and incompetent. All who participate in civil society are thereby injured when the government is an object of scorn and ridicule.

Councilman Johnson has injured the Council and the public by demonstrating a lack of civility and disrespect to the Council and its institutions. His attacks on David Tandy and his defiance of David Yates are attacks on the office of the President of the Metro Council, an institution of the Council. He ignored the Majority Caucus leaders who directed him to develop a corrective plan for Bryan Mathews, and attacked the leaders and members of the Majority Caucus who voted to expel him.

Johnson's greatest failure to respect any institution with authority over him, no matter how lightly that authority is exercised, is his failure to understand and respect this very procedure to remove him. Councilman Johnson, a career politician, has rejected the proposition that legislative bodies *must* discipline their members because no other branch of government can do it, and he has failed in his duty to respect the *only* institution given authority by the people to correct him. If the Metro Council finds that Councilman Johnson has failed to show the proper respect and civility for the government in which he serves, it must vote for removal.

Charge 7. Willful Neglect: Fiduciary Mismanagement

Finally, the Charging Committee has presented evidence that Councilman Johnson has failed in his duty to prudently manage the public money allocated to him for staff. Council members have extraordinary powers in hiring staff, but those powers bring with them a duty to prudently and carefully consider their hiring decisions. Had Councilman Johnson been prudent in hiring Bryan Mathews he would have been prepared to respond to questions about Mathew's previous position and political ambitions, and might have avoided a Majority Caucus investigation by directing Mathews to cease using the Councilman's office to attack an incumbent.

CONCLUSION

The Charging Committee believes a summary disposition of this case is appropriate because Councilman Johnson's words and deeds are so obviously outrageous and incredibly well documented, and because he has failed to raise any facts in his defense in his public statements or his Response to the charges of misconduct, incapacity and willful neglect. There is no reason to waste weeks of the Council's time and thousands of the public's dollars only to provide a platform for his latest unsupported attacks on the Council, its members, and the public.

But no matter the mechanism, this Court must ultimately find that Councilman Johnson at fault for improper sexual behavior, intimidation, personal attacks, incapacity, dishonesty, disrespect, and imprudent management of public resources, rising to level of misconduct, incapacity and willful neglect.

To do otherwise is to approve the Councilman's conduct. To approve such conduct is to invite even greater scorn and disrespect for the Council, and every elected official who strives against the rising tide of cynicism and incivility, to be an example for the public of honesty, prudence, civility and integrity, accountability and self restraint.

It is time to say, with regret, enough is enough. It is time to say that we, the Metro Council are drawing the line and giving notice to the community that we will repay their trust by upholding the highest, rather than the lowest, moral standards.

Respectfully submitted,

Deborah Kent, Counsel
Charging Committee

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing was hand delivered to the following on October 17, 2017:

Hon. Stephen Ott
Metro Council Clerk
601 W. Jefferson St.
Louisville, Ky. 40202

Hon Mike O'Connell
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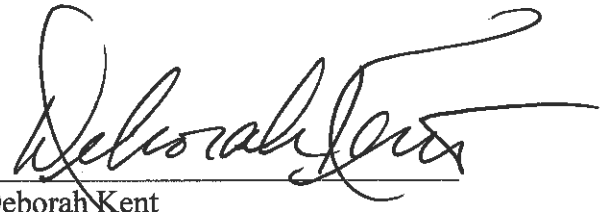

Deborah Kent

June 7, 2017

Councilman David Yates
President
Louisville Metro Council
601 West Jefferson Street
Louisville, Kentucky 40220

Dear President Yates;

I want to bring to your attention an incident that took place today, June 7, 2017, at approximately 1:30pm, prior to the Mayor's Press Conference celebrating the ribbon cutting of the new basketball courts at Wyndotte Park. Prior to the press conference, myself and Councilwoman Butler were standing on Court # 3 closest to the park pavilion as Councilman Johnson approached us from the Court #1 side closest to Taylor Blvd. As Councilwoman Butler, myself and a member of my staff stood there talking CM Johnson walked toward us, at which time we were asked to pose for a picture; Councilwoman Butler stood to Councilman Johnson's right and I stood to his left. As we stood there posing, Councilman Johnson reached down and grabbed my right buttock and squeezed it. Appalled, I turned to him and he leaned down and whispered into my ear laughing, "You know that was an accident, right?" I immediately walked away toward two of my staff people and detailed what had just happened to them. I did not discuss this with him at the time and feel even more uncomfortable about having a conversation with him now. I was completely caught off guard, disgusted, and at a complete loss of words; that one of my colleagues would behave in such a manner, especially, in a public setting with thousands of people, including children present, is simply Outrageous!

Inappropriate and unwarranted advances are not acceptable in any setting, let alone where myself, and my colleagues are there to represent the Metro Council. Incidents such as this are inexcusable, in poor taste and reflect poorly on the entire Council. The thought that this could very well have happened to a

EXHIBIT 1

staff person or individual citizen, who would not or could not speak up for fear of reprisal, makes this situation even worse.

I am notifying you as the leadership of the Council and Majority Caucus respectively, with the expectation that you will both address this inappropriate conduct exhibited by my colleague and get back to me expeditiously with some type of action and corrective measure.

Sincerely,

Jessica E. Green

cc: Councilman Bill Hollander
Majority Caucus Chair

Councilwoman Cheri Bryant Hamilton
Majority Caucus Vice Chair

Louisville Metro Council

Dan Johnson
District 21 Councilman
dan.johnson@louisvilleky.gov

June 12, 2017

Councilwoman Jessica Green
601 W. Jefferson Street
Louisville, Kentucky 40202

Dear Jessica,

I am so sorry you felt I improperly touched you inappropriately on purpose and that you thought I was laughing when I said it was not on purpose. I know none of this is a laughing matter. I could not see where my hand was as we prepared to take the photo when this happened.

I respect you and regret this ever happened. I will maintain personal boundaries and I hope we can continue to have a positive working association.

I am so sorry. Please accept my apology

Please accept my apology

Sincerely,

Dan Johnson
Councilman, District 21

Cc: President David Yates, Metro Council
Councilman Bill Hollander, Caucus Chair

EXHIBIT 2

Thomas A. McAdam, III
Attorney at Law
2050 Breckenridge Lane, Suite 9, Louisville, Kentucky 40220-1462
(502) 584-7255 FAX: 585-2025 KBA: 45200 thomas@mcadam.com

June 14, 2017

Hon. Jessica Green
Louisville Metro Council
Louisville City Hall
601 West Jefferson Street
Louisville, Kentucky 40202

IN RE: Hon. Daniel D. Johnson

Dear Councilwoman Green:

Please be advised that this office has been retained to represent the interests of Louisville Metro Councilman Daniel D. Johnson, in the matter of a claim which he has against you for defamation, libel, and slander. If you are represented by legal counsel, please direct this letter to your attorney immediately and have your attorney notify us of such representation.

You are hereby directed to CEASE AND DESIST ALL DEFAMATION OF HON. DANIEL D. JOHNSON'S CHARACTER AND REPUTATION. Councilman Johnson is a respected elected official in this community. He has spent many years serving this community and his constituents, and building a positive reputation. Councilman Johnson believes that you, with actual malice, have engaged in publishing and spreading false, destructive, and defamatory rumors about him.

Under the laws of the Commonwealth of Kentucky, it is unlawful to engage in defamation of another's character and reputation. Defamation consists of

(1) a statement that tends to injure reputation:

(2) communicated to another; and

(3) that the speaker knew or should have known was false.

Your defamatory statements were published in the Courier-Journal newspaper, in a June 9, 2017 article by Phillip M. Bailey:

> *Democrat Dan Johnson is facing accusations he inappropriately touched fellow Metro Council member Jessica Green during a recent community event.*
>
> *Green said she notified council leadership about an incident, which multiple sources said involved Johnson allegedly squeezing her buttocks.*

EXHIBIT 3

> *In a statement Friday, Green did not go into detail about what happened but said she had hoped to keep the matter private.*
>
> *"Women historically have had to endure sexual harassment in the workplace," she said. "This cannot be tolerated anywhere, much less in Metro government."*

Additional defamatory statements were published in the Courier-Journal newspaper, in a June 12, 2017 article by Phillip M. Bailey:

> *Metro Councilwoman Jessica Green told council leadership that fellow Democrat Dan Johnson groped her...*
>
> *In a June 7 letter addressed to the council president, which Green's office provided to the Courier-Journal on Monday, she said Johnson "grabbed my right buttock and squeezed it" during a group photo just before a mayoral press conference.*
>
> *"Appalled, I turned to him and he leaned down and whispered into my ear laughing, 'You know that was an accident, right?' " said Green, D-1st District.*

Accordingly, we demand that you (A) immediately cease and desist your unlawful defamation of Hon. Daniel D. Johnson and (B) provide us with prompt written assurance within ten (10) days that you will cease and desist from further defamation of Hon. Daniel D. Johnson's character and reputation.

If you do not comply with this cease and desist demand within this time period, Hon. Daniel D. Johnson is entitled to seek monetary damages and equitable relief for your defamation. In the event you fail to meet this demand, please be advised that Hon. Daniel D. Johnson has asked us to communicate to you that he will pursue all available legal remedies, including seeking monetary damages, injunctive relief, and an order that you pay court costs and attorney's fees. Your liability and exposure under such legal action could be considerable.

Before taking these steps, however, my client wished to give you one opportunity to discontinue your illegal conduct by complying with this demand within ten (10) days. Accordingly, please sign and return the attached Defamation Settlement Agreement within ten (10) days to us.

I recommend that you consult with an attorney regarding this matter. If I can provide you with any additional information which you might require, please feel free to call upon me at any time. In anticipation of your response, I remain,

Sincerely yours,

Thomas A. McAdam, III

TAM:ms
Encl.
cc: Hon. Daniel D. Johnson

MEMORANDUM

To: Councilman Dan Johnson
From: Majority Chair Bill Hollander and Vice Chair Cheri Bryant Hamilton
Date: June 21, 2017 Bill Hollander Cheri B. Hamilton

CONFIDENTIAL

Rules

Our actions in this matter are guided by the section of the Caucus rules titled "Separation from the Caucus". They provide that a Caucus member may be suspended or expelled from the Caucus for "unethical or adjudicated illegal activities that bring embarrassment and public scorn upon the Caucus, the Council or the Democrat Party." [Section 3].

Upon receipt of a written [Section 6] charge of alleged violation, Caucus leadership is tasked with conducting a "confidential, preliminary investigation as to the veracity of the charges…within fourteen days to determine whether further action is warranted." [Section 7].

"Within fourteen days, a report of recommendation (either exonerating the accused or preferring specific charges and action) shall be prepared and presented to the member or staff member in question by caucus leadership…." [Section 8].

Before the report and recommendation is sent to the Caucus as a whole, the member in question shall be given a fourteen-day time period to determine if internal corrective action is warranted. [Section 9].

The rules specifically state that any accused member has due process rights and has an opportunity to question and call witnesses at any Caucus hearing or meeting. [Sections 5 and 11].

Facts

On Thursday, June 8, we received a letter from Councilwoman Jessica Green, alleging that Councilman Dan Johnson had reached down, grabbed her right buttock and squeezed it while the two of them and Councilwoman Marianne Butler were posing for a photograph just before a large public ceremony at Wyandotte Park the day before. The letter also alleged that, after Councilwoman Green turned to him, Councilman Johnson leaned down and whispered into her ear laughing "You know that was an accident, right?" The letter was written on June 7 and placed in the mailboxes of President David Yates, Chair Bill Hollander and Vice-Chair Cheri Bryant Hamilton the previous evening after normal business hours, at the suggestion of Green's Legislative Assistant Charles

EXHIBIT 4

Weathers and Administrative Clerk Elizabeth Alexander. It concluded by expressing the "expectation that you will both address this inappropriate conduct exhibited by my colleague and get back to me expeditiously with some action and corrective measure." Interviews with Councilwoman Green have consistently repeated the facts set out in the letter.

In several interviews, Councilman Johnson has stated that his hand "touched" Councilwoman Green's buttocks for "just a second" while he was moving his hand down from Councilwoman Green's waist in the act of posing for the photo. He says that he told her "You know that was not on purpose" and then posed for the photo, which he believes was taken by Elizabeth Alexander. He says there was no grabbing or squeezing. He also denies laughing when making his comment to Councilwoman Green.

Two posed photos and a video (which does not show the posed photograph scene) taken by Elizabeth Alexander have been produced and reviewed.

Councilwoman Butler has no knowledge of the incident and saw or heard nothing about it while at Wyandotte Park.

In contacting people shown in photographs at the event, we located one witness, Chris Doolin, a Metro employee who delivered and installed the podium. Doolin described the incident as "awkward", and says he saw Councilman Johnson touch Councilwoman Green's butt before putting his hands behind his back. He believes he saw Councilman Johnson say something to Councilwoman Green about the incident but does not know what was said or if there was any squeezing. The event was noteworthy enough that Doolin immediately mentioned it to his co-worker, Kip Dix, telling him that Councilman Johnson had touched Councilwoman Green's butt while posing for the photograph. Doolin believes he told Dix that "it didn't look like he did it intentionally." Dix says he did not see the event, remembers Doolin pointing the incident out to him, but does not remember any description of it being or not being intentional.

Alexander and Weathers are two other individuals we have interviewed. Neither saw the incident nor saw any discomfort or unusual expressions while the three were posing or while the photograph was being taken. However, they both remember Councilwoman Green walking quickly toward them after the photo, saying, in the words and written notes of Alexander, "Can you tell me why in the hell that [expletive deleted] Dan Johnson just grabbed my ass". Alexander says Councilwoman Green described Councilman Johnson as "squeezing her ass." Weathers said after he asked Councilwoman Green if she was sure, Councilwoman Green responded, "Yes. He cupped his hand and grabbed my ass." When asked if Councilman Johnson just brushed her, Alexander remembers Councilwoman Green saying that he "cupped' and "squeezed" her. Alexander remembers advising Councilwoman Green not to tell Councilwoman Butler about the incident but instead go on with the event, which she did. She also remembers Councilwoman Green trying to stay on Councilwoman Butler's side and away from Councilman Johnson for the rest of the event.

In the car after the event, Alexander and Weathers say they advised Councilwoman Green to write the incident up and send it to Caucus leadership and the President, and Councilwoman Green agreed.

We have made inquiries about other potential witnesses, including asking those interviewed if they know of any. To date, we have found no other witnesses to the incident.

On Friday, June 9, Councilwoman Green's complaint about the incident was reported in the Courier-Journal. Later that day, Councilman Johnson posted on Facebook that he had "accidently brushed Jessica Greens backside when her and Marriane [sic] were squeezing me in the middle of a picture taking wednesday and she has made it public!" The post was later deleted. That evening, Councilman Johnson tweeted "Truth is she touched me first when nestled against my left side. I was harrassed [sic] too". Councilman Johnson later deleted the tweet.

On June 12, Councilman Johnson sent a letter of apology to Councilwoman Green and on June 14 he sent a letter of apology to a legislative assistant to Councilwoman Angela Leet regarding another incident. On June 20, we learned that Councilman Johnson's attorney had written cease and desist letters, dated June 14, to Councilwoman Green and to the legislative assistant. These letters were sent against the advice of Caucus leadership that no such action be taken and without notice to Caucus leadership.

Recommendation

Final determination of any disciplinary action must be made by the full membership of the Majority Caucus. [Section 12]. Our recommendation based on this preliminary investigation is that the Caucus publicly censure Councilman Johnson and expel him from the Caucus as a result of the incident at Wyandotte Park and its aftermath.

At this stage, it is impossible to say definitively whether Councilman Johnson's touching of Councilwoman Green was intentional. While Chris Doolin believes he contemporaneously told a co-worker the action did not appear to be intentional, the fact that he noted it to a co-worker at the time indicates it was notable and likely longer than an incidental "brushing". The Caucus as a whole will be required to assess credibility of the two conflicting reports of Councilwoman Green and Councilman Johnson. While Caucus action will be limited to the Wyandotte Park incident (the only incident about which we have received a written charge) and its aftermath, we note that in assessing credibility the Caucus may consider other reported incidents of this type of misconduct by Councilman Johnson. It may also consider the plausibility of each person's version of events, the detail they provided, their demeanor at the time of the incident and afterwards, any possible motives regarding their statements, and other factors. We believe there is a likelihood that the Caucus will view Councilman Johnson's actions at the park as deserving of at least a public censure.

We view Councilman Johnson's tweet stating that Councilwoman Green "harrassed" [sic] him as an unethical action that brought embarrassment and public scorn upon the Caucus. We therefore believe it is deserving of public censure and expulsion from the Caucus. Councilman Johnson had no reasonable basis to conclude that Councilwoman Green "harassed him" and admits that he made the statement because he viewed Councilwoman Green's side touching him while posing for a photograph to be the equivalent of his hand touching her buttocks. But the two are clearly not equivalent and no reasonable person could conclude from these facts that Councilwoman Green harassed Councilman Johnson at Wyandotte Park. Making a false charge about a colleague is a serious ethical matter. In this case, it also had the effect of diminishing the importance of Councilwoman Green's accusation, which we, and we are sure all colleagues, have always felt deserves to be treated with the utmost seriousness.

Finally, the cease and desist letters sent to Councilwoman Green and the legislative assistant cast extreme doubt on the sincerity of apologies Councilman Johnson had sent to Councilwoman Green and the legislative assistant last week, which Caucus communications had reported to the public. As such, the letters also brought embarrassment and public scorn upon the Caucus and are deserving of public censure and expulsion from the Caucus.

Pursuant to Section 9 of the Caucus rules under "Separation from the Caucus", you, Councilman Johnson, will have fourteen days to determine if internal corrective action is warranted. Unless we receive something in writing from you within that time period, we will deliver this report and recommendation to the Caucus as a whole and move forward in scheduling a meeting of the Caucus to deal with it. The Caucus will then have the options of following the recommendation, taking other action or taking no action.

MEMORANDUM

To: Louisville Metro Council Democratic Caucus
Chair Bill Hollander and Vice Chair Cheri Bryant Hamilton
From: Councilman Dan Johnson DJ
Date: June 29, 2017

1. This Memorandum is in reply to your of June 21, 2017, in which you request a response from me, within fourteen days, "... to determine if internal corrective action is warranted." You indicate that you would withhold delivering your Memorandum to the Caucus as a whole, until the period allowed for my response had expired. Indeed, your Memorandum is clearly marked "Confidential," and I was therefore led to believe that the Caucus would proceed in an ethical and honorable approach to investigate the facts in this matter.

2. You can therefore understand my dismay at learning that copies of your June 21 Memorandum have been widely circulated around City Hall, and that a copy was provided to a local newspaper reporter even before I received my copy. The untrue allegations made against me have been spread around our community by a series of rumors, leaks, and anonymous communications to the press. Naturally, a person's first response to such a back-door campaign of lies and innuendo is to ignore it, and trust that people of good will are able to see this attack for what it is: A political lynching and effort to destroy the good reputation of an elected official who has faithfully served his community for over a quarter century.

3. A great many of my friends and supporters have suggested to me that I simply continue to ignore this whole affair. They have told me that the Democratic Caucus members have already made up their collective minds that I should be considered guilty as alleged, and should therefore be expelled from the Caucus. They suggest that I should not expect any degree of fairness from the Caucus, and that any sort of hearing they might conduct would be nothing but a farce.

4. But my 26 years of experience with my colleagues on the Democratic Caucus lead me to the opposite conclusion. I have worked alongside these Council members, and have developed strong bonds of friendship with many of them. More importantly, I have gained a great deal of respect for the integrity and reasonableness of my fellow Metro Council members. If presented with clear evidence, I cannot believe that they would allow personal bias or political intimidation to keep them from fairly judging the scandalous allegations that have been made against me. If this faith in the honor of my colleagues is misplaced, then I have wasted the last 25 years of building relationships.

5. I will therefore respond to your June 21 Memorandum, as honestly and simply as I can, in an effort to clear the air, once and for all. I am releasing a copy of this response to the press, to save you the trouble of worrying about who might have leaked it.

EXHIBIT 5

6. Councilwoman Jessica Green sent you a letter on June 7, alleging that I intentionally assaulted her, by grabbing her buttock in front of approximately 1,000 witnesses, at a public ceremony at Wyandotte Park. Ms. Green, an attorney, certainly understood that there were a number of options available to her at that point in time. She could have talked to me, and asked me to explain my perceived behavior. She did not. She could have filed a civil lawsuit against me, asking for damages, with the burden of proof resting upon her to prove her allegation to an impartial jury, after being subjected to cross-examination. She did not. She could have sworn to a warrant, claiming that I criminally assaulted or harassed her; thereby giving me an opportunity to face my accuser in an open court, and requiring proof to an impartial jury, beyond a reasonable doubt, that I was guilty. She did not.

7. Instead, Councilwoman Green decided to air her concocted grievance in the newspaper, through the use of slurs, innuendo, anonymous leaks, and hearsay. This way she avoids having to face me with her claims, avoids having to answer any questions I might have for her, avoids shouldering any burden of proof, and avoids having her accusations judged by a fair and impartial tribunal. Her choice to proceed in this manner is certainly disappointing, and speaks volumes about her sincerity and veracity.

8. From the outset, I have attempted to be truthful and courteous to all concerned. I immediately explained to Councilwoman Green that the momentary touching, as our group crowded together for a photograph, was accidental. When I was instructed to formally apologize to her in writing, I did so. It soon became clear that an apology was not what she really wanted, and that this entire silly accident was going to be blown all out of proportion, for political gain.

9. Our local newspaper has continued to stir the pot, with over a dozen salacious and sensational articles about this minor incident. It has contacted women's rights organizers, who have criticized me for being a sexual predator. It has contacted African American ministers, who have concluded that my behavior is somehow racially motivated. That this sort of crazed mob action, orchestrated by the press and government officials, can occur in a compassionate city like Louisville, is disheartening, to say the least.

10. When I sought legal advice, my attorney suggested that warning letters be sent to those individuals who were spreading lies and defaming my reputation. Your June 21 Memorandum concludes: "As such, the (cease and desist) letters also brought embarrassment and public scorn upon the Caucus and are deserving of public censure and expulsion from the Caucus." It is unclear from this whether you are stating that I, my attorney, or the letters he wrote on my behalf are deserving of public censure, but I remind you that I am not the person who made these private communications public. Moreover, I hope it is not the position of the Democratic Caucus that a member should be expelled for exercising his constitutionally-protected rights to legal representation and participation in the legal process, merely because Caucus leadership disagrees with the exercising of these rights. In America, a person falsely accused and defamed in the press has an absolute right to challenge such defamation in a court of law. In court, the burden of proof is on the accuser, and a cease and desist letter is a necessary prerequisite to such litigation.

11. Your June 21 Memorandum mentions only one eye-witness to the incident, out of over 1,000 persons in attendance at the Wyandotte Park ceremonies. With all the photographs, cellphone videos, and television cameras present at the occasion, I find it remarkable that your investigation was so unproductive. Surprisingly, not a single member of the public, present that day in Wyandotte Park, has come forward with eye-witness testimony tending to confirm Councilwoman Green's version of the events. Your Memorandum quotes a Metro government employee, Chris Doolin, as saying, "it didn't look like he did it intentionally." And, of course, you have my statement to Councilwoman Green at the scene, and repeated now, that my accidental touching of her was not intentional. Out of more than 1,000 people, only one, Jessica Green, has suggested that she believes my actions were intentional.

12. Your Memorandum also quotes non-witnesses who merely repeat self-serving comments by Councilwoman Green. This sort of hearsay evidence would be inadmissible before any court or fair tribunal. That the Metro Council Democratic Caucus would give any credence to this sort of testimony is disturbing.

13. Your Memorandum contains a "recommendation" that the Caucus publicly censure me, and expel me from the Caucus. Your decision to arrive at this conclusion, and then release it to the public and the press before even listening to my side of the story, tells me that your understanding of fairness and procedural due process are significantly different from my understanding of the meaning of those terms.

14. Additionally, your Memorandum indicates that "...Caucus action will be limited to the Wyandotte Park incident," but then goes on to allude to "...other reported incidents of this type of misconduct by Councilman Johnson." Clearly, this means that you have no problem with allowing rumor, unfounded and unproven allegations, and innuendo to be used against me, without affording me any opportunity to know the name of my accuser, face my accuser, cross-examine my accuser, or present evidence on my own behalf. I find it impossible to believe that my colleagues in the Democratic Caucus will agree with you that this is either fair or just.

15. Subsequent to the leaking of your June 21 Memorandum, Councilwoman Green circulated an email around City Hall, containing some remarkable commentary. In the June 23 email chain, she said she was "completely astonished that the confidential investigative report was leaked once again" before she had an opportunity to see its recommendations. She asked Democratic leaders to address the "breaches of confidentiality in an effort to avoid further embarrassment." While I certainly share her astonishment, I suggest you give some serious thought and consideration to the question of who had the motive and opportunity to leak this to the press. Who, of all the actors in this little drama, has the most to gain from exploiting this scandal in the press? Who was most served by this distraction from other pending investigations into ethical lapses by members of the Council? I have avoided discussing this matter in the press, and have directed my attorney to send confidential letters to all participants, demanding that they cease discussing it in the press.

16. The June 23 email chain contains several reasonable responses from Councilmen Barbara Sexton Smith, David James, Cindi Fowler, and Vicki Aubrey Welch; to the effect that they are reserving comment and judgment until all the facts are in. Councilman Pat Mulvihill, on the other hand, indicates that he has somehow obtained a copy of the confidential June 21 Memorandum, and has unilaterally concluded that the report's recommendations are warranted and that he thinks "the punishment fits the crime." To date, Councilman Mulvihill has not attempted to discuss this matter with me; nor has he expressed any interest in hearing my side of the story. I can perhaps be forgiven if I have concerns about Councilman Mulvihill's impartiality.

17. I state again: At no time did I grope or harass Councilwoman Jessica Green. I didn't create this embarrassing mess. I didn't file the complaint. I didn't leak documents and pander to the press. And it was not my quiet efforts to resolve this misunderstanding peacefully and informally that brought public scorn and embarrassment to the Louisville Metro Council. But I will do everything in my power to bring it to an end.

18. I have been a loyal Democrat all my adult life. I have served my constituents in an honorable fashion, to the best of my abilities, since January of 1992. I have always tried to treat my colleagues on the Board of Aldermen, and, later, on the Louisville Metro Council, with respect and decency. In all humility, I have been blessed with the opportunity to provide many services and benefits to the wonderful folks who have honored me with continuous re-election. I have served in this position longer than any other elected official in the City of Louisville. To reach the end of my political career with my character besmirched with such ugly allegations is a pain which is almost unbearable for me.

19. It is my firm conviction that I am innocent of the malicious allegations that have been made against me. I am confident that my innocence would be evident at any fair and reasonable hearing, presided over with substantial due process. I cannot believe that my accusers could prove, by competent evidence, the charges they have made against me; particularly if forced to prove them before an unbiased and disinterested tribunal.

20. Nevertheless, I have decided to place the good of my community and my beloved Democratic Party above my personal desire for justice. This ugly mess has made the entire Democratic Caucus look foolish and undisciplined. Charges, counter-charges, leaks, tears, and armed escorts in City Hall; all reflect poorly upon the lot of us.

21. Rather than put the Democratic Caucus of the Louisville Metro Council through further pain and embarrassment, I am hereby announcing my resignation from the Caucus. I will continue to serve the citizens of Metro Louisville's 21st District, until my current elected term expires. I leave my former colleagues on the Democratic Caucus with my best wishes for their continued success. I harbor no animosity and bear no grudge against any of the individuals involved in this matter, and look forward to working together with all of my Council colleagues in our concerted efforts to address the many challenges facing our wonderful city.

Majority Caucus Resolution - July 13, 2017

Whereas, Councilwoman Jessica Green reported to Caucus leadership that Councilman Dan Johnson reached down, grabbed her right buttock and squeezed it while posing for a photograph at Wyandotte Park on June 7, 2017, and then laughingly told her it was an accident;

Whereas, Councilman Johnson admitted to the touching and a witness to the event described the touching as "awkward" and notable enough to immediately mention it to a co-worker, while not knowing if it was intentional or not;

Whereas, Councilman Johnson responded to a published report about Councilwoman Green's charge by alleging that Councilwoman Green "harrassed" [sic] him too;

Whereas, Councilman Johnson issued an apology to Councilwoman Green;

Whereas, two days after the letter of apology to Councilwoman Green was sent, Councilman Johnson, through his attorney, sent a cease and desist letter to Councilwoman Green, casting extreme doubt on the sincerity of his earlier apology;

Whereas, Councilman Johnson's actions are inconsistent with the standards of conduct to which members of the Metro Council should be held, have brought embarrassment and public scorn upon the Caucus and the Council, and are deserving of public censure and expulsion from the Caucus;

Whereas, the Caucus has followed Caucus rules, heard from witnesses and afforded Councilman Johnson rights due to him under principles of due process and a fair disciplinary process;

Now, therefore, be it;

Resolved, That the Democratic Caucus of the Louisville Metro Council –

(1) condemns Councilman Johnson's actions at Wyandotte Park, his false allegation that he was harassed and his insincere apology;
(2) expels Councilman Johnson from the Caucus, Councilman Johnson having tendered his resignation and the Caucus having held an evidentiary hearing in which Councilman Johnson was invited to participate and declined;
(3) urges Councilman Johnson to resign from Metro Council by August 1, 2017, and not to seek reelection, to avoid a removal action by members of our Caucus, and to allow the Metro Council to continue to address the critical issues facing our community.

Approved July 13, 2017

EXHIBIT 6

LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

IN THE MATTER OF CHARGES AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON

AFFIDAVIT OF ERIN HINSON

COMES THE AFFIANT, ERIN HINSON, HAVING BEEN FIRST DULY SWORN, AND STATES AS FOLLOWS:

1. I am Legislative Aide to Councilwoman Angela Leet .

2. On or about August 26, 2016. I left City Hall through the ground floor door to Congress Alley on the way to my car to pick up lunch. I was parked in Councilwoman Leet's space, in the elected officials lot.

3. As I went through the door I saw Councilman Johnson leaving the lot heading to the side door. I passed the Councilman at about the middle of the Alley and I'd only gone a few steps when I heard a grunting noise behind me. I turned around to see Councilman Johnson's bare backside, his khaki pants down to mid-thigh and no underwear. I was astonished, confused and embarrassed for the Councilman. I recall that he didn't seem to have a belt.

4. I didn't want to add to his embarrassment and hurried to the car. As I unlocked my car I looked up to see the Councilman had turned around and was now coming back to the parking lot, clutching his pants in one hand below his waist..

5. I got in my car and the Councilman returned to his car and just stood there with his hand on the trunk. I couldn't back out because he was immediately behind me and there was no room. I stayed in the car and locked the door and made a phone call while waiting for him to move.

6. With my car in reverse and waiting to back up I saw in the rear view camera he was still

EXHIBIT 7

standing there, and after a few moments he walked back by my car. When he got near my door on the driver side he paused and his pants dropped again exposing his bare behind. I looked away.

7. I told Councilwoman Leet what happened, but told her I didn't want to do anything embarrassing to the Councilman and she advised me to avoid getting in elevators with him or being alone with him in offices and to avoid him in the hallways.

8. When I heard what happened to Jessica Green I gave Councilwoman Leet permission to share my incident and then it all became public. But I never wanted my experience to become a headline.

9. On June 14 I received a letter of apology from Councilman Johnson admitting the exposure happened and taking responsibility for failing to observe "personal boundaries and proper dress." But later I got a threatening letter from the Councilman's attorney accusing me of lying and threatening me with a defamation law suit. It was very intimidating.

10. The same day I got the threatening letter, June 20, 2017, the Councilman tried to intimidate me again with his stares and his physical closeness. I was with Steve Thomas, the security guard Councilwoman Leet had hired, and we stepped off the elevator but stayed by the receptionist area because Councilman Johnson was standing by the door we would have to use to get in the chambers. Soon the Councilman walked over to stand facing Steve and me. He tried to step past Steve to get next to me. Steve asked "Can I help you?" and the Councilman said "yeah you can get on that elevator." Nobody moved, and after staring at us a little longer Councilman Johnson turned and left to go down the stairs.

11. Steve Thomas or an off duty police officer stayed with us in the building after that, but once the recess began on June 23 we didn't expect the Councilman would be around much and I didn't think Councilwoman Leet should keep paying out of her pocket for private security.

12. But the Councilman kept popping up the second floor. I specifically recall a Thursday afternoon when the receptionist called to let me know that he and Bryan Matthews were on the second floor looking for a proclamation to sign but no one on the second floor knew what proclamation they were looking for.

13. After that incident Councilwoman Leet asked the President to ask the Councilman to stay off the 2nd floor and to give an hours notice before coming to City Hall.

FURTHER THE AFFIANT SAYETH NAUGHT.

Erin Hinson

Erin Hinson

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Erin Hinson this 29 day of September, 2017 as her true word and deed.

My Commission expires: 1-23-18.

John M. Geary III

Notary Public

June 14, 2017

Ms. Erin Hinson
601 W Jefferson Street
Louisville, Kentucky 40202

Dear Erin,

I want to apologize for making you feel uncomfortable in the parking lot. It was never my intention and I regret that it happened.

I will maintain personal boundaries and proper dress.

Again, I apologize for putting you in an uncomfortable situation. Please accept my apology.

Sincerely,

Dan Johnson
Councilman

cc: President David Yates, Metro Council
Councilman Bill Hollander, Caucus Chair
Councilwoman Angela Leet

EXHIBIT 8

Thomas A. McAdam, III
Attorney at Law

2950 Breckenridge Lane, Suite 9, Louisville, Kentucky 40220-1462
(502) 584-7255 FAX: 585-2025 KBA: 45200 thomas@mcadam.com

June 14, 2017

Ms. Erin Hinson
Louisville Metro Council
City Hall, 601 West Jefferson Street
Louisville, Kentucky 40202

IN RE: Hon. Daniel D. Johnson

Dear Ms. Hinson:

Please be advised that this office has been retained to represent the interests of Louisville Metro Councilman Daniel D. Johnson, in the matter of a claim which he has against you for defamation, libel, and slander. If you are represented by legal counsel, please direct this letter to your attorney immediately and have your attorney notify us of such representation.

You are hereby directed to CEASE AND DESIST ALL DEFAMATION OF HON. DANIEL D. JOHNSON'S CHARACTER AND REPUTATION. Councilman Johnson is a respected elected official in this community. He has spent many years serving this community and his constituents, and building a positive reputation. Councilman Johnson has learned that you have engaged in spreading false, destructive, and defamatory rumors about him.

Under the laws of the Commonwealth of Kentucky, it is unlawful to engage in defamation of another's character and reputation. Defamation consists of

(1) a statement that tends to injure reputation;

(2) communicated to another; and

(3) that the speaker knew or should have known was false.

Your defamatory statements were reported in the Courier-Journal newspaper, in a June 13, 2017 article by reporter Phillip M. Bailey:

> *In the alleged incident outside City Hall, Erin Hinson, a legislative aide to Councilwoman Angela Leet, told the Courier-Journal that she was leaving work last fall when she saw Johnson in the parking lot. She alleges he made a grunting noise and that when she turned around, his pants were on the ground exposing his bare buttocks.*
>
> *Hinson said she ran to her car before Johnson pulled his pants back up. He then walked back to his car, she said, which was parked behind her vehicle.*

EXHIBIT 9

> *"He walked by again — this time closer to my car — if I had opened my door I would have hit him," she said. "And his pants fell down again."*
>
> *Hinson said she saw Johnson's belly button "and a little below" that before turning away. She reported the incident to Leet and Republican caucus director Steve Haag Jr.*

Accordingly, we demand that you (A) immediately cease and desist your unlawful defamation of Hon. Daniel D. Johnson and (B) provide us with prompt written assurance within ten (10) days that you will cease and desist from further defamation of Hon. Daniel D. Johnson's character and reputation.

If you do not comply with this cease and desist demand within this time period, Hon. Daniel D. Johnson is entitled to seek monetary damages and equitable relief for your defamation. In the event you fail to meet this demand, please be advised that Hon. Daniel D. Johnson has asked us to communicate to you that he will pursue all available legal remedies, including seeking monetary damages, injunctive relief, and an order that you pay court costs and attorney's fees. Your liability and exposure under such legal action could be considerable.

Before taking these steps. however, my client wished to give you one opportunity to discontinue your illegal conduct by complying with this demand within ten (10) days. Accordingly, please sign and return the attached Defamation Settlement Agreement within ten (10) days to us.

I recommend that you consult with an attorney regarding this matter. If I can provide you with any additional information which you might require, please feel free to call upon me at any time. In anticipation of your response, I remain,

Sincerely yours,

Thomas A. McAdam, III

TAM/ms
Encl.
cc: Hon. Daniel D. Johnson

Defamation Settlement Agreement

I, Erin Hinson, agree to immediately cease and desist defamation of Hon. Daniel D. Johnson's character and reputation in exchange for Hon. Daniel D. Johnson releasing any and all claims against me for defamation. In the event this agreement is breached by me, Hon. Daniel D. Johnson will be entitled to costs and attorney's fees in any action brought to enforce this agreement and shall be free to pursue all rights that Hon. Daniel D. Johnson had as of the date of this Agreement as if this Agreement had never been signed.

Signed: _____
Erin Hinson

Dated: _____

Hinson, Erin

From: Hinson, Erin
Sent: Wednesday, June 28, 2017 10:37 AM
To: Leet, Angela
Cc: Haag, Steve; sthomas@kysiu.com
Subject: Incident with CM Johnson

Angela –

Given the fact that the Metro Council is on recesses for 2 weeks I didn't anticipate having to deal with Councilman Johnson in the building. Thus the reason for my comment last Friday when we spoke that additional security was not needed; however, when coming back from lunch yesterday I had to sit in my car for an additional 10 minutes as Councilman Johnson pulled into the parking lot and I wanted to give him ample time to get to his office before coming into the building.

I know that you and I spoke about this when it happened but in light of the yesterday's situation I feel it necessary to document what happened on Tuesday, June 20. Immediately after the Budget Committee concluded its meeting (approximately 6:45PM) I and Steve Thomas from KYS.I.U made our way up to chambers to escort you back to the office. As we got off the elevator Councilman Johnson and Councilman Hollander were having a conversation and standing in a way that we could not get through to the council chambers without having to walk right between them and within a proximity to CM Johnson that I was very uncomfortable with. Recognizing this Steve suggested that we wait by Sophia's desk until Councilman Johnson decided where he was going to go.

Once he concluded his conversation with CM Hollander, Dan approached Sophia's Desk and faced Steve and I. He just stood there staring at me and made several attempts to step closer to me. Thankfully Steve was there and when he asked Dan what he needed, Dan told Steve to get on the elevator and when Steve refused Dan became visibly frustrated and stood there a moment longer staring at me before turning around and walking down the stairwell.

Given that this was the same day I received his threat of legal action one has to jump to some conclusions that at best Dan is again unaware of proper decorum, personal space and common sense, but at worst he thinks this is a game in which he can just stand around staring at me in what one can only conclude is an attempt to intimidate me or cause some kind of scene that he can then attempt to pursue with legal action.

I am thankful that Steve was there and he later made the comment that it was very apparent that Dan either wanted to talk to me or stand with in as close a proximity to me as possible. After Dan walked away I turned around to see who was also standing in the hall way and I remember seeing Sarah Martin, Matt Golden and Sonya Howard from the County Attorney's office and Matt did ask me if I was ok, although I am unsure that they saw the entire exchange they just saw that Dan was obviously too close. The Budget Committee had just concluded and so the public side of the 3rd floor hall way was crowded and I can't remember specifically who was where.

I am just overwhelmed by all of this and, for me, this is absolutely the definition of a hostile work environment. Not being able to move freely throughout City Hall for fear that Dan's presence is going to create an uncomfortable or dangerous situation is not something that anyone should have to deal with. I appreciate more than you will ever know that you hired KYS.I.U that day and that Steve was there, but moving forward I don't know what to do and certainly hiring private security for the next 18 months isn't feasible.

Thanks,
Erin

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LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

IN THE MATTER OF CHARGES AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON

AFFIDAVIT OF COUNCILWOMAN ANGELA LEET

COMES THE AFFIANT, COUNCILWOMAN ANGELA LEET, AND HAVING BEEN FIRST DULY SWORN, STATES AS FOLLOWS:

1. On or about August 26, 2016 I received a text from my Legislative Aide Erin Hinson telling me she had been in Congress Alley on her way to the parking lot when Councilman Dan Johnson twice exposed himself to her. From her description the first exposure might have been accidental but the second was deliberate and intentional.

2. I looked then to discover if any policies and procedures covered sexual harassment by a Councilmember with a Council staff but found nothing. But Erin didn't want to come forward and take any action, saying she did not want to become a public victim and she did not want to damage the Councilman.

3. I advised Erin to avoid being alone with the Councilman in offices, conference rooms and elevators and to avoid him in hallways. He knew Erin had witnessed his exposure, and might try to create a situation with her that would set up a "he said – she said" to damage her credibility and keep her quiet.

4. It was just a month or 6 weeks later that I learned about the GLI incident with a female staff member and the Councilman, and I was concerned that I now knew of two occurrences of what seemed to be sexual harassment by a Councilmember.

5. Then I heard directly from Councilwoman Green telling me what had happened in

EXHIBIT 11

Wyandotte Park with the Councilman. She was angry, indignant, embarrassed and unsure what to do next.

6. When the Democratic Caucus took up the investigation of Jessica's complaint I waited to see what action the Caucus would take. I thought it was would end with the June 14 statement from the Democratic Caucus that Johnson would apologize and seek counseling and not run again.

7. So I was surprised, knowing that the Councilman had admitted and apologized publically to Erin, when Erin called to tell me she'd received a letter from Johnson's attorney accusing her of lying. She was a little panicky about needing a lawyer, and frightened because it made Councilman Johnson look so irrational - he admitted to her that the incident happened, he apologized for it, but now he threatened a lawsuit to shut her up.

8. The letter was so hostile I understood why Erin felt intimidated and I was even more worried that Johnson would go further. When I hung up with Erin I made calls to hire security for the two of us as soon as someone could get down to City Hall.

9. That is why Steve Thomas was with Erin on the 3rd floor on the night of the 20th when Johnson tried to intimidate her. The next day we made alternate work arrangements in the district office so we didn't have security on the 21st, but I hired an off-duty LMPD officer at my expense to escort us the day of the Council meeting on the 22nd and didn't have any problems.

10. I discontinued security after the Council went on recess, but told Erin to continue to take precautions and immediately contact me and document any other strange or threatening acts. There were other reports, so by June 28 I had to ask the President to step in and ask Johnson to stay off the second floor and to give us an hours notice when coming to City Hall so we could make accomodations for Erin's security.

12. I know that the councilman ignored the request, but other people had seen what happened to Erin and then everyone seemed to be looking out for both of us. For example, after a Appropriations meeting on July 19, I was alone in chambers with one of the clerks getting ready to leave and the clerk told me she'd seen the Councilman loitering outside the chamber door like he was waiting on me. So I slipped out the public door and sought someone else to join me on the elevator to leave the building without incident.

FURTHER THE AFFIANT SYETH NAUGHT.

Angela Leet

Councilwoman Angela Leet

STATE OF KENTUCKY }
}
COUNTY OF JEFFERSON }

SUBSCRIBED, SWORN TO AND ACKNOWLEDGE before me by Angela Leet this 16 day of October, 2017 as her true word and deed.

My Commission expires: 6/28/2019.

Notary Public

Kentuckiana Law Enforcement
P.O. Box 1111
Prospect, KY 40059-1111
(502) 767-0000 or (502) 773-3966

Prospect, KY 40059-1111

Invoice

Date	Invoice #
6/29/2017	12018

Bill To
Angela Leet A. Leet Company 2410 Ampere Drive Louisville, KY 40299

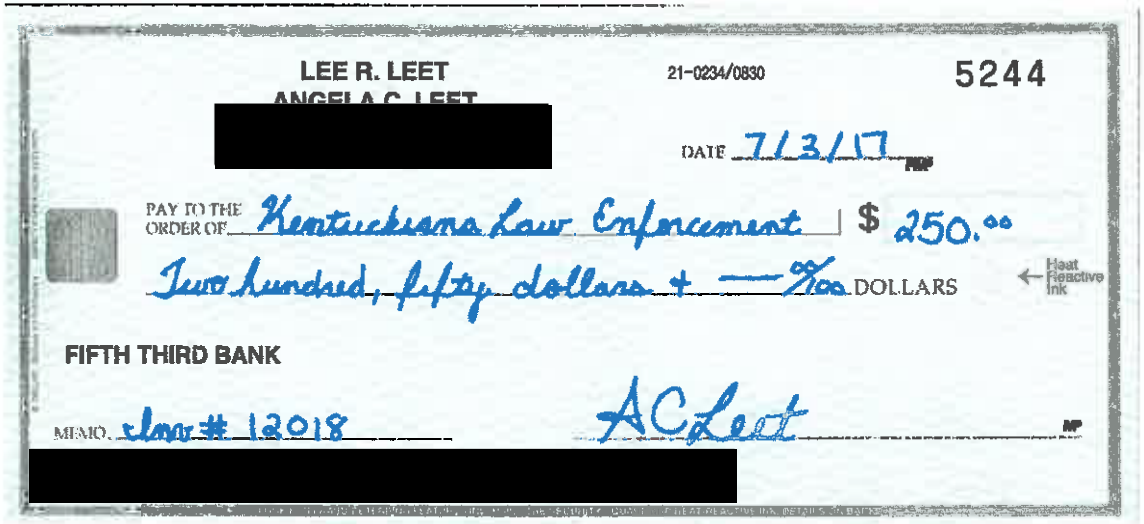
P.O. No.	Terms	Job/Project
	Net 15	Escort

Quantity	Description	Rate	Amount
5	Off-Duty Police for Security Escort during Meetings; 6/22/17; various locations - also 601 W. Jefferson; 1400-1900	50.00	250.00

Thank you for choosing KLE! We are here when you need us, and available 24/7!!!

Total **$250.00**

EXHIBIT 12



LEE R. LEET
ANGELA C. LEET
[redacted]

21-0234/0830

5244

DATE 7/3/17

PAY TO THE ORDER OF Kentuckiana Law Enforcement $ 250.00

Two hundred, fifty dollars + —/100 DOLLARS

Heat Reactive Ink

FIFTH THIRD BANK

MEMO. Donor # 12018

ACLeet

[redacted]

Steve Thomas
239 South Fifth Street, Suite 1022
Louisville, KY 40202
Phone (502) 409-3675
[Fax Number]

INVOICE

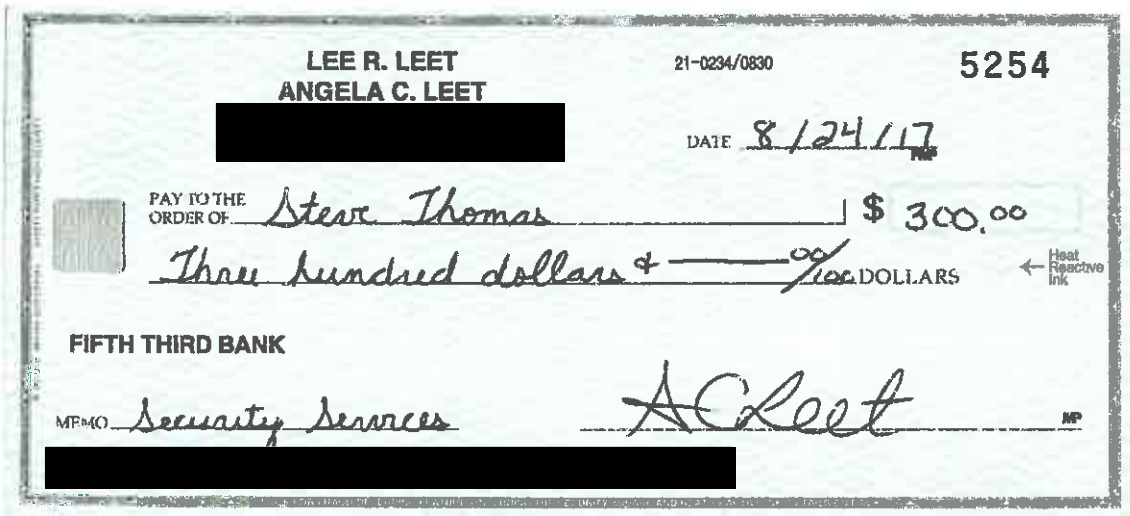
INVOICE #101
DATE: 6/20/2017

TO:
Angela Leet
[redacted]
Louisville, KY 40207
[redacted]

DESCRIPTION	AMOUNT
Security Services	$300.00
TOTAL	$300.00

Make all checks payable to Steve Thomas

THANK YOU FOR YOUR BUSINESS!



LEE R. LEET
ANGELA C. LEET
[redacted]

21-0234/0830

5254

DATE 8/24/17

PAY TO THE ORDER OF Steve Thomas $ 300.00

Three hundred dollars & 00/100 DOLLARS

Heat Reactive Ink

FIFTH THIRD BANK

MEMO Security Services

A C Leet

[redacted]

Hinson, Erin

From: Leet, Angela
Sent: Wednesday, June 28, 2017 11:35 AM
To: Yates, David
Subject: Per our conversation last night...

David –

Thank you for taking the time to discuss some of the concerns I have regarding recent events at City Hall. This is to serve as a reminder for you to discuss or coordinate with the Jefferson County Attorney's office about what steps, you as President, can take to ensure not only Erin's safety in the building but everyone's safety until this matter with Councilman Johnson is resolved.

I am asking specifically that Councilman Johnson not be allowed on the second floor at any time and that I receive prior notice as to when Councilman Johnson expects to be in the building so that, if necessary, Erin can make arrangements to work from a District office or be prepared to stay on the 2nd floor.

Councilman Johnson does serve as Vice Chair of Community Affairs, Housing, Health and Education and per the JCAO yesterday you do have the authority to remove him from that seat and Councilman Hollander has the authority to remove him from all committees he is assigned to until some resolution is reached so he would have little need to be in the building.
Please let me know if you have any questions.

Thanks,
Angela

EXHIBIT 13

Louisville Metro Council
Office of President David Yates

July 4, 2017

Councilman Dan Johnson,

In light of recent events and in order to preserve decorum of the Louisville Metro Council, I am hereby removing you as Vice Chair of the Community Affairs, Housing, Health and Education Committee pursuant to Metro Council Rule 4.01(a). I have been advised by the County Attorney that I do not have the explicit power to remove you from committees, therefore you are still a member of Community Affairs, Housing, Health and Education Committee, Budget Committee and the Appropriations, NDF's & CIF's Committee.

Furthermore, it has recently been brought to my attention that some metro council employees are fearful and intimidated by your physical presence. In an effort to amicably resolve the situation I am requesting that you refrain from the second floor at any time and that you notify my office, via email (david.yates@louisvilleky.gov) at least an hour prior to arriving at City Hall to provide an opportunity for those employees to make any necessary arrangements.

I understand the situation is not ideal, however given the recent events and allegations I do not believe these requests are overly burdensome and thus, appreciate your anticipated willingness to accommodate.

Sincerely,

David Yates

Louisville Metro Council President
District 25 Councilman

EXHIBIT 14

Lisa Franklin Gray, *Assistant to the President* • lisa.franklingray@louisvilleky.gov

601 West Jefferson Street • (502) 574-1125 • Louisville, KY 40202 • david.yates@louisvilleky.gov

LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

IN THE MATTER OF CHARGES AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON

AFFIDAVIT OF COUNCILMAN RICK BLACKWELL

COMES THE AFFIANT, RICK BLACKWELL, HAVING BEEN FIRST DULY SWORN, AND STATES AS FOLLOWS:

1. I have served on the Louisville Metro Council since its beginning in 2003.

2. I volunteered for the Charging Committee because I am a man of my word. I voted with the majority of the Democratic Caucus to find that Councilman Dan Johnson brought shame on the Council in his touching of Councilwoman Green, and his actions afterward.

3. Despite Councilman Johnson's disrespect for the Democratic Caucus, I had hoped at each step of the Caucus process he would to resolve the complaint with a sincere apology and counseling. But his insincere apologies to Jessica Green and Erin Hinson and threats of legal action show he is out of control and they, and Councilwoman Leet, have good reason to feel intimidated.

4. I'd heard talk about physical intimidation, and saw it myself one night when Dan was loitering outside the chamber doors where Councilwoman Leet would have to pass him. When she emerged and went toward the stairs Councilman Johnson followed her so I got behind her as in the stairwell to be between them. She thanked me later and said that was exactly the kind of behavior she and Erin Hinson and Councilwoman Green had been subjected to.

5. The reports about the GLIDE trip to Austin had already set off alarms. That GLI would ban Councilman Johnson is such an extreme reaction for an inclusive organization that works closely with us. GLI had to be severely disturbed to go from zero to a total, permanent ban.

EXHIBIT 15

6. Councilman Johnson's behavior has gotten worse over time. He's escalating with verbal attacks on Councilman Hollander and Councilwoman Bryant Hamilton, the Charging Committee members, and other Caucus members who voted to expel him. Everyone is on high alert. I can feel the tension when he is present in City Hall.

7. These ridiculous attacks have become a predicable part of his political life in the last few years. Councilman Johnson tried to score political points with Democrats by attacking GLI as a partisan organization out to embarrass him by "force feeding" him beer in order to harm him.

8. It is identical to an earlier episode when Councilman Johnson caused us great embarrassment with a reckless attack on the leadership of Kling Center, a non-profit that's been serving the elderly for decades, for firing a friend who Johnson's later hired as his Legislative Aide. Councilman Johnson dragged the Kling Center in his politics with accusations that an "unnamed Councilmember" requested the Kling Center fire the employee because he was planning to run against the unnamed member.

9. Just as Councilwoman Green took her complaint about Johnson to the Democratic Caucus, so did the unnamed member, Councilman David James. James' complaint was that Johnson's Legislative Aide was attacking James in social media. James' complaint was upheld, and Johnson was ordered to produce a corrective plan, which he never did.

10. At the same time Councilman Johnson filed a retaliatory complaint against James, and that was dismissed. But Johnson kept starting battles to distract the Council and intimidate his critics in the Caucus. Some of you may remember that he threatened to file ethics complaints against Councilwomen Shanklin and Woolridge, though I don't think he ever stated the basis.

11. With that as a precedent of disrespect for the Caucus and political exploitation of its proceedings, I was aware that Johnson would blow off the investigation of the Green complaint.

But I was not prepared for "scorched earth" response maligning the Caucus members as part of a conspiracy against him.

12. Councilman Johnson made us all look ridiculous by defying the President for trying to keep the peace by asking Councilman Johnson to avoid the second floor. That is disrespect for the leadership that we elected. Disrespect for the Council President is disrespect for this Council, and that is another pattern of behavior in the past few years. That pattern came into focus for me when he attacked former Council President David Tandy, calling him "unfit for office" and threatening a criminal complaint.

13. That's my concern about the reports of impropriety with Councilwoman Green, Erin Hinson and the GLI staffer. That some of my colleagues will think this removal proceeding was sufficient for Dan to learn a lesson and he'll never do it again. But we can't move on knowing that it will happen again and the Council has no control over him because he has no respect for us.

14. Finally, the situation keeps us from doing our jobs. In my district I meet with our constituents to talk about issues like the Dixie Do-over, but they want to know when we're going to do something about Dan Johnson. I know I'm not the only one spending time to defend the Council as people demand to know when we are going to address the problem of Dan Johnson.

15. People expect us to act with integrity, as we have since this Council was first formed. We must act professionally if we are going to be effective as a legislative body in maintaining the balance of power within Metro Government.

FURTHER THE AFFIANT SAYETH NAUGHT.

Rick Blackwell

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Rick Blackwell this 16 day of October, 2017 as his true word and deed.

My Commission expires: 4/28/2021.

Notary Public

LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

IN THE MATTER OF CHARGES AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON

AFFIDAVIT OF SARAH DAVASHER

COMES THE AFFIANT, SARAH DAVASHER, AND HAVING BEEN FIRST DULY SWORN, STATES AS FOLLOWS:

1. I am Sarah Davasher, Chief Operating Officer of Greater Louisville, Incorporated, an organization focused on economic growth working with Metro Louisville Government and partners in the surrounding 15 counties.

2. GLI has worked directly with the Metro Council members to connect Metro government with its members and encourage direct exchanges between local government and the business community. Our two main public events of the year, GLIDE and the annual meeting, are designed to forge these connections between GLI members and elected officials.

3. The GLIDE trips are organized by GLI to take about 150 business and government leaders to learn how other communities promote economic growth and to bring the best ideas back to Louisville. GLIDE went to Austin in 2016 to see their "Opportunity Austin" program, a highly successful employee talent attraction and retention program that's part of their explosive growth in the past few years.

4. Councilman Johnson attended the Austin GLIDE trip last year, which was not unusual as he was been on GLIDE trips in 2000, 2003, 2005, 2006, 2012, 2014, and 2015. To my knowledge Councilman Johnson did not give GLI any reason to be concerned about his behavior in the past.

5. While I was in Austin on the 2016 GLIDE trip, I started hearing bits and pieces about Councilman Johnson making people uncomfortable with odd comments and weird behavior. After

EXHIBIT 16

we returned I learned that one of our staff members had been harassed by Councilman Johnson.

6. The staffer declined to be identified but the day after our return she reported to me that on the last full day of the trip, Monday, during the day, Councilman Johnson attempted to initiate discussions of his sexual practices and marital relations with her. The staffer was alarmed and mentioned it to other staff members, and tried to avoid him afterward.

7. The staff member couldn't avoid him that evening, however, as she was host of the dinner that Councilman Johnson attended. He tried to continue his conversation with her during the dinner.

8. Councilman Johnson repeatedly invited her to join him in his room for Margaritas. She did not hear him invite anyone else, and when he did not accept her answer of no she left for the restroom to compose himself and wait for him to go away.

9. I discussed the situation with Human Resources but the staff member did not want to take any action that would embarrass an elected official and identify her to the public as an accuser. She wanted only to be sure that she would never interact with Councilman Johnson again.

10. To the best of my knowledge, GLI has never experienced this situation before. Never had a sexual harassment issue with a participant, or any complaint about any attendee doing anything offensive to the staff, other government officials or business leaders. I found that GLI had no precedent for handling it.

11. I discussed the situation with CEO Kent Oyler. GLI's first priority is protecting our employee, so I knew, as her employer, GLI had to ban Councilman Johnson from future GLI events.

12. But in light of other news about the Councilman over the years I did not know what to expect in response. Together with CEO Kent Oyler I decided it would be wise to discuss this with the Council President David Yates. The ban couldn't be avoided as the Human Resources solution, but the incident created a political situation that we did not want to be involved in.

13. On the next day, I called President Yates to discuss. He agreed to diplomatically convey the GLI ban to Councilman Johnson. I was satisfied that GLI had done everything possible without embarrassing the Council or Councilman Johnson. I did not expect to hear about this again.

14. I was surprised when stories about the ban appeared in the news. I saw that Councilman Johnson said that he was unaware he had offended anyone while on the Austin trip, though he surely knew after his conversation with David Yates.

15. Those news reports did interfere with our work and were a distraction from GLI's mission. I was most concerned about our reputation for bi-partisanship but I have received positive feedback and expressions of supports from many of our members.

16. Some of the staff and members urged us to respond to the remark about "force feeding us beer" because that's a serious accusation of promoting alcohol abuse. However, the event was organized as a "tasting" of craft brews. The point was not to guzzle beer but to learn about micro-breweries as one of the amenities that attract young people to the city of Austin.

FURTHER THE AFFIANT SAYETH NAUGHT.

Sarah Davasher

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Sarah Davasher this 11 day of October, 2017 as her true word and deed.

My Commission expires: 6/24/2018.

Connie M Deane
Notary Public

LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

IN THE MATTER OF CHARGES AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON

AFFIDAVIT OF STEVE GAHAFER

COMES THE AFFIANT, STEVE GAHAFER, AND HAVING BEEN FIRST DULY SWORN, STATES AS FOLLOWS:

1. My name is Steve Gahafer and I am President of the Board of the Kling Center, a non-profit agency that serves the elderly in the Old Louisville area with nutrition and recreation programs. I served on the Board for 8 years, and as President for three years.

2. I don't remember anytime that the Kling Center or its staff or Board has been involved in any political controversy. The Kling Center is bi-partisan and there's no reason for us to get involved and it would only damage us because we depend on grants and contributions.

3. But in June of 2014 the Kling Center Board was publically attacked by Councilman Dan Johnson when it became public that six months earlier the Kling Center Board had voted to fire our executive director, Bryan Matthews. Councilman Johnson had just hired Matthews.

4. We took that action in January 2014 because Matthews wasn't producing financial reports for the Board or writing and submitting grant proposals. Additionally I heard staff reports of the racial slurs he'd been using, and he then admitted it to me and another Board member.

5. So in June 2014, I heard from a reporter that, according to Councilman Johnson, I was a liar and that the Kling Center had fired Matthews just because a different Councilman wanted us to. That would be a wrongful firing and illegal.

6. I was told the unidentified Councilman was Councilman David James, but there's nothing

EXHIBIT 17

to that. I never spoke to David James, not even once, about Bryan Matthews. And David James has been nothing but good for the Kling Center.

7. I didn't want to trade attacks and put the Kling Center in the middle of a political battle, but the simple fact is Councilman Johnson attacked me and the Center for terminating his friend.

8. It was no secret around the Center that Matthews and Johnson were old friends and Matthews had been living in Johnson's house until he moved to Second Street near the Center. He let everyone know he was going to run against David James and tried to recruit staff members for support.

9. I expected better of an elected official, expected him to act with respect and honesty. Councilman Johnson lost my respect because he didn't do his job when he hired Matthews and tried to blame it on me and one of his fellow Councilmembers. He made an ugly accusation instead of calling me to find out the facts, even if he wouldn't like them.

10. I worried about what kind of reputation we would have after Johnson's attack, but he damaged his own reputation when he attacked me and the Board and staff of the Kling Center.

FURTHER THE AFFIANT SAYETH NAUGHT.

Steve Gahafer

Steve Gahafer

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

~~I~~ SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Steve ~~Gahafer~~ this 29 day of September, 2017 as his true word and deed.

My Commission expires: 2-1-2020

Notary Public

S Tate at Large

TO: Councilman David James

FROM: Caucus Personnel Committee

DATE: June 24, 2014

RE: Report of Recommendations

As you are aware, Councilman Johnson submitted a complaint on Thursday, June 19, 2014 regarding your conduct in six separate issues beginning on January 6 through June 13, 2014.

Per our Caucus Rules under *Separation from the Caucus*, charges of alleged violations should be filed in writing with a preliminary investigation conducted by the Caucus Leadership. If the member in question is a member of Caucus Leadership, the preliminary investigation will be conducted by the Personnel Committee. Given Councilman Johnson's role in leadership, members of the Majority Caucus Personnel Committee (Councilwoman Welch, Councilwoman Shanklin, Councilwoman Scott, Councilwoman Flood and President King) were convened on Thursday, June 19, 2014 after the Council meeting where they conducted a preliminary investigation of alleged violations by Councilman Johnson.

After careful consideration from the Personnel Committee, it was determined that the complaint against you, was not valid. The evidence presented was not perceived as an attempt to bring embarrassment and public scorn upon the Caucus as described in our Caucus Rules under *Separation from the Caucus,* Section three, Item (i).

Therefore, the Personnel Committee recommends no further action is warranted.

Cc: Councilman Dan Johnson
Caucus Personnel Committee

EXHIBIT 18

TO: Councilman Dan Johnson

FROM: Caucus Personnel Committee

DATE: June 20, 2014

RE: Report of Recommendations

As you are aware, Councilman James submitted a complaint on Thursday, June 19, 2014 regarding the conduct of your Legislative Aide, Bryan Mathews, in regards to Tweets and Facebook comments he made toward Councilman James beginning on May 29, 2014.

Per our Caucus Rules under *Separation from the Caucus*, charges of alleged violations should be filed in writing with a preliminary investigation conducted by the Caucus Leadership. If the member in question is a member of Caucus Leadership, the preliminary investigation with be conducted by the Personnel Committee. Given your role in leadership, members of the Majority Caucus Personnel Committee (Councilwoman Welch, Councilwoman Shanklin, Councilwoman Scott, Councilwoman Flood and President King) were convened on Thursday, June 19, 2014 after the Council meeting where they conducted a preliminary investigation of alleged violations by Councilman James.

After careful consideration from the Personnel Committee, it was determined that the complaint against your Legislative Aide, Bryan Mathews, was valid. The evidence presented from the Facebook and Twitter posts could be perceived as an attempt to bring embarrassment and public scorn upon Councilman James as described in our Caucus Rules under *Separation from the Caucus,* Section three, Item (i).

The Personnel Committee recommends, under *Separation from the Caucus*, Section eight; you (Councilman Johnson) present an action plan to the committee on how you plan to address the behavior of your Legislative Aide, Bryan Mathews, going forward. Specifically, the action plan should clearly state he (Mr. Mathews) shall not use social media of any kind to attack or malign a Council Member for any reason.

The Caucus Rules provide under *Separation from the Caucus*, Section nine; that after receiving the recommendations you shall be given a fourteen-day time period (by July 6, 2014) to determine if internal corrective action is warranted. Depending on the severity and substantiality of the specific charge, disciplinary actions may include: a verbal warning, written warning, suspension and/or termination of the staff member in question. A written report describing any corrective action you will be taking or not taking shall be sent to the Personnel Committee by the end of the fourteen-day period (July 6, 2014). If no action is taken within the fourteen-day period (July 6, 2014) or Mr. Mathews fails to discontinue the action in question, the Personnel Committee shall continue the disciplinary process with the Caucus as a whole.

Thank you for your prompt attention to this matter.

Cc: Bryan Mathews, Legislative Aide
Caucus Personnel Committee

EXHIBIT 19

LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

IN THE MATTER OF CHARGES AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON

AFFIDAVIT OF DAVID TANDY

COMES THE AFFIANT, DAVID TANDY, HAVING BEEN FIRST DULY SWORN, AND STATES AS FOLLOWS:

1. My name is David W. Tandy, whose professional address is 3500 PNC Tower, 101 South Fifth Street, Louisville, Kentucky 40202.

2. I am a former member of the Louisville Metro Council having represented the people of the Fourth Metro Council District from April of 2005 to December of 2016.

3. Additionally, I twice served as the President of the Louisville Metro Council having been elected to said position in January of 2009 and January of 2015.

4. During or about late February or early March of 2015, I had been informed by Cathy Duncan, the Director of Facilities Management & Fleet Operations for Louisville Metro Government, that the number of physical guards would be reduced from three (3) persons to two (2) which would result in the elimination of a person manning the entrance to City Hall located in Congress Alley. It was further explained by Director Duncan that the rational for this change was due to the fact that cameras were being installed at the entrances of City Hall allowing the remaining guards to monitor said entrance. Furthermore, access to the Congress Alley entrance could only be obtained, as was the case prior to the installation of security cameras, through the use of a Louisville Metro Government issued employee identification badge.

5. Upon learning of this proposed change in security staffing, I informed the members of the

EXHIBIT 20

Council through direct and group communication at both Committee of the Whole meetings and Caucus meetings of the respective political parties until the staffing changes went into effect during or about May of 2015.

6. On or about May 27, 2015, Councilman Dan Johnson called me to express his desire to have a security guard reposted at the Congress Alley entrance of City Hall. During our conversation I reminded Councilman Johnson of the fact input on this staffing change had been sought from Councilmembers and their staff for several months with no one expressing disagreement with its implementation. At which time, Councilman Johnson stated that he would introduce a resolution seeking to have the third security guard posted at the Congress Alley entrance of City Hall. To which my response was that if he wanted to bring it before the Committee of the Whole meeting the next evening immediately before the scheduled Council Meeting that week, we could hash it out there. Following my response our phone conversation ended.

7. At 10:16pm on May 27, 2015 Councilman Johnson sent me a text message which read, "Should not have threatened me".

8. The following day, I learned that Councilman Johnson on the evening of May 27, 2015 had posted a statement on his Facebook page falsely claiming that I threatened to "take him out" over the phone and that these unfounded allegations leveled toward me were "unbecoming of a president to a fellow councilperson." I also learned that this post by Councilman Johnson was removed from his Facebook page soon after posting it.

9. While I was personally offended by the patently false and unwarranted allegations leveled against me personally by Councilman Johnson and the lack of respect shown to the Louisville Metro Council's deliberative and collaborative decision making process regarding issues of

policy and procedure, I chose to refocus myself, the Council and the public on the issues before us at the time that directly affected the well-being of the citizens of Louisville rather than to continue to drag this incident out further by bringing this violation of the Metro Council's Rules barring its members from making personal attacks against other Councilmembers.

FURTHER THE AFFIANT SAYETH NAUGHT.

David Tandy

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

2nd SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by David Tandy this 2nd day of October, 2017 as his true word and deed.

My Commission expires: 10/4/2017.

Notary Public

LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

IN THE MATTER OF CHARGES AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON

AFFIDAVIT OF COUNCILMAN ROBIN ENGEL

COMES THE AFFIANT, ROBIN ENGEL, HAVING BEEN FIRST DULY SWORN, AND STATES AS FOLLOWS:

1. I have served as an elected member of the Louisville Metro Council since its beginning in 2003. I have been seated next to Councilman Dan Johnson since the Metro Council was formed in 2003. We have always gotten along, and agree on many issues.

2. I had hoped the Democratic Caucus would succeed in their efforts to repair the damages done by Councilman Johnson after his insincere apologies to Councilwoman Green and Erin Hinson and the legal threats that followed. I was genuinely sorry their efforts failed.

4. I have observed as City Hall became a hostile workplace this summer for women, something this Council cannot abide. We are responsible for making sure City Hall is a place where women can work without looking over their shoulders when they hear footsteps in the hallway behind them.

5. We are all responsible for this. We never addressed the GLI scandal and let it go saying "it's just Dan being Dan." We had a responsibility to strongly and clearly denounce sexually improper behavior by a Councilmember wherever a Councilmember is conducting Council business. We didn't, and this is the result.

6. In fact, the very day Councilman Johnson was in Wyandotte Park, he was still defending himself on Facebook for this earlier scandal with GLI. Eight months after the GLI ban the public

EXHIBIT 21

was still disturbed and concerned about his conduct. Now, with three separate incidents with three different women, people are demanding the Council police itself and correct the problem

6. These scandals have a cumulative and compounding effect that the rest of us must endure as a result of Councilman Johnson's improper sexual behavior embarrassments. They must end and that is the first reason I volunteered to work on the Charging Committee, but the second is my concern for the Council and its leadership.

7. When Councilman Johnson demonstrated his defiance of the Council President I remembered his accusations against former President Tandy, and I realized that his lack of respect for the Office was more than a childish tantrum: it was a challenge to orderly functioning of Council.

8. The Council President is our voice as an ex officio member of boards and commissions that affect all our constituents, as well as the only arbiter between the majority and minority caucus and the official point of contact with other elected officials and government agencies. If the Council President is to be taken seriously when he speaks on behalf of the Council, then we *the Council that elected him* must give him due respect and accept his authority.

9. I do not want to punish Dan Johnson, that is not why I volunteered for the Charging Committee. Removal is not to punish a Councilmember, it's the only way the Metro Council can protect itself, by policing itself. It not a power to be used lightly, but we have no alternative.

10. Since 2003 this Council has worked hard to prove Metro Government was the right choice for this community. As painful as this is for all of us, it is the work we are given to do on behalf of the people. And if we don't do our work we will all be directly responsible to the next casualty of Councilman Johnson's inappropriate sexual behavior.

FURTHER THE AFFIANT SAYETH NAUGHT.

Robin Engel

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Robin Engel this 14 day of September, 2017 as his true word and deed.

My Commission expires: 6/28/2019.

Notary Public

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

110TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

DOCUMENT
No. 110–50

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

As Amended

Unratified Amendments

Analytical Index

PRESENTED BY MR. BRADY
OF PENNSYLVANIA

July 25, 2007 • Ordered to be printed

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Attachment 1

second Year; and if Vacancies happen by Resignation or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.[4]

[3]No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

[4]The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

[5]The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

[6]The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

[7]Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION 4. [1]The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

[2]The Congress shall assemble at least once in every Year and such Meeting shall be on the first Monday in December,[5] unless they shall by Law appoint a different Day.

SECTION 5. [1]Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

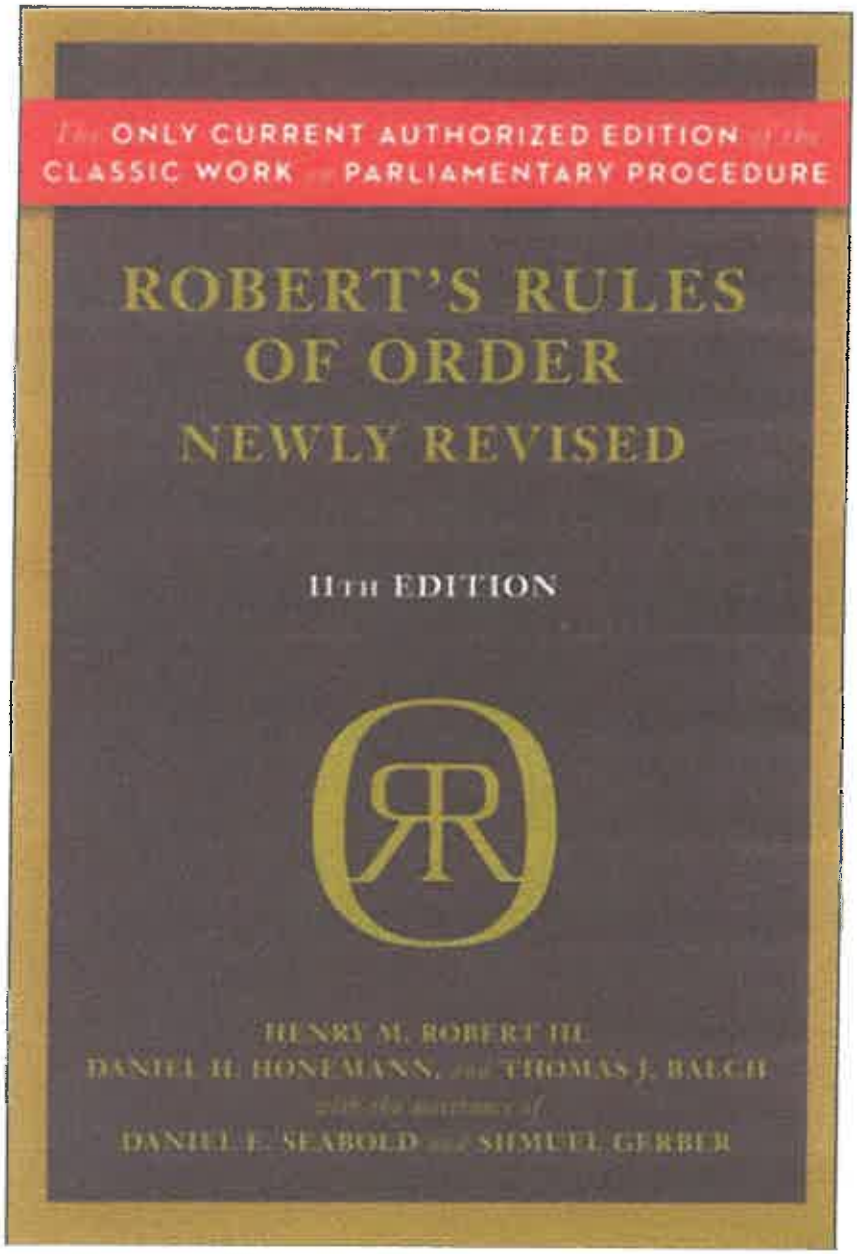
[2]Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

[3]Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

[4]Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION 6. [1]The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and

[4]This clause has been affected by clause 2 of amendment XVIII.
[5]This clause has been affected by amendment XX.



Attachment 2

ARTICLE XIII

75. **Trial of Members of Societies**. Every deliberative assembly, having the right to purify its own body, must therefore have the right to investigate the character of its members. It can require any of them to testify in the case, under pain of expulsion if they refuse.

When the charge is against the member's character, it is usually referred to a committee of investigation or discipline, or to some standing committee, to report upon. Some societies have standing committees whose duty it is to report cases for discipline whenever any are known to them.

In either case, the committee investigates the matter and reports to the society. This report need not go into details, but should contain its recommendations as to what action the society should take, and should usually close with resolutions covering the case, so that there is no need for any one to offer any additional resolutions upon it. The ordinary resolutions, where the member is recommended to be expelled, are (1) to fix the time to which the society shall adjourn; and (2) to instruct the clerk to cite the member to appear before the society at this adjourned meeting to show cause why he should not be expelled, upon the following charges which should then be given.

After charges are preferred against a member, and the assembly has ordered that he be cited to appear for trial, he is theoretically under arrest, and is deprived of all the rights of membership until his case is disposed of. Without his consent no member should be tried at the same meeting at which the charges are preferred, excepting when the charges relate to something done at that meeting.

The clerk should send the accused a written notice to appear before the society at the time appointed, and should at the same time furnish him with a copy of the charges. A failure to obey the summons is generally cause enough for summary expulsion.

At the appointed meeting what may be called the trial takes place. Frequently the only evidence required against the member is the report of the committee. After it has been read and any additional evidence offered that the committee may see fit to introduce, the accused should be allowed to make an explanation and introduce witnesses, if he so desires. Either party should be allowed to cross-examine the other's witnesses and introduce rebutting testimony. When the evidence is all in, the accused should retire from the room, and the society deliberate upon the question, and finally act by a vote upon the question of expulsion, or other punishment proposed. No member should be expelled by less than a two-thirds vote, a quorum voting. The vote should be by ballot, except by general consent. The members of the committee preferring the charges vote the same as other members.

In acting upon the case, it must be borne in mind that there is a vast distinction between the evidence necessary to convict in a civil court and that required to convict in an ordinary society or ecclesiastical body. A notorious pickpocket could not even be arrested, much less convicted by a civil court, simply on the ground of being commonly known as a pickpocket; while such

evidence would convict and expel him from any ordinary society.

The moral conviction of the truth of the charge is all that is necessary in an ecclesiastical or other deliberative body to find the accused guilty of the charges.

If the trial is liable to be long and troublesome, or of a very delicate nature, the member is frequently cited to appear before a committee, instead of the society, for trial. In this case the committee reports to the society the result of its trial of the case, with resolutions covering the punishment which it recommends the society to adopt. When the committee's report is read, the accused should be permitted to make his statement of the case, the committee being allowed to reply. The accused then retires from the room, and the society acts upon the resolutions submitted by the committee. The members of the committee should vote upon the case the same as other members.

If the accused wishes counsel at his trial, it is usual to allow it, provided the counsel is a member of the society in good standing. Should the counsel be guilty of improper conduct during the trial, the society can refuse to hear him, and can also punish him.

---

1. The U.S. Constitution [Art. I, Sec. 5] provides that each House of Congress may "with the concurrence of two-thirds, expel a member."

Kentucky Constitution

Section 160

Municipal officers -- Election and term of office -- Officers ineligible -- Fiscal officers.

The Mayor or Chief Executive, Police Judges, members of legislative boards or councils of towns and cities shall be elected by the qualified voters thereof: Provided, The Mayor or Chief Executive and Police Judges of the towns of the fourth, fifth and sixth classes may be appointed or elected as provided by law. The terms of office of Mayors or Chief Executives and Police Judges shall be four years, and until their successors shall be qualified, and of members of legislative boards, two years. When any city of the first or second class is divided into wards or districts, members of legislative boards shall be elected at large by the qualified voters of said city, but so selected that an equal proportion thereof shall reside in each of the said wards or districts; but when in any city of the first, second or third class, there are two legislative boards, the less numerous shall be selected from and elected by the voters at large of said city; but other officers of towns or cities shall be elected by the qualified voters therein, or appointed by the local authorities thereof, as the General Assembly may, by a general law, provide; but when elected by the voters of a town or city, their terms of office shall be four years, and until their successors shall be qualified. No Mayor or Chief Executive of any city of the first or second class, after the expiration of three successive terms of office to which he has been elected under this Constitution shall be eligible for the succeeding term. No fiscal officer of any city of the first or second class, after the expiration of the term of office to which he has been elected under this Constitution, shall be eligible for the succeeding term. "Fiscal officer" shall not include an Auditor or Assessor, or any other officer whose chief duty is not the collection or holding of public moneys. The General Assembly shall prescribe the qualifications of all officers of towns and cities, the manner in and causes for which they may be removed from office, and how vacancies in such offices may be filled.

Text as Ratified on: November 6, 1986.
History: 1986 amendment was proposed by 1986 Ky. Acts ch. 140, sec. 1; original version ratified August 3, 1891, and revised September 28, 1891.

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Attachment 3

67C.143 Removal of elected officers of consolidated local government -- Hearing -- Vote of council -- Appeal -- Restrictions on eligibility for office or appointment following removal.

(1) Unless otherwise provided by law, any elected officer of a consolidated local government in case of misconduct, incapacity, or willful neglect in the performance of the duties of his or her office may be removed from office by the legislative council, sitting as a court, under oath, upon charges preferred by the mayor or by any five (5) members of the legislative council, or, in case of charges against the mayor, upon charges preferred by not less than ten (10) members of the legislative council. No legislative council member preferring a charge shall sit as a member of the legislative council when it tries that charge.

(2) No elected officer shall be removed without having been given the right to a full public hearing.

(3) A decision to remove a mayor, legislative council member, or appointee to a board or commission shall require a vote of two-thirds (2/3) of the total number of legislative council members.

(4) Any elected officer removed from office under the provisions of this section may appeal to the Circuit Court and from there to the Court of Appeals. The appeal to the Circuit Court shall be taken and tried in the same manner as civil cases are tried.

(5) (a) No elected officer removed from office under this section shall be eligible to fill the office vacated before the expiration of the term to which the elected member was originally elected.

(b) Any appointee to a board or commission removed under this section shall not be eligible for:

1. The office from which he or she was removed before five (5) years following the date of his or her removal from that office; or
2. Appointment to a board or commission described in KRS 67C.103(13)(f) before five (5) years following the date of his or her removal from that office.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 150, sec. 6, effective June 29, 2017. -- Created 2002 Ky. Acts ch. 346, sec. 3, effective July 15, 2002.

Attachment 4

RESOLUTION NO. _____, SERIES 2013

A RESOLUTION REQUESTING THE KENTUCKY GENERAL ASSEMBLY TO ENACT LEGISLATION GRANTING THE LOUISVILLE METRO ETHICS COMMISSION THE AUTHORITY TO ISSUE ADMINISTRATIVE SUBPOENAS IN RELATION TO ETHICS COMPLAINTS AND HEARINGS AND REQUIRE MANDATORY REMOVAL OF AN ELECTED OFFICIAL UPON A FINDING OF FRAUD, THEFT, EMBEZZLEMENT OR MISAPPROPRIATION OF PUBLIC FUNDS.

Sponsored By: Council Members David Yates, Jerry T. Miller, President Jim King

WHEREAS, the Louisville Metro Ethics Commission ("the Commission") is charged with enforcing the Metro Code of Ethics governing the standards of conduct for government workers and all elected officials; and

WHEREAS, the Louisville Metro Ethics Commission currently lacks the subpoena power necessary to compel individuals to testify before the Commission during the investigation of an ethics complaint or an ethics hearing; and

WHEREAS, the lack of subpoena power remains a serious challenge to the Louisville Metro Ethics Commission's ability to enforce the law and is ultimately a question of state law that the General Assembly must address; and

WHEREAS, Kentucky Revised Statute ("KRS") 67C.143(1) states that "any elected officer of a consolidated local government may be removed in case of misconduct, incapacity, or willful neglect in the performance of the duties of his or her office may be removed from office by the legislative council, sitting as a court, under oath, upon charges preferred by the mayor or by any five (5) members of the legislative council..."; and

WHEREAS, "misconduct", "incapacity" or "willful neglect" are not defined by the KRS; and

Attachment 5

WHEREAS, the Louisville Metro Ethics Commission needs the ability to issue administrative subpoenas for the attendance and testimony of witnesses and the production of documents relevant to possible violations of the Code of Ethics.

WHEREAS, Louisville Metro finds it imperative that "misconduct", "incapacity" and "willful neglect" be defined under the KRS and also that upon a finding of fraud, theft, embezzlement or misappropriation of public funds committed by an elected officer by the legislative council sitting as a court, an elected official shall be removed; and

NOW THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: The Louisville Metro Council, by this Resolution, requests the Kentucky General Assembly enact legislation granting the Louisville Metro Ethics Commission the authority to issue administrative subpoenas designed to compel individuals to testify before the Commission and require those individuals to produce documents relevant to possible violations of the Code of Ethics.

SECTION II: The Louisville Metro Council, by this Resolution, requests the Kentucky General Assembly enact legislation that would amend KRS 67C.143(1) to require "misconduct", "incapacity" and "willful neglect" be defined under the KRS.

SECTION III: The Louisville Metro Council, by this Resolution, requests the Kentucky General Assembly enact legislation that would amend KRS 67C.143(1) to require that upon a finding of fraud, theft, embezzlement, misappropriation of public funds or official misconduct as defined under Kentucky Revised Statute ("KRS") 522.020 committed by an elected officer by the legislative council sitting as a court, an elected official *shall* be removed from office, instead of *may be* removed from office.

SECTION IV: The Louisville Metro Council, by this Resolution, requests the Kentucky General Assembly enact legislation that would amend KRS 67C.143(1) to require "misconduct", "incapacity" and "willful neglect" be defined under the KRS, and recommends that following definitions be adopted:

"Misconduct"-Misconduct is defined as a transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, willful in character, improper or wrong behavior. Said definition shall also include misdeeds, misbehavior, mismanagement, but not negligence or carelessness.

"Official Misconduct"-knowingly, with the intent to obtain or confer a benefit or to injure another person:

a) Commit an act relating to his/her office which constitutes an unauthorized exercise of his/her official functions; or
b) Refrain from performing a duty imposed upon him/her by law or clearly inherent in the nature of his/her office; or
c) Violate any statute or lawfully adopted rule or regulation relating to his/her office.

"Incapacity"-The physical or mental inability for an individual to perform the functions of their elected office, or a condition of impairment that substantially limits an individual's ability to perform an individual to perform the functions of their elected office.

"Willful Neglect"- the intentional disregard of a plain or manifest duty, in the performance of which the public or the person injured has an interest. Willful neglect suggests intentional, conscious, or known negligence – a knowing or intentional mistake.

SECTION V: This Resolution shall take effect upon its passage and approval.

H. Stephen Ott
Metro Council Clerk

Jim King
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

SubpoenaPowertoMetroEthicsCommandAmendingKRS67C143byKYGen.Assem.Res.CCO hso Amended Draft 2.doc 11.20.13
SubpoenaPowertoMetroEthicsCommandAmendingKRS67C143byKYGen.Assem.Res.ROC kbb Amended Draft 1.doc 11.04.13

As of
March 2016

Louisville Metro Council Policies and Procedures

Louisville Metro Council Policies and Procedures are designed to give guidance in a wide variety of areas necessary to administer the Offices of Metro Council Members

Attachment 6

Louisville Metro Government

Persons who are elected to leadership positions within the council will forfeit their assigned office selection/ space, and will assume the office locations designated by the council. Offices vacated by those in leadership will be made available by allowing the next person in line to move or not.

If a person who served as council president is not re-elected to another term as president, he or she will be required to vacate the designated president's office within a reasonable time of the leadership vote. If the outgoing council president is no longer a member of council leadership, he or she will be given first selection of all vacant offices. Majority and minority leaders who are not re-elected to their positions will resume office selection in their order of seniority.

Replacing a councilperson's office space if the member resigns, is removed or dies
Any non-leadership office space vacated in the middle of a council term due to resignation, removal or death shall remain the office for the person chosen to represent the District for the remainder of that councilperson's term.

A person appointed to fill an un-expired term as councilperson will be given seniority over newly elected individuals if he/ she is elected to serve a new term.

DESIGNATING SENIORITY
Council members who are elected to the same term shall establish seniority among themselves by a drawing. As example, if three council members are newly elected to the council during the same election, those three shall determine by a drawing of numbers who shall be 24th, 25th and 26th in seniority. The Clerk shall maintain the seniority list.

Any councilperson who leaves office and returns will keep the total seniority for all years served. Thus, if a person served eight years, was defeated, then returns to office four years later, he or she would have a total of eight years seniority with respect to office selection.

Section 29. CODE OF CONDUCT

Members of the Council shall respect the district boundaries of their colleagues and shall not sponsor any activities in another council member's district without prior notification.

No council member shall personally attack, malign, or impugn the character or integrity of citizens who come before the Council nor of any fellow Council member. Any member engaging in such conduct shall be declared out of order by the President or presiding member and directed to cease such conduct. Should the member persist, the presiding officer shall again declare such member to be out of order, and such member shall immediately yield the floor. This policy also applies to Legislative Assistants, council office staff, or visitors.

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Dates Amended:

022408:	4.01
072607:	2.02. 9.02. 9.03
121108:	7.15. 7.16. 7.17. 7.18. 7.19. 7.20
021110:	8.03
030812:	Renumbered Section 7 deleting blank 7.15; and other minor reformatting
111512:	5.11: Adding (j) To limit debate. MCCO hso 112012
121114	5.11.(i): Amending Financial Impact requirements: MCCO hso 121114
012215	10.07 Adding sentence regarding the death of a Council President hso 012315

Attachment 7

Tem who shall perform all of the duties of the President of the Council until the expiration of the President's term or until the Council by majority vote shall declare that the President again is able to perform the duties of office. Upon the death of the President, the Council shall elect a President from one of its members at one of the next two Council meetings after his or her reported death to fill out the unexpired term of such President.

10.08
Within seven (7) days after a vacancy shall have occurred on the Council, qualified persons interested in being appointed pursuant to Kentucky Revised Statutes to the vacant seat shall submit a resume to the Clerk of the Council.

10.09
The members of the Council shall review any resumes so submitted and shall indicate in writing to the Clerk the name of any applicant who that member wishes to be personally interviewed at a special meeting of the Council, which shall be duly called pursuant to these rules and held not less than seven (7) days nor more than thirty (30) days after the occurrence of the vacancy.

10.10
At either a regular or special meeting of the Council, held not less than (7) days nor more than thirty (30) days after the occurrence of the vacancy the Council shall fill the vacancy from among the qualified persons interviewed, or as provided by state statute.

10.11
The person receiving an affirmative vote of the majority of the remaining members of the Council shall be elected to fill the vacancy pursuant to this section. If more than one vacancy exists, each vacancy shall be filled by the Council one at a time and the newly appointed member shall immediately be seated pursuant to the rules so that he or she may vote on the filling of the remaining vacancies.

SECTION 11. AMENDMENTS TO THESE RULES

11.01
These Rules may be amended by an affirmative vote of a majority of the members of the Council at their Organizational Meeting. Thereafter, the Rules of the Council may be amended by an affirmative vote of a majority of the members of the Council provided that notice of the vote is given at a previous meeting and appears on the agenda.

11.02
These Rules shall follow applicable state statutes provided for in KRS 67C.101 [Section 2 (a), (c); Sections 4 and 5] et al.

SECTION 12. ETHICS

12.01
The Council shall adopt the "Code of Ethics" as established by the Louisville Jefferson County Metro Government. Members of the Council and employees will conduct themselves in the performance of their official duties at all times in a manner which manifests the highest moral and ethical standards.