

MEMORANDUM

DATE: MAY 20, 2020

TO: ERIC STERMAN, CITY ADMINISTRATOR

FROM: ROBERT JONES, CITY ATTORNEY

SUBJECT: ETHICS COMPLAINT

The Board of Alderman passed Ordinance Number 2160 which became Article XVI of Chapter 2 of the Code of Ordinances. It provides for a Code of Ethics for Public Officials. Section 2 – 400 requires a person making a complaint against a public official to submit the complaint in writing to the city administrator for submission to the city attorney who will determine its legal sufficiency. If the city attorney determines that the complaint is legally sufficient, the city administrator hires a hearing officer to determine probable cause and thereafter, there may be a hearing before the board of alderman for a final determination. This language appoints the city attorney as a gatekeeper of sorts, at the beginning of this process. The language is intended to avoid unnecessary costs to the city and alleviate the need for a hearing before the Board of Alderman if a complaint is not legally sufficient.

The complaint at issue originates from a text exchange between Alderman Ann McMunn and Mayor Pat Fribis. Alderman McMunn complains that the statements by Mayor Fribis are intimidating or threatening and violate Sections 2 – 380, 2 – 383 and 2 – 396 of the Ethics Code. After the city administrator notified the Mayor and Board about receipt of the complaint, Mayor Fribis provided a copy of the text thread with additional messages that were not originally included in the complaint. A copy of the complete thread and the signed complaint are attached hereto. For the following reasons, I conclude that the complaint is not legally sufficient:

1. The statements are observations, not threats. The deliberations of the Mayor and Board with respect to rezoning the Despotis-controlled properties were the subject of numerous public hearings, as well as pending litigation. The Mayor states in the text thread that she understood the residents in the tornado area to favor residential development and concludes that she can either veto a rezoning or withdraw her objections and allow the area to become commercial. Whether or not she has an opportunity to exercise this authority depends upon a vote of the Board of Alderman on a particular proposal, not the Mayor's own conduct.

2. The statements of the Mayor are not directed at Alderman McMunn, but instead a neighbor displaying a political sign. No action is requested of Alderman McMunn or of the neighbor displaying the sign.

3. When Alderman McMunn states that she feels threatened, the Mayor responds that no threat is intended. There are additional texts which contain emoji's, suggesting that the text thread was not intended to be harassing and was not ultimately considered by the recipient to be harassment.

It is therefore my conclusion that no further action is required with regard to this complaint. Please let me know if you have any questions about this opinion or if you need further clarification.

5/19/2020

In reference to Ordinance No. 2160
Article XVI. Code of Ethics for Public Officials

Please review the following complaint and text exchange as a possible violation of Article XVI. Code of Ethics for Public Officials Ordinance, adopted on January 14, 2020.

Sunday February 2, 2020 at 9:41pm

Pat Fribis to Ann McMunn

I was shocked to see a John Stephens sign in one of your new neighbors on West Watson. I have been fighting for residential there and sat through all of Despotis' depositions. Many of the BOA wanted to settle and put a bank there but I threatened a veto. I can withdraw my objections it can go commercial.

Reply February 2, 2020 at 10:47pm

Ann McMunn to Pat Fribis

I don't know who you're speaking of.. I've been out of town all week. I'm sorry but your comment sounds a bit like a threat on something which I know nothing about~

Monday, February 3, 2020 at 2:07 am

Pat Fribis to Ann McMunn

Not a threat at all Just frustrated because I have been fighting to keep it residential. It is the house with triplets. I met with after he moved in

It is no secret that I take this particular issue very seriously. For the Mayor to threaten to "let it go commercial" in retaliation over a neighbor displaying an opponent's campaign sign in their yard, was very unsettling to me, both personally and professionally.

I believe intimidating or threatening voters, or other elected officials, to garner support for a political campaign is questionable, if not unethical, and should be addressed in accordance with the newly adopted Ethics Ordinance – Sections 2-380, 2-383 and 2-396 in particular.

Section 2-380 Declaration of Policy

Public officials of the City are to maintain the highest standards of personal integrity, truthfulness and fairness in carrying out their public duties.

Section 2-383 Conduct of Officials

The professional and personal conduct of public officials shall be above reproach and shall avoid even the appearance of impropriety.

Section 2-396 Behavior

The City strongly disapproves of and does not tolerate harassment of any kind. Public officials shall avoid offensive or inappropriate harassing behavior.

I affirm that the information provided herein is true, based on my personal knowledge, and provided voluntarily.

Please reply to confirm receipt and to advise on the next steps. As always, feel free to contact me with any questions/concerns, or if any further clarification is needed.

Respectfully~



Ann McMunn

Alderman Ward 1

314-537-6712

a_mcmunn@yahoo.com

Robert E Jones

From: Eric Sterman <esterman@sunset-hills.com>
Sent: Tuesday, May 19, 2020 8:54 PM
To: Robert E Jones
Subject: Fw: Text thread

(EXTERNAL EMAIL)

Bob,
Below is the full text thread referenced in the ethics complaint, as provided by Mayor Fribis.

Thanks,
Eric

From: Eric Sterman
Sent: Tuesday, May 19, 2020 8:52 PM
To: Eric Sterman
Subject:

I was shocked to see a John Stephens sign in one of your new neighbors on West Watson. I have been fighting for residential there and sat through all of Despotis' depositions. Many of the BOA wanted to settle and put a bank there but I threatened a veto.

I can withdraw my objections it can go commercial.

I don't know who you're speaking of.. I've been out of town all week. I'm sorry but your comment sounds a bit like a threat on something which I know nothing about~

Not a threat at all

Just frustrated because I have been fighting to keep it residential. It is the house with the triplets. I met with after he moved in

Happy birthday!



Thank you! 😊

Happy Valentine's Day to you and Phil~❤️

Thank you

The same to you!❤️☐



I walked Court Drive this morning and West Watson.

Paul is changing signs.

What is with Vince?

I have no idea~ haven't spoken to him for some time..