

MEMORANDUM

TO: Mayor and Council

FROM: City Attorney, Alex Andrade

DATE: August 8, 2023

RE: CLAIMS OF EMPLOYEE MISCONDUCT AND HOSTILE WORK ENVIRONMENT

BACKGROUND

On August 1st, 2023, I received a complaint (the “Complaint”) from Ed Spears, a city employee. (Exhibit A) The Complaint alleged that the City Clerk, Dawn Molinero, had contributed to a hostile work environment. The Complaint involved alleged conduct of Ms. Molinero between the periods of early June 2023 and late July 2023.

The claims within the Complaint, if determined to be true, would violate several provisions found in Section 2-62 of the Milton Code of Ordinances and Florida law. On August 2nd, 2023, I contacted the City Manager, Randy Jorgenson, to confirm receipt of the Complaint, and confirmed that I was delegated to conduct the review of the Complaint, prior to publication to the City Council.

On August 2nd, I requested authorization to contact the department heads of several of the city’s departments to confirm certain factual allegations found within the Complaint and to investigate the allegations.

On August 1st, at 8:05 PM, Mayor Lindsay contacted me and Mr. Jorgenson via email and insisted she receive a copy of the Complaint. (Exhibit B). Involvement in the investigation of an employee complaint by a member of the Council is highly unusual. The mayor’s attempt to insert herself into the investigation of this Complaint is made even more unusual, given the documented public perception of her relationship with the subject of the Complaint. *See Council Effort to Fire Milton City Clerk Dawn Molinero Fails by a Narrow Margin*, Pensacola News Journal August 1, 2023 (“Mayor Heather Lindsay cast the deciding vote in favor of retaining *her staunch political ally.*”)¹ The Mayor has no authority over employees of the City, and her insistence on being

¹ The mayor has exhibited previous misconceptions of the importance of the employee grievance process. In October 2022, Mayor Lindsay levied anonymous accusations against the City Manager by what she claimed to be multiple city employees. I repeatedly requested the complaints to investigate them in the proper course of business, but the mayor refused. Mayor Lindsay also refused to disclose the factual allegations that were allegedly made, and investigation of these alleged employee complaints was prevented from proceeding. To this day, it is unclear whether these complaints existed or not. Refusing to investigate valid employee complaints could result in a claim against the City for a violation of Florida law or a violation of the City’s Master Contract with its union representative. The mayor prevented the City from complying with its requirements in that instance. (Exhibit C)

involved in this process, which must remain confidential until complete, would be inappropriate. On August 2nd, I informed the mayor that she had no authority to involve herself in an employee investigation.

I have spoken with employees of the city, including department heads, to confirm certain facts found in the Complaint. I have reviewed and I am attaching documents and email correspondence to confirm specific details.

REASONS FOR DISCIPLINE

The allegations found within the Complaint, if proven to be true, would violate one or more of the City's "reasons for disciplinary action" found within Section 2-62 of the City's Code of Ordinances. Below are the sections that would be implicated.

Sec. 2-62

(3) Violation of any lawful and reasonable regulation, order or direction made or given by a superior.

(6) Incompetency or inefficiency in the performance of assigned duties.

(7) Wantonly offensive conduct or language toward the public, a superior, or fellow employee.

(8) Threatening or actual physical harm, abuse, or conduct which is intimidating or insulting directed against an individual.

(10) Carelessness or negligence in the use of city property.

(11) Conducting or engaging in political activity during working hours or at the city's expense.

(13) An attempt to induce any employee to commit an illegal act or violation of any lawful or reasonable departmental regulation.

(15) Conduct unbecoming to a city employee, either while on or off duty.

(19) Violation of internal rules, regulations or procedures established by various departments or appointing authorities not enumerated in this section and not in conflict with the civil service rules, city ordinances, state statutes, or any safety rules.

INVESTIGATION OF ALLEGATIONS

In addition to the statements of opinion and perception found within the Complaint, the Complaint contains certain statements of fact that are readily verifiable due to the existence of documents, email correspondence and other public records.

Certain statements of fact (such as verbal conversations between two individuals) cannot be verified by the documents attached to the Complaint alone. The credibility of these statements of fact must be reviewed based upon the existence of other available documents and interviews with City staff. Below is a list of statements of fact that I believe required verification, and my opinion of their credibility based upon my review of supporting documents and interviews with city staff.

1. **Ms. Molinero shared concerns about Mayor Lindsay’s involvement in the manager selection process and believed that the Mayor had an interest in preventing Mr. Spears from being hired as the manager. (CREDIBLE)**

I can confirm that Ms. Molinero expressed concerns about the mayor’s involvement in the manager selection process between June 15th and June 16th, 2023. Ms. Molinero contacted me on June 16th and stated that the mayor had insisted on voting during the first interview on June 15th. This is unusual given the mayor’s role on the Council. The mayor is not a voting member of the Council and is only involved in the official decisions of the Council in the event of a tie vote.

According to Ms. Molinero, the Mayor stated that she had been involved and voted in similar situations historically, and that her participation was part of the same practice as previously administered. On June 16th, Ms. Molinero called me and requested a legal opinion from me regarding the mayor’s involvement as a voting member. She stated that the mayor “hated Ed Spears” and that there was a concern about protecting the process. I conducted research and sent my opinion back to Ms. Molinero on June 16th at 11:45 AM. (Exhibit D) The Mayor’s statement regarding her involvement in similar appointment proceedings did not appear credible and was incorrect based upon my research. *Id.*

On June 26th, 2023, Ms. Molinero sent me a follow up email to confirm that I had provided my legal opinion to the mayor. (Exhibit E)

2. **Councilwoman Farrow was perceived as having an agenda designed to prevent Mr. Spears from being selected as the Manager (CREDIBLE)**

On June 28th, Ms. Molinero sent an email to me regarding Councilwoman Farrow’s desire to read a public input form she perceived to be critical of Mr. Spears and his candidacy for the manager position. She stated the following: “... I really think, her [Farrow] in particular, she is using the format for her agenda, whatever that is. Sorry, it does frustrate

me...we should think, speak and do on merit, not this back handed crap they keep pulling.”
(Exhibit F)

3. Documents were distributed to Council members by Pam Mitchell opposing Mr. Spears’s candidacy (UNABLE TO CONFIRM)

I have not asked members of Council whether they received documents from Pam Mitchell regarding Mr. Spears. I have reviewed the minutes of June Council meetings and can confirm that they have not been attached to any minutes. Because members were alleged to have received these documents directly, members of Council are able to confirm the veracity of this claim independently based upon their own recollection of the circumstances.

I have not requested this record of Ms. Molinero and cannot confirm whether it was retained as a public record by the Clerk.

4. A photograph labeled “E Spears Memorial Treatment Plant Dedicated July 1, 2023” was left by someone on Mr. Spears’s desk (CREDIBLE)

The allegation that the photograph was left on Mr. Spears’s desk appears credible based upon his timeline of events and statements made to me, however, I am unable to confirm whether Ms. Molinero left the photograph on Mr. Spears’s desk, or whether another individual left it on his desk.

5. Ms. Molinero retracted her letter of support for Mr. Spears after the two had a disagreement over providing her with a document to be shown to the Council (CREDIBLE)

As part of my investigation, I spoke with staff members within the city. When asked what they believed prompted Ms. Molinero to retract her letter of support for Mr. Spears, one individual I interviewed stated that Ms. Molinero was angry about Mr. Spears’s refusal to send her a presentation to be shown to the Council at an upcoming meeting.

This statement was made without discussion of the claims in Mr. Spears’s Complaint and comports with the summary of events found within Mr. Spears’s Complaint.

6. Ms. Molinero released personal identifying information to the public, and did not follow proper procedures for responding to public records requests (CREDIBLE)

First and foremost, the release of personal identifying information by an employee of the city is a breach of city policy. The risk to those whose information is found in these documents is serious.

I have contacted Ms. Messick, the recipient of these documents, and have asked the City's IT department to determine if these documents were scanned and saved digitally.

I have reviewed the circumstantial evidence listed by Mr. Spears regarding public comments at Council meetings.

There is no evidence that this information was redacted, and no evidence that any care was taken by Ms. Molinero to confirm this data was protected from disclosure.

Further inquiry is needed immediately to attempt to retrieve any unredacted documents containing personal identifying information, and an inquiry of whether the information has been further copied or disseminated must begin immediately. Notice should be provided to the individuals whose information was shared and the city should work to comply with the requirements of Florida privacy protection laws.

Until Ms. Messick confirms what precise documents were produced by Ms. Molinero on that specific date, I cannot state definitively what, if any, personal identifying information was disclosed. However, the documents requested by Ms. Messick include documents that I have verified to contain personal identifying information. Either Ms. Molinero did not fully produce documents in response to Ms. Messick's public records request, or she disclosed documents that, if not redacted, contained personal identifying information.

7. **Ms. Molinero intentionally disregarded City policy regarding compliance with public records requests (CREDIBLE)**

Ms. Molinero has previously exhibited an understanding of the importance of compliance with protecting personal identifying information, and the importance of compliance with Florida's public records laws. *See* email correspondence dated May 24th, 2022, directed to legal counsel. (Exhibit G). Ms. Molinero also understood that payment for fulfilling public records was City policy. *Id.*

The documents requested by Ms. Messick contained similar personal identifying information as the documents Ms. Molinero consulted with legal counsel about in May 2022. Ms. Molinero did not consult with legal counsel prior to circumventing the custodian of the requested records in this instance and did not charge a fee for the labor required to fulfill the request.

8. **Ms. Molinero engaged in a pattern of political activity, outside the scope of her employment as City Clerk, and defamed Mr. Spears and others in the process (CREDIBLE)**

A review of the City's email records indicates that Ms. Molinero actively participated in the political activity of the registered political committee, Milton's Concerned Citizens. During the month of July, Ms. Molinero blind carbon copied ("BCC'd") members of the political committee on multiple emails. It is unclear how this group would be aware of these emails, and they do not appear to have been provided to them in the normal course of production in any public records requests. (Exhibit H).

For reasons beyond my comprehension, Ms. Molinero drafted a narrative document and described it as a "timeline" (the Statement) which she provided to a journalist, Ken Garner. (A copy of the Statement and Ms. Molinero's email to Ken Garner can be found within Exhibit A). Ms. Molinero forwarded the email and the Statement to members of Milton's Concerned Citizens. (Exhibit I). This does not appear to have been done pursuant to an actual public records request, or in the normal course of business.

I have inquired of Ken Garner whether he'd requested Ms. Molinero to create this document. Mr. Garner does not believe he did and did not remember asking Ms. Molinero for anything other than public records as defined and contemplated under Fla. Stat. § 119.011(12).² Mr. Garner confirmed to me that in his capacity as a reporter, he does not remember ever asking any public official to *create* a document or timeline as part of a valid public records request. Ms. Molinero's Statement is not a public record as defined by Florida law, because it was not made or received pursuant to law or ordinance or in connection with the transaction of official business of the city.

Because this request would have been wholly unusual for Mr. Garner, and was not a request he has ever made of a public official before, Ms. Molinero's claim that Ken Garner asked her to draft this document does not appear to be credible. Ms. Molinero's claim that she drafted and disseminated the Statement pursuant to a public records request is also undermined by her publication of the Statement to members of the media before fulfilling those same individuals' *actual* requests for public records.

Milton's Concerned Citizens is a registered political committee, and has historically opposed specific members of City Council, including Roxanne Meiss and Jeff Snow, in their elections.³ The circumstances support my belief that this Statement was drafted to

² "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

³ A member of Milton's Concerned Citizens, Pam Mitchell, has recently complained to Mayor Lindsay about comments by Mr. Spears that she deemed political. In response to Ms. Mitchell's complaint, Mayor Lindsay has recently criticized Mr. Spears for making comments she subjectively deemed to be critical of Milton's Concerned Citizens. (Exhibit J).

support MCC's political purposes. There was no valid or proper public purpose for the drafting of or publication of Ms. Molinero's Statement.

Ms. Molinero, in the email she sent to Ken Garner wrote:

"I will let the mayor bring all of the information forward and *I will back her when she does, she knows that.*" It appears that Ms. Molinero intended to assist the mayor in a Council meeting in some political capacity and had spoken with the mayor about her intent prior to sending this email. (A copy of Ms. Molinero's email to Ken Garner can be found within Exhibit A).

Ms. Molinero sent an email to Ken Garner on July 21st, chastising him for publishing the Statement she sent to him despite the complete lack of public purpose. (Exhibit K). The content of her email indicates that Ms. Molinero does not understand the significance of creating and disseminating this unsolicited Statement to the media.

From her email, Ms. Molinero's frustration appeared to stem from the fact that Mr. Garner would not corroborate her claims that the Statement was a well-intentioned response to a public records request. *Id.*

In her email to Mr. Garner on July 21st, Ms. Molinero reiterated that Mr. Jorgenson approved the Statement before she published it. This statement is false. Mr. Jorgenson has *emphatically* averred that he did not approve of the Statement and did not instruct Ms. Molinero to draft it. Mr. Jorgenson is not Ms. Molinero's supervisor, and her claim appears to be motivated by a desire to evade the consequences of her actions or bolster her credibility.

ALLEGATIONS WITHIN THE STATEMENT

Ms. Molinero's Statement must be reviewed in conjunction with this investigation. The extensive nature of the accusations and statements of fact found within reflect directly upon the reputation of the city, its employees, and certain members of Council. Ms. Molinero's description of the Statement, her use of her official city email account, and her false claims that it was reviewed, approved, or directed to be drafted and published could create in the mind of any recipient the perception of an official action of a city official. This in turn created the risk that this Statement would be given undue credibility, despite its complete lack of substantiation and veracity.

Below are the statements of fact within the Statement that I believe risk the greatest harm to the city's reputation and future operations:

1. Councilman Snow interfered with contract negotiations and undermined the Council's desire to hire Scott Collins (FALSE)

Mr. Snow was quoted by Mr. Collins as saying, "don't try to steamroll us on the contract."

Mr. Collins has been quoted by local media as interpreting that interaction as "overblown" and a "nothingburger." He was quoted in the Pensacola News Journal stating, "It was not a threatening conversation." See **Milton's Top Prospect for City Manager Soured on the Job in Just a Few Days. Here's Why**, Pensacola News Journal July 20, 2023.

Mr. Collins has also stated that he approached Councilman Snow that evening and not the other way around.

Both parties to the conversation have now confirmed that Councilman Snow never initiated any communication with Mr. Collins.

This interaction is in no way a violation of any ethics codes or direction from Council. Councilman Snow's comment was a statement in line with supporting the City's interest in any negotiation and was not interpreted as threatening by Mr. Collins. Ms. Molinero's accusation served no public purpose, was false, and risked harming Councilman Snow's reputation.

2. Ed Spears's wife stated that "interference was forthcoming" (FALSE)

An extensive review of all information available reveals absolutely no evidence that this statement was ever made. It does not appear Ms. Molinero engaged in even a modest attempt to verify this accusation before publishing her Statement.

The documentary evidence contains no support for the claims made by Ms. Molinero. They appear to have been fabricated.

Perhaps most concerning is Ms. Molinero's inability to comprehend the harm her accusation against Ms. Spears has caused. Ms. Spears does not appear to have done anything other than provide moral support to her husband and attend a Council meeting.

Ms. Molinero made no effort to confirm the details of this accusation against a coworker's spouse before publishing the accusation to multiple members of the local media and to the political committee, Milton's Concerned Citizens.

3. Mr. Collins accused Ed Spears of corruption (FALSE)

There is no evidence that Mr. Collins ever formed an opinion about Ed Spears, and no evidence that Mr. Collins ever accused Mr. Spears of corruption.

The documentary evidence and recorded statements of Mr. Collins contain no support for the claims made by Ms. Molinero. They appear to have been fabricated.

4. Mr. Collins accused Councilmembers Snow and Meiss of corruption (FALSE)

There is no evidence supporting the claim that Mr. Collins ever accused councilmembers Snow or Meiss of corruption. Aside from a brief interaction (initiated by Mr. Collins) with Councilman Snow, there is no evidence Mr. Collins ever interacted with either councilmember.

The documentary evidence and recorded statements of Mr. Collins contain no support for the claims made by Ms. Molinero. They appear to have been fabricated.

5. Communications between Collins and the City Attorney caused his withdrawal (FALSE)

Ms. Molinero spent a great deal of time dissecting the events of the week of July 11th in her Statement. The period between July 11th and July 18th can best be understood as the “contract negotiation period.” While this period is the subject of a great deal of conjecture, rumor, innuendo and accusation, this period is also the most well documented.

In her Statement, Ms. Molinero claimed that I (Alex Andrade) had phone calls (plural) with Mr. Collins, and that Mr. Collins was “disappointed” in his interactions with me. The documentary evidence shows that I had one phone call with Mr. Collins, that Councilman Cusack expressed approval to both me and Mr. Collins prior to that call occurring, and that Councilman Cusack was informed by me of all my activity throughout the process. (Exhibit L)

Mr. Collins was quoted in the Pensacola News Journal as saying I was “extremely respectful.” *See Milton’s Top Prospect for City Manager Soured on the Job in Just a Few Days. Here’s Why*, Pensacola News Journal July 20, 2023.

Despite these facts, Ms. Molinero chose not to disclose this to the Council or include any documentary evidence with her Statement. Ms. Molinero’s Statement appears to have been drafted to perpetuate and bolster the false narrative that there was a secret conspiracy to undermine the hiring process of Mr. Collins.

Ms. Molinero’s decision not to include documentary support along with her Statement appeared intentional. The documentary evidence in Ms. Molinero’s control at the time she published her Statement contained information that contradicted her narrative.

The final paragraph of the Statement shows that Ms. Molinero was aware that Councilman Cusack had initiated contact with Mr. Collins. Ms. Molinero made no attempt to inform the Council that Councilman Cusack had had any direct communication with Mr. Collins.

This is perhaps the most critical information withheld by Ms. Molinero from Council. By withholding this information, Ms. Molinero perpetuated the false narrative that there existed a secret, corrupt, conspiracy to place Mr. Spears in the role of city manager.

Councilman Cusack's records indicate that he **initiated** a phone call with Mr. Collins at 4:35 PM on July 13th and that Mr. Collins returned Councilman Cusack's call at 6:05 PM on July 13th. The record shows the two communicated for 44 minutes. (Exhibit M).

The record also shows that Councilman Cusack **initiated** a second phone call at 6:03 PM on July 15th. *Id.*

Additionally, the record shows that Councilman Cusack **initiated** conversations via text message communications with Mr. Collins on July 12th, 13th and 14th. (Exhibit N)

There is no evidence that Ms. Molinero ever attempted to determine the extent or content of these communications between Councilman Cusack and Mr. Collins.

It is difficult to believe that Mr. Collins failed to mention his communications with Mr. Cusack when he spoke with Ms. Molinero and the mayor on July 17th.

In all of Mr. Collins's verifiable statements regarding what occurred during the negotiation process, his communications with Councilman Cusack played a central role in his initial decision to rescind his candidacy. *See Milton City Manager Explanation*, NewsRadio 92.3, July 21, 2023.⁴

Mr. Collins stated that on July 13th, Councilman Cusack told him to expect an offer of \$135,000 in salary, and also told Mr. Collins that I (Alex Andrade) wanted to offer Mr. Collins \$128,000 as a salary. *Id.* Mr. Collins indicated to Andrew McKay that the confusion caused by Councilman Cusack's statements to him played a central role in his decision to rescind his application. *Id.*

Ms. Molinero knew that no member of the Council was to have direct communications regarding the actual terms of the contract with Mr. Collins. Ms. Molinero herself sent the instruction to the Council on July 6th. (Exhibit O) ("all contractual discussion will happen between City Attorney and Mr. Collins in a private setting...")

⁴ <https://www.newsradio923.com/podcast/07-21-23-milton-city-manager-explanation/>

6. There was a secret conspiracy to undermine the hiring process to secure the city manager position for Mr. Spears (FALSE)

Available records contain repeated claims made by Ms. Molinero that there was a corrupt group of individuals colluding to place Mr. Spears in the role of city manager.

Despite three weeks of extensive analysis of available records, there is no evidence supporting Ms. Molinero's claim and that Ms. Molinero withheld information from public disclosure to prevent that false narrative from being challenged.

The first evidence of this conspiracy claim appears to have originated with an email sent by Pam Mitchell to the Council on July 10th. (Exhibit P). Ms. Mitchell's signature block indicates that she wrote the email on behalf of Milton's Concerned Citizens. *Id.* It should be noted that on July 10th, I had not even reviewed the advertised salary range, and had not researched Mr. Collins's employment history (including his prior salary) to adjust the "form" contract the city has used for its last two city managers.

This conspiracy claim has no basis in fact. I was the city official tasked with relaying a proposal to Mr. Collins and anticipated sharing his edits and modifications of basic terms with the Council for their ultimate approval. I did not even begin drafting an initial proposal until July 12th.

The Council unanimously voted to hire Scott Collins the next night and the motion to hire him was initiated by Councilman Snow. Despite Ms. Molinero's accusation that the negotiations were undermined by "a corrupt few" and that Councilman Cusack was prevented from participating, the contract itself was sent to Mr. Collins on July 14th and contained terms that were more favorable than the ones Councilman Cusack instructed me to send on July 13th.

IDENTIFIED ISSUES

1. Data Breach & Violation of Privacy of City Residents and Businesses

Fla. Stat. § 119.071(5)(a)(5) "Social security numbers held by an agency are **confidential** and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution."

Fla. Stat. § 501.171 outlines the requirements in the event of a data breach of the type caused by Ms. Molinero's actions in this instance. Notice must be sent pursuant to the statute to the individuals whose information was disclosed, and corrective action must be taken.

2. Part II, Chapter 2, Article III Section 2-62 of the Milton Code of Ordinances

(3) Violation of any lawful and reasonable regulation, order or direction made or given by a superior.

It does appear that Ms. Molinero violated City regulations and policy regarding the privacy of citizens' data and personal information.

(6) Incompetency or inefficiency in the performance of assigned duties.

If the record provided by Pam Mitchell existed, it should have been recorded with the minutes of the June meeting in which it was distributed.

(7) Wantonly offensive conduct or language toward the public, a superior, or fellow employee.

Ms. Molinero accused, without substantiation, Mr. Spears and his wife of corruption and of participation in a conspiracy to undermine the Council's decision in relation to the hiring of a new manager. Ms. Molinero engaged in wantonly offensive conduct, i.e. defamation of a fellow employee and a member of the public (a fellow employee's spouse).

(8) Threatening or actual physical harm, abuse, or conduct which is intimidating or insulting directed against an individual.

Ms. Molinero's email statement that she does not care about Mr. Spears, and that she "will do EVERYTHING IN MY[her] POWER" to take care of other employees indicates her willingness and the lengths to which she would go to prevent Mr. Spears from becoming the City's manager.

This statement is consistent with statements Ms. Molinero has made to me in discussions of the topic. Around the same time Ms. Molinero wrote the email on July 19th, Ms. Molinero commented to me that she would "light myself[herself] on fire before she let Ed Spears become the manager."

(10) Carelessness or negligence in the use of city property.

Accessing the secured files of another employee, retrieving files containing sensitive information without prior notice to the custodian of those files, and distributing these files without redacting sensitive personal information constitutes carelessness or negligence in the use of city property.

(11) Conducting or engaging in political activity during working hours or at the city's expense.

Ms. Molinero engaged in a pattern of activity designed to defame specific members of the Council and city employees.

It appears the intent of her actions was to harm their reputations publicly.

(13) An attempt to induce any employee to commit an illegal act or violation of any lawful or reasonable departmental regulation.

It is unclear whether Ms. Molinero violated this section based upon the allegations found within Mr. Spears's Complaint. While it appears Ms. Molinero violated Florida privacy laws and the City's policies regarding public records maintenance and production, I have not found any evidence to believe Ms. Molinero induced any *other* employees to commit the acts alleged in Mr. Spears's Complaint.

(15) Conduct unbecoming to a city employee, either while on or off duty.

Accusing Mr. Spears, his wife, Councilman Snow, Councilwoman Miess and Commissioner James Calkins of corruption and conspiracy harmed the credibility of the City and County. The claims regarding corruption and conspiracy found within Ms. Molinero's Statement were readily contradicted by documents available to her at the time she published the Statement.

Accessing Mr. Spears's files and removing documents without prior authorization exposed the city to the risk of a data breach, potentially harming City residents and businesses.

(19) Violation of internal rules, regulations or procedures established by various departments or appointing authorities not enumerated in this section and not in conflict with the civil service rules, city ordinances, state statutes, or any safety rules.

By falsely accusing the spouse of a coworker of corruption, Ms. Molinero clearly violated common sense rules of decency.

By falsely claiming the city manager instructed her to write her Statement and signed off on its publication, Ms. Molinero implicated an innocent third party in her own inappropriate acts.

3. Defamation

While the City enjoys broad protections against liability for defamation claims, in this circumstance, drafting and disseminating the Statement resulted in false statements of fact being published, for a short period of time, by the Santa Rosa Press Gazette. This was readily anticipated by the fact that Ms. Molinero falsely bolstered her Statement by claiming it had been reviewed and approved by the city manager and sending the Statement from her city email account.

While the Santa Rosa Press Gazette retracted the piece about the Statement within a matter of hours, the publication contained defamatory claims against Mr. Spears and his wife. The title of the piece was “Clerk Discloses Alleged Conspiracy Against Hiring Scott Collins.” While Ms. Molinero has subsequently claimed that the Statement was simply a well-intentioned action in compliance with a public records request, the context and circumstances show that it was a political act intended to be published to harm the reputations of political opponents.

Ms. Molinero shared the Statement with Mr. Garner via email, and exhibited her understanding of the consequences of her actions:

“I do know at this point I have overstepped my boundaries as a clerk, but my ethics come before my career.”

4. **Public Records Compliance and Abuse of Position**

As addressed above, Ms. Molinero sent the Statement from her city email account, and falsely claimed that the Statement was approved by the City Manager. Ms. Molinero falsely claimed that the Statement was responsive to a public records request. There is no evidence supporting Ms. Molinero’s claim, and Florida law does not contemplate the creation of documents as being responsive to public records requests.

It is apparent that Ms. Molinero feigned compliance with Florida law to justify political activity and the publication of defamatory statements against Mr. Spears and other city officials.

Additionally, Ms. Molinero’s active dissemination of documents and information with Milton’s Concerned Citizens, without official requests being made, is cause for concern.⁵ Ms. Molinero circumvented established City practice regarding charging for public records and circumvented the custodians of specific records to facilitate requests made by members of Milton’s Concerned Citizens. (Exhibit Q)

Ms. Molinero’s course of conduct during the month of July 2023 exhibits a willingness to abuse the public records compliance process to participate in political activity.

Ms. Molinero’s pattern of activity risks harming the credibility of the City’s public records compliance process.

⁵ Ms. Molinero used a request made by Pam Mitchell at approximately 10 PM on July 17th as justification to take computers out of the City Manager’s and PIO’s offices at approximately 6:45 AM on July 18th. Ms. Molinero never consulted with the City Manager or PIO, who she knows are the custodians of those records. It is apparent that Ms. Molinero used the pretext of a public records request made by a member of the public with whom she aligns politically, to access these computers without proper authorization. (Exhibit R). This appears to be the fastest public records request Ms. Molinero fulfilled in July. (Exhibit S).

RECOMMENDATIONS

Florida Statute 119.071(2)(k) states:

A complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of misconduct is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or until the agency provides written notice to the employee who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or file charges; or
2. Concluded the investigation with a finding to proceed with disciplinary action or file charges.

Based upon my review, it is my recommendation to proceed with disciplinary action.

SUGGESTED DISCIPLINARY ACTION

A review of her own words shows that Ms. Molinero understood the actions she was taking were beyond the scope of her role as the City Clerk and understood that she was engaging in activity that would result in the termination of her employment.

In her email to Scott Collins on July 16th, she stated “I am most likely going to lose my job but I have to admit, I don’t care at this point.”

In her email to Randy Jorgenson and Heather Lindsay on July 19th, she stated “If the council wants to fire me for being ethical, so be it...that just shows their true colors.”

In her email to Ken Garner on July 20, she stated “I do know at this point I have overstepped my boundaries as a clerk, but my ethics come before my career.”

Given Ms. Molinero’s apparent lack of remorse or understanding of the harm she has caused to her coworkers and to the city, it is my belief that Mr. Spears is reasonably likely to continue to experience a hostile work environment created by the actions of Ms. Molinero.

Ms. Molinero does not appear to believe that she did anything wrong.

Ms. Molinero has indicated that by defaming her coworker, two councilmembers and a sitting county commissioner, she was simply serving as God’s “hands and feet...” and she

considers the defamatory content of her Statement to be “speaking impeccably when others around me[her] appear to lie as if it’s commonplace and acceptable.” (Exhibit I)

Based upon her conduct and correspondence, it is my belief that Ms. Molinero will not hesitate to escalate her activity. This poses a risk to the City’s employee morale as well as liability for defamation claims, violation of privacy claims and violation of Florida’s public records laws.

It is concerning that Ms. Molinero believes defaming the city, members of the Council, her coworkers and a coworker’s wife was anointed and ordained by God.

The arbitrary way Ms. Molinero circumvented the City’s public records policies to facilitate political activity of specific individuals with whom she is publicly perceived to be politically aligned is also a source of concern.

CONCLUSION

The allegations made by Mr. Spears in his Complaint appear to be credible overall and are supported by significant documentation and primary source information.

To inoculate the City from further liability, protect and repair the City’s reputation and protect City employees from future harm, my recommendation to the City Council is to terminate Ms. Molinero’s employment with the City immediately.