

TO T.J. Reed, City Attorney
City of Sturgis

FROM Jeffrey J. Canfield

DATE August 25, 2026

SUBJECT Investigation Report Pursuant to Sturgis City Commission Resolution 1 of May 27, 2026

I. INTRODUCTION

This is a confidential and attorney-client privileged report that contains the factual findings and legal conclusions of the investigator, Jeffrey Canfield. The City of Sturgis ("City") holds the privilege and should not provide this report to any third parties including employees and officials of the City, except decision makers who will rely upon its findings to adopt, implement, modify, or reject the recommendations contained below. Release of this document, except as explained above, may waive the attorney-client privilege and subject it to Freedom of Information Act requests and/or other avenues for required disclosure.

This investigation is prompted by Resolution 1 of the Sturgis City Commission of May 27, 2026 ("Resolution 1"), which reads as follows:

Resolution Calling for an Investigation of Wrongdoing by Certain Commissioners

WHEREAS, there is reasonable cause to believe that there has been specific wrongdoing by certain commissioners; and

WHEREAS, that wrongdoing, at the very worst, directly led to the resignation of City Manager Andrew Kuk and, at the very best, played an integral part in that resignation;

NOW THEREFORE, BE IT RESOLVED that the Sturgis City Commission directs that an independent investigation by outside counsel be executed that investigates Commissioners Miller, Mullins, Perez, Bir, and Abbs, as well as former Commissioner Linda Harrington, for potential violations against specific pieces of Michigan law and its various associated case law, Sturgis City Commission Procedure, and the Sturgis City Charter, and specifically all the details surrounding the entire situation that was the cause and central reason for the closed session entered into by the Sturgis City Commission on Wednesday, April 8, 2026; and

BE IT FURTHER RESOLVED, that the investigation reveal its contents, findings and recommendations to the Sturgis City Commission for its review, legal review and future determination to release; and

BE IT FURTHER RESOLVED, that the outside counsel question the legal counsel for the City of Sturgis, City Manager Andrew Kuk, all eight commissioners elected and serving on the Sturgis City Commission, and any other staff or individuals as deemed necessary by the outside counsel.

Sturgis City Attorney T.J. Reed contacted this law firm on May 28, 2026 to engage it to perform the above-referenced investigation.

II. SCOPE OF INVESTIGATION

As directed by Resolution 1, I interviewed the following individuals on the following dates:

NAME	INTERVIEW DATE
Commissioner Aaron Miller	June 17, 2026
Commissioner Jeff Mullins	June 23, 2026
[REDACTED]	June 18, 2026
Commissioner Cathi Abbs	June 22, July 16, 2026
Commissioner Dan Boring	June 23, 2026
Commissioner Justin Wickey	June 23, 2026
Commissioner Richard Bir	June 25, July 16, 2026
Commissioner Marvin Smith	June 25, 2026
[REDACTED]	June 26, 2026
Mayor Frank Perez	June 26, July 31, 2026
Former Commissioner Linda Harrington	June 29, July 16, 2026
City Attorney TJ Reed	July 2, 2026

All interviews were in person and conducted at the Law Offices of Bird, Scheske, Reed, Beemer & George, P.C. in Sturgis, Michigan, with the exception of Attorney Reed, who I interviewed in the Kalamazoo offices of Miller Johnson.

In addition to the above interviews, I reviewed a significant number of e-mail and text messages between the above individuals produced pursuant to a FOIA request submitted to the City by a third party seeking, among other things, "copies of all emails, text messages, group text messages, chat messages, memoranda, letters, and other electronic communications from January 1, 2026 ... between or among the members of the Sturgis City Commission" to include "communications exchanged with or involving the City Manager, City Clerk, and City Attorney when those communications include one or more members of the City Commission."

III. RELEVANT STATUTES / POLICIES / RULES

As informed by Resolution 1, I determine the following as relevant to this Investigation:

- The Michigan Open Meetings Act (“OMA”), MCL §15.261 et seq.;
- The Sturgis City Charter;
- The Sturgis City Commission Procedure Policy (Policy 01-CCM-10)

I also find that the City’s Employee Handbook is relevant to this investigation’s conclusions and recommendations.

IV. SUMMARIES OF WITNESS INTERVIEWS

I set ground rules for witness interviews at the beginning of each interview. The ground rules explained that Miller Johnson had been retained to perform an investigation pursuant to Resolution 1 and that there was an expectation of truthfulness and honesty. I explained there was an expectation that the discussions during the interviews would remain confidential to preserve the integrity of the investigation.

The following excerpts are intended to provide an overview of the pertinent information shared by the witnesses. Each summary contains the witnesses’ accounts even if I determined some aspects of those accounts should not be credited. These summaries are not presented as a representation of every comment, answer, or response from the witnesses. Instead, the following are statements and responses which are most relevant to the issues in this matter.

A. Guidance to Commissioners Regarding Open Meetings Act Protocols

Attorney Reed stated that he conducts training for Commissioners on the OMA each November at the Commission’s annual Organizational Meeting. Reed said that as part of that training, he advises Commissioners to be “cautious” about meeting with each other regarding City business, as such meetings can create the conditions for an OMA violation.

Reed recalled that in the Spring of 2025 he addressed OMA issues in a closed session of a Commission meeting because of his concerns that Commissioners Bir and Abbs and Mayor Perez had met regarding the performance of the City’s [REDACTED]. Reed issued an “Attorney Opinion” memo to the Commission that discussed OMA requirements and advised “[p]ublic bodies must ensure that they are not ... engaging in discussions that could lead to decisions outside of a public meeting.” Reed recalls again advising in this closed session that Commissioners should be “careful” about creating conditions that could violate the OMA.

Reed stated that in January of 2026 he attended a meeting with Commissioners Bir and Abbs and Mayor Perez during which they sought his guidance regarding complaints about personnel

issues at the City's [REDACTED] raised by a [REDACTED] Reed recalled forming the impression that Bir, Abbs and Perez had at least partially investigated these complaints in a meeting amongst themselves. Reed recalled telling them that he was not "comfortable" with this in the context of OMA compliance. Abbs recalled Reed stating that he was "uncomfortable" with her, Bir and Perez meeting with respect to this issue because "it didn't look good," but did not understand that to mean Commissioners "couldn't" meet in such circumstances. Bir recalled Reed saying that he was "uncomfortable" with Commissioners meeting regarding City employees but stated Reed did not say why he felt that way. Perez recalled Reed stating he was "uncomfortable" because such meetings "didn't look right."

B. [REDACTED] Raises Concerns About City Manager [REDACTED] to Commissioner Abbs

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
Abbs invited [REDACTED] to meet later the same day at a Biggby coffee shop to discuss [REDACTED] concerns. [REDACTED] confirmed that [REDACTED] met with Abbs and provided "an overview" of [REDACTED] concerns. [REDACTED] recalls Abbs stating that [REDACTED] would have to share [REDACTED] concerns with other Commissioners and that Abbs would set a meeting for this purpose. [REDACTED] recalled that Commissioner Abbs asked [REDACTED] to prepare a written summary of [REDACTED] concerns.

Abbs confirmed that [REDACTED] did contact [REDACTED] on March 23 and that they did meet at Biggby where [REDACTED] provided an overview of [REDACTED] concerns regarding [REDACTED]'s performance. Abbs confirmed that she asked [REDACTED] to prepare a summary in preparation for a meeting with other Commissioners.

[REDACTED] acknowledged that at the time [REDACTED] contacted Abbs [REDACTED] was aware of the "Problem Resolution" procedure in the City's Employee Handbook, including its provision that City employees should present complaints about the City Manager to the City Attorney in writing. Despite this knowledge, [REDACTED] did not attempt to contact Attorney Reed because, in [REDACTED] view, the Handbook is "riddled with issues" and has "a lot" of policies that are "wrong" and "should be changed." Abbs stated that she was not aware of this Problem Resolution Procedure at the time of her meeting with [REDACTED]

C. Certain Commissioners Meet with [REDACTED]

Abbs stated that after her meeting with [REDACTED] she contacted Mayor Perez for the purpose of setting a meeting in which [REDACTED] could share [REDACTED] concerns regarding [REDACTED]. Abbs recalls characterizing [REDACTED] concerns as "serious." Abbs recalls Perez indicating that he was available to meet "tomorrow." Abbs also stated that she told Perez in this conversation that she was planning on bringing another Commissioner to the meeting – either Commissioner Harrington or Commissioner Miller. Abbs said that she decided to do this because she did not want it to be "just Frank [Perez], Rick [Bir] and her" as it was with respect to the discussion of issues related to the Doyle Center employee earlier in the year. Abbs recalls that Perez said "fine" with respect to her bringing another Commissioner to the meeting. Although her recollection on this point was not good, Abbs may have been aware that Perez planned to invite Commissioner Bir to the meeting as well.

Perez confirmed this contact from Abbs, although he was unable to recall the exact date. Perez could not recall whether he contacted Bir for the specific purpose of meeting with Abbs and [REDACTED] or whether Bir was previously scheduled to meet with him. Perez recalls Abbs conveying little detail about [REDACTED] concerns, but recalls reference to [REDACTED]

Abbs stated she ultimately chose to invite Harrington based on her availability relative to Miller (Harrington is retired). Commissioner Harrington recalled receiving a phone call from Abbs on March 23 inviting her to a meeting to discuss issues brought to her attention by [REDACTED] regarding [REDACTED]. Harrington recalls Abbs telling her that "Frank [Perez] and Rick [Bir] would be there" as well. Harrington does not recall whether Abbs told her why she was being invited, but had the sense that Abbs wanted "someone else" to be there.

At 10:11 PM on March 23, Abbs sent a text to Perez reading:

"Linda's coming her phone was on silent ... she's changing plans to be there!"

Bir's recollection of a planned meeting to discuss [REDACTED] concerns was either poor or contradicted by other witnesses. Bir did not recall the dates on which he became aware of a request to meet with [REDACTED]. He recalled Abbs calling him to invite him to meet but Abbs does not recall having this discussion and stated that Perez was the only person she called regarding meeting to discuss [REDACTED] concerns.

At 10:07 PM on March 23 Perez sent a text to Bir reading:

"Can you stop by my office at 1030?"

Commissioner Bir responded with a "thumbs up" emoji at 7:18 AM on March 24.

██████████ Abbs, Bir, Harrington and Perez recall meeting in Perez's business office to discuss the issues raised by ██████████ to Abbs. Their respective recollections of the details of this meeting are as follows:

1. ██████████

██████████ recalls the meeting in Perez's office occurred on Wednesday, March 24. After a brief introduction by Abbs ██████████ presented ██████████ concerns about the ██████████ to the Commissioners and Mayor Perez. ██████████ stated ██████████ prepared a written ██████████ document summarizing ██████████ concerns as requested by Commissioner Abbs at the Biggby meeting and used this summary as a guide in ██████████ presentation to the attendees.

While ██████████ stated ██████████ did not go into significant detail regarding ██████████ concerns, ██████████ ██████████

- ██████████
- ██████████
- ██████████
- ██████████

██████████ recalled telling the meeting attendees that ██████████ had brought these and other issues to ██████████ attention multiple times and that ██████████ did not take appropriate action in ██████████ view.

██████████ recalled that, outside of a few clarifying questions, the other attendees "pretty much just listened" to ██████████ presentation and that at its conclusion they thanked ██████████ for sharing ██████████ concerns, at which point ██████████ stated that ██████████ was not present for any discussion amongst the meeting attendees of the issues ██████████ raised and that at no point did any of the attendees give ██████████ any direction to take any particular course of action.

2. Commissioner Abbs

Abbs stated that the meeting at Perez's office happened the "next morning" after ██████████ first contacted her. Abbs also recalled ██████████ presenting from ██████████ "bullet point" list at the meeting. She generally confirmed that ██████████ shared the issues identified above – e.g., that ██████████

had not handled issues appropriately or ██████ given them their due attention. Commissioner Abbs recalled that ██████ did not make any recommendations or provide any thoughts as to what should be done by the Commission in response to the concerns ██████ raised. She also stated that "nothing was really said" by the Commissioner attendees during ██████ presentation and that once ██████ presentation was finished, ██████ left the meeting with no direction given to ██████

Abbs recalls that after ██████ left the meeting there was very little discussion by the Commissioners in response to what they had heard, although it is "possible" that Bir and Perez "could" have made comments about the concerns raised by ██████ being similar to complaints that they had heard about ██████ performance from other sources.

Abbs recalls Perez saying that "we're going to call T.J. [Reed] and I want the rest of the Commission to know." Abbs said she understood the action coming out of the meeting was that Perez would contact Attorney Reed and the rest of the Commissioners so that they could "have the same information" regarding ██████ allegations regarding ██████ Abbs was adamant that at no time during the meeting was any "vote" taken as to any issue nor was there any discussion about the concerns raised by ██████ with respect to ██████ employment status. Commissioner Abbs recalls Perez asking Commissioner Harrington at one point whether she was "with us" on the question of whether Attorney Reed and the rest of the City Commissioners should be informed. She recalls Commissioner Harrington indicated "yes" in response to Perez's question.

3. Commissioner Harrington

Harrington recalls the meeting in Mayor Perez's office as occurring on Tuesday, March 24. Harrington admitted that ██████ recollection of exactly what was said at the meeting in Perez's office was poor and that at some points she was "not paying attention" to the discussion. Commissioner Harrington confirmed that ██████ shared concerns about ██████ performance, using ██████ prepared bullet point list.

According to Harrington, at some point Perez said he would "go to T.J. [Reed]" with the concerns raised by ██████ Harrington recalls Bir and Perez independently observing that the concerns raised by ██████ were consistent with issues that had been raised to them about ██████ by constituents and City employees in the past. These remarks occurred after ██████ had finished ██████ presentation.

Harrington stated that there was no vote taken during this meeting and no discussion of votes. She has no recollection of whether there was any discussion of the issues raised by ██████ in the context of ██████ employment status. Commissioner Harrington has a vague recollection of someone asking her "are you with us" to which she "probably" responded in the affirmative; however, she does not recall what she was being asked to agree to. Commissioner Harrington's understanding of next steps coming out of the meeting was for Perez to speak with Attorney Reed, which she regarded as an appropriate course of action.

4. Commissioner Bir

Bir did not have a clear recollection of when the meeting in Mayor Perez's office occurred. Bir recalls [REDACTED] distributing [REDACTED] bullet point list at the beginning of the meeting and [REDACTED] "going through it" explaining "a little bit" about the items included on it, but otherwise reading from it. Generally, Bir recalls [REDACTED] raising concerns about a "pattern" of the [REDACTED]. Bir recalled that [REDACTED] left the meeting after explaining the items contained on [REDACTED] document.

Bir said it was "possible" that he made comments about hearing similar issues regarding [REDACTED] performance from other sources and it was "possible" that Perez made similar comments. Bir said that the meeting attendees were "shocked" by the concerns raised by [REDACTED] and that there was some discussion amongst the attendees as to what actions needed to be taken in response. Bir indicated that there was agreement amongst the Commissioner attendees that there was a need to inform the other Commissioners about what they had just heard, with Perez either volunteering or being tasked with informing the other Commissioners and Attorney Reed. Bir said that this was for the purpose of letting the other Commissioners know what had been presented so that there could be further discussion amongst the Commissioners, perhaps at a closed session of an upcoming Commission meeting with the City Manager.

Bir was adamant that there was no discussion of any actual or potential employment actions with respect to [REDACTED] based on the concerns shared by [REDACTED] or any discussion of "voting" or the conducting of votes regarding any issue.

5. Mayor Perez

Perez was unsure of the date of the meeting in his office, although he did recall that meeting happened "right away" after Abbs contacted him to make him aware that [REDACTED] had reached out to [REDACTED] with [REDACTED] concerns.

Perez confirmed that [REDACTED] presented [REDACTED] concerns to the meeting attendees, using [REDACTED] document as an outline. Perez recalled [REDACTED] raising concerns regarding [REDACTED] perception that [REDACTED] had not taken action in response to a variety of [REDACTED].

Perez recalled that [REDACTED] presented [REDACTED] concerns to the meeting attendees without any participation or discussion from them aside from some clarifying questions, and that [REDACTED] left the meeting after [REDACTED] had presented [REDACTED] concerns. None of the attendees directed [REDACTED] to take any action. After [REDACTED] left the meeting, Perez recalled that the meeting attendees were "shocked." Perez stated that he made limited comments about some of the issues raised by [REDACTED] being similar to those he had heard from some of his constituents; he does not recall Bir making any comments about the issues raised by [REDACTED]. Perez stated that he told the Commissioner attendees that he would contact the other Commissioners and Attorney Reed to inform them of the concerns [REDACTED] had just raised.

Perez was adamant that there was no discussion amongst the attendees regarding what [REDACTED] concerns meant with respect to [REDACTED]'s employment and that none of the attendees took a position on any issue outside of the next steps of contacting Attorney Reed and the other Commissioners. Perez stated there was no "vote" or discussion of voting with respect to any issue. Perez stated that the purpose of contacting Attorney Reed and the other Commissioners was to inform them of [REDACTED] concerns so that they would be able to make an informed decision as to what action to take in the event the issue was discussed at a closed session of a Commission meeting. Perez stated that he intended to inform the other Commissioners in person.

Perez stated that in the past, Attorney Reed has instructed members of the Commission that complaints about City employees should be directed to the attention of the Mayor. When asked why he did not meet with [REDACTED] one on one to hear [REDACTED] concerns about Mr. [REDACTED] Mayor Perez stated that he wanted to have "witnesses" to the conversation.

Bir, Perez and Harrington all stated that they were unaware of the Complaint Resolution process in the City Employee Handbook and its provision requiring that employee complaints about the City Manager to be brought to the attention of the City Attorney.

D. Commissioner Bir and Mayor Perez Meet with Commissioner Smith

Commissioner Smith stated that he met with Bir and Perez for breakfast at some point prior to the April 8 Commission meeting. Smith recalls that during this meeting, Perez told him that the [REDACTED] had shared concerns about the performance of the City Manager at a meeting in his office. While Smith recalls that he was told who attended the meeting in Perez's office, he stated that neither Smith nor Perez shared any "details" about the allegations raised by [REDACTED]. According to Smith, Perez and Bir "asked his opinion" as to next steps. Smith recalls saying that Attorney Reed should be informed, although he "figured" that Bir and Perez had already determined this course of action. Smith does not recall any further discussion of the issue at the breakfast meeting, and stated that there was no discussion of any votes, voting, or any other course of action besides contacting Attorney Reed.

Bir and Perez's account of this meeting differs from Smith's recollection. Bir recalls informing Smith about [REDACTED] concerns prior to Perez arriving at the breakfast meeting, as Perez was late in arriving. Bir recalls telling Smith that the attendees of the meeting in Perez's office had determined that Perez would be contacting Attorney Reed and the other Commissioners to tell them about [REDACTED] concerns; Bir recalls Smith saying that this was "a good idea." Bir denies seeking Smith's "opinion" on the matter. Bir stated that there was no further discussion of the matter at the breakfast meeting, even after Perez arrived.

Perez generally confirmed Bir's recollection that Smith had already been apprised of the plan to inform Attorney Reed and the other Commissioners of [REDACTED] concerns by the time he arrived at the breakfast meeting, and that there was no discussion of the matter after his arrival. Perez characterized the breakfast meeting with Smith as a "standing" meeting with Smith, as

opposed to a meeting called for the specific purpose of informing Smith about the meeting in Perez's office.

Smith, Bir and Perez have varying accounts of the date of this meeting: Smith did not recall the date with any certainty; Bir recalled that it happened "one to two weeks" after the meeting in Perez's office. On Saturday, March 28 Perez and Smith engaged in the following text exchange:

[7:38 AM] Perez: "I'll see you at 8 AM"

[7:40 AM] Smith: "OK"

E. Perez meets with Attorney Reed

Perez stated that he did not discuss [REDACTED] allegations with any [REDACTED] Commissioners after the breakfast meeting with Smith and Bir.

On Monday, March 30, Perez texted Attorney Reed to see whether he was "in the office." Reed, who was on a family vacation, replied that he was not and would not be returning until Wednesday, April 1. Although Reed indicated that he was available to speak prior to his return, Perez responded that "It's [sic] City matters. It can wait till Wednesday." Both Perez and Reed recall meeting at Reed's office on Wednesday, April 1, at approximately 2:30 PM. Their respective accounts of this meeting are as follows:

1. Attorney Reed

Reed recalls Perez opening the meeting by stating that "the Commissioners are not happy with [REDACTED] [REDACTED] we're ready to move on and we have the votes to do so." Reed stated he was shocked by Perez's statement, and asked Perez "What are you talking about? Was there a meeting?" Reed stated that Perez responded that he had "met" with [REDACTED] and heard [REDACTED] concerns regarding [REDACTED] and had "talked" with other Commissioners. Reed stated that he did not understand Perez's statement that he had "talked" with other Commissioners to mean that he had met with any of them personally.

Reed recalls Perez then sharing "sporadic" details regarding the substance of [REDACTED] concerns. Reed recalled asking Perez whether there had been any "confirmation" of the veracity of [REDACTED] allegations, with Perez responding that "I talked to [REDACTED] and I believe [REDACTED]." Reed recalls Perez stating that he wanted both of them to meet with [REDACTED] for the purpose of presenting [REDACTED] allegations and giving [REDACTED] "a chance to resign." Reed also recalls Perez stating that [REDACTED] was "an at-will employee." Reed recalls replying that [REDACTED] was "an at will employee with a contract" and that [REDACTED] was entitled to "due process" with respect to the allegations raised by [REDACTED]. Reed recalls in connection with such "due process," he strongly suggested that an independent investigation be conducted into the allegations to determine whether they justified an employment action with respect to [REDACTED].

Reed also recalls raising concerns about whether Perez's discussions with the other Commissioners were compliant with the requirements of the Open Meetings Act. He recalls Perez as responding to these concerns only by referencing the "seriousness" of the issues raised by [REDACTED]. Reed recalled that he asked Perez who "knew" about [REDACTED] concerns, with Perez identifying Abbs, Bir, Harrington and Smith. Reed recalls Perez as characterizing these Commissioners as supportive of [REDACTED]'s removal. Reed was adamant that Perez did nothing to diminish this characterization during this meeting. Specifically, Reed denies that Perez attempted to walk back his statement that there were "votes" to remove [REDACTED] during this meeting. Reed stated that Perez did not respond or attempt to refute Reed's concerns about Open Meetings Act compliance.

Reed recalled that he asked Perez why he spoke to the other Commissioners about [REDACTED] allegations, with Perez responding that "they needed to know." Reed stated that he told Perez that he should have contacted him regarding [REDACTED] concerns, with Perez responding "you were on vacation" as to why he did not. Reed recalls reiterating the need for an independent investigation into [REDACTED] allegations in order to generate a report for the Commission to evaluate. Reed also stated that the Commission should be allowed to hear the recommendation for an investigation during a closed session of the next Commission meeting. Reed stated that Perez ultimately agreed to this course of action. Reed also stated that, accordingly, he told Perez not to contact any more Commissioners on this matter, so that Reed himself could apprise them of those next steps. Reed also stated that he told Perez that they needed to meet with [REDACTED] to inform him of the allegations against him and apprise him of the plan to conduct an investigation.

2. Mayor Perez

Perez stated that he had not spoken to any other Commissioners about the allegations raised by [REDACTED] after the meeting in his office because he had been out of town and wanted to personally meet with each remaining Commissioner.

Perez confirmed that he opened the April 1 meeting with Reed by informing him that there was a "problem" with [REDACTED] and that there were "votes" to "fire" or "remove" him. Perez acknowledged that this statement was "not true" and acknowledged it was a mischaracterization of the discussions he had with Abbs, Bir, Harrington and Smith. When asked why he would tell Reed that he had "votes" to remove [REDACTED] when that was not true, Perez said that he made this statement because he was "very upset" about the complaints raised by [REDACTED]. Perez stated that he "fucked up" by telling Reed something that was not true and that he was subsequently "upset with himself" for doing so. Perez recalled that in response to this statement, Reed asserted that he had violated the Open Meetings Act, and asked how he "got the votes" to support [REDACTED]'s removal. According to Perez, he responded that he had "misspoke" - he did not actually have the votes, and that there was no decision made by the Commissioners he had spoken with regarding [REDACTED] employment.

Perez confirmed that he told Reed he wanted to meet with [REDACTED] for the purpose of sharing [REDACTED] allegations and giving him the chance to "resign." Perez stated that the idea to present [REDACTED] with a chance to resign was "his own" that he formed after the meeting with Commissioners in his office and that it was not discussed or considered during that meeting or at his meeting with

Smith. According to Perez, the idea was to offer [REDACTED] the option of resignation in the event he did not want [REDACTED] allegations shared in front of the whole Commission.

Perez confirmed that Reed asserted the need for "due process" around the allegations and strongly suggested that a third party investigation be performed to determine whether they could be substantiated. Perez said he ultimately agreed with this approach.

Perez recalls Reed asking him why he had not told all the Commissioners about [REDACTED] allegations, to which he responded that he planned to do so, and had not done so yet because he had been out of town. Perez recalled Reed telling him not to contact any more Commissioners, and that Reed himself would contact them in order to inform them of the recommendation to conduct an investigation into the allegations raised by [REDACTED]

Perez confirmed that Reed recommended that they meet with [REDACTED] to inform him of the allegations and the planned investigation.

F. Attorney Reed and Mayor Perez Meet with City Manager [REDACTED]

Perez, Reed and [REDACTED] recall meeting at Reed's office on April 1 subsequent to the meeting referenced above. Respective accounts of this meeting are as follows:

1. Mr. [REDACTED]

Although [REDACTED] does not recall exactly who conveyed the information, he recalled being informed there were [REDACTED]
[REDACTED]

[REDACTED] recalled that, given the nature of the allegations, it was clear that [REDACTED] was the complaining party although no one told him that specifically. [REDACTED] recalled stating that the factual contexts of the allegations were familiar to him but that he did not agree with the allegations [REDACTED] [REDACTED] recalls that, at one point during the meeting, it was brought up that "multiple commissioners" had been informed of the allegations. [REDACTED] recalls saying, "how do most of the commissioners know about this?" to which he recalls Perez responding, "maybe [REDACTED] [REDACTED] told more than one person."

[REDACTED] recalled Reed saying "we may have to look at doing some type of investigation into this." [REDACTED] impression was that at the next Commission meeting there would be some sort of closed session to determine how to proceed.

2. Attorney Reed

Reed recalls informing [REDACTED] at the beginning of the meeting that [REDACTED] was [REDACTED] [REDACTED] Reed stated he "laid out" a "procedure" regarding an independent investigation [REDACTED]. Reed recalls [REDACTED] agreeing that an investigation was

the right process. Reed recalls sharing a "little bit" of detail regarding the allegations, with Mayor Perez adding clarifying details. Reed recalls [REDACTED] as being familiar with the issues included in the allegations, but disagreeing [REDACTED].

Reed recalls Perez stating that "the Commissioners are upset," causing [REDACTED] to ask how other Commissioners knew about the allegations.

3. Mayor Perez

Perez recalls that Reed "led" the meeting with [REDACTED] with Perez adding some details during the discussion. [REDACTED]

[REDACTED] Perez recalls Reed saying that an investigation was necessary. It was his understanding that such an investigation would be the next step.

G. Attorney Reed Contacts the Commissioners

Reed stated that over April 1 and 2, he contacted each Commissioner individually to: 1) inform those Commissioners who were unaware of the allegations regarding [REDACTED] and 2) explain to all Commissioners the need for an independent investigation. The following are relevant witness recollections of those discussions:

- Reed recalls Abbs sharing with him that she, Bir, Perez, and Harrington had actually met in Perez's office to hear [REDACTED] concerns. According to Reed, this was the first time that he understood that these Commissioners had actually met together for this purpose as this detail was not revealed to him by Perez. Reed recalled that when he raised concerns about such a meeting, Abbs responded that it was [REDACTED] understanding that the complaints of City employees should be brought to the attention of the Mayor. Reed recalled responding that he objected to the fact that in this case the Mayor was notified in a meeting with other Commissioners present. Abbs recalls Reed stating that other Commissioners attending the meeting did not need to be involved.
- Reed stated that in the April 1 and 2 conversations with Commissioners who had attended the meeting with [REDACTED] in Perez's office he did not inquire into what was said during that meeting and none of the attending Commissioners gave any significant detail.
- Reed recalled contacting Commissioners Miller and Mullins on April 2. He recalled telling them that while he "was not sure what was going on" he had been told that there was a meeting in which [REDACTED] "removal" was discussed. Reed stated that he "may have" told Miller and Mullins that there was "support" amongst those Commissioners for removal.
- Miller recalls Reed telling him on April 2 that "there was an issue" and that "[Perez] called and said he has the votes to remove [REDACTED]"

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

J. The April 8 Closed Session Meeting

The Commission met in closed session towards the end of the regularly scheduled April 8 Commission meeting. The following are relevant witness statements with respect to that meeting:

- [REDACTED] recalls informing the Commission of his intent to resign at the beginning of the closed session and immediately leaving the meeting thereafter. [REDACTED] recalls characterizing his decision as "a little bit forced" in his remarks to the Commission.
- Reed recalls informing the Commission that [REDACTED] resignation would be contingent upon reaching a separation agreement. Reed also recalls addressing the issue of an investigation into [REDACTED] allegations in the closed session.
- Mullins recalls Reed stating that there had been a "meeting" amongst some Commissioners to discuss allegations about [REDACTED]. Harrington recalls that "at some point" in the closed session the fact that there had been a "meeting" amongst some Commissioners came to light. Abbs also recalls that Reed identified a meeting of some Commissioners, as does Perez. Miller recalls "someone" referencing a "meeting" amongst Commissioners regarding [REDACTED] and that "it became clear" that the issue was "something" related to [REDACTED] and [REDACTED]. Boring recalls that Perez acknowledged a meeting to discuss [REDACTED] complaints" against [REDACTED].
- Miller recalls being frustrated at not being informed about this meeting and asking for a "show of hands" as to who attended. Mullins recalls Abbs, Bir, Harrington and Perez indicating that they were present at the meeting in response to Miller's asking the meeting attendees to identify themselves.
- Mullins recalls Perez stating that [REDACTED] had attended the meeting in his office and saying that the allegations raised by [REDACTED] could not be "swept under the rug."
- Mullins, Miller and Boring stated that in the April 8 closed session there was no detail or discussion of what the Commissioners who attended the meeting in Perez's office actually said to each other during that meeting.

- Harrington stated that “all hell broke loose” after it was revealed that there had been a meeting among some Commissioners. She stated that Miller “started yelling” and “accusing” the Commissioners who had attended that meeting of “something awful.” Harrington stated that she announced her intent to resign from the Commission after this happened.¹

K. Relevant Events after the April 8 Commission Meeting

1. Meeting between Miller, Mullins and Perez at Reed’s Office

Miller, Mullins, Reed and Perez met in Reed’s office on April 21. The following are relevant witness statements regarding this meeting:

- Perez recalls asking Reed to set the meeting in order to “smooth things over” and to address the suggestion that there had been an Open Meetings Act violation associated with the meeting in his office with other Commissioners.
- Perez stated that Mullins and Miller were “coming after him” and had offered resolutions to remove him as Mayor because they thought he had “caused” [REDACTED]’s resignation and “broken the law.”
- Perez stated that he explained to Mullins and Miller that “there were no decisions made” at the meeting with other Commissioners in his office but rather, the intent was to make sure that other Commissioners knew about the [REDACTED] so that there could be full consideration of them at a closed session by the entire Commission. Perez stated that Miller and Mullins were “not interested in explanations” and “did not believe him.”
- Perez stated that during this meeting, the discussion did not “get into the details” of what was said at the meeting in his office with [REDACTED] and the other attending Commissioners.
- Mullins recalls that “nothing new” was discussed at the meeting in Reed’s office: Miller and Mullins continued to raise concerns about Perez’s leadership and his compliance with the law; Perez continued to justify his actions based on the nature of the [REDACTED]
- Miller recalls raising concerns about Perez’s compliance with the Open Meeting Act, with Perez trying to “justify” his actions based on the nature of the [REDACTED]. Miller stated that there was no discussion of the details of the meeting in Perez’s office with the Commissioner attended during this meeting in Reed’s office.

¹ Harrington’s resignation became effective on or about May 10. The April 22 Commission meeting was the last one she attended.

2. Remarks about "votes" to remove [REDACTED] during Commission meetings

Multiple Commissioners recall that during a closed session of a Commission meeting Reed mentioned Perez's assertion that he had "the votes" to remove [REDACTED] and reactions by certain Commissioners to that statement. Recollections as to the timing and details of this event vary; below are relevant witness statements:

- Abbs recalls that it was at the closed session during the May 27 Commission meeting that Reed mentioned Perez had previously told him he had the votes to remove [REDACTED]. Abbs recalls being surprised by this assertion and saying in the meeting that Perez was mistaken and that "it didn't happen." Abbs stated that she contacted Perez after the Commission meeting to ask him why he would tell Reed that because it wasn't true. Abbs stated that Perez acknowledged that he had "made a mistake" and said that to Reed because "he was mad" about the [REDACTED]. Abbs stated that Perez "apologized" to her for saying it.
- Bir recalls this discussion happening in the April 8 closed session. Bir recalls being surprised by the assertion that there were "votes" to remove [REDACTED] and stating in the meeting that there were "no votes." Bir stated that he subsequently contacted Perez to "chew him out" for saying that he had the votes, with Perez acknowledging that he "screwed up" in doing so.
- Smith also recalls the discussion occurring during the April 8 closed session. Smith stated that he recognized the assertion that there were votes to remove [REDACTED] as "not true" and stated he "sure did not vote" on the issue.
- Mullins recalls this discussion occurring on April 8, with Abbs being "surprised" by the statement attributed to Perez and saying "we did not vote."
- Perez does not recall the issue coming up at any Commission meeting, but recalls Bir and Abbs contacting him once the Commission began to consider a potential investigation into whether certain Commissioners had violated law or policy, which he recalls occurring during the closed session at the April 22 Commission meeting. Perez recalls Bir and Abbs separately contacting him to understand why an investigation would be necessary, at which point he informed them that he had previously told Reed he had the "votes" to remove [REDACTED]. Perez recalls telling Bir and Abbs that he had said this because he was "upset" about the allegations concerning [REDACTED] and apologizing to them for saying it because it was not true.
- Miller recalls the issue arising in the May 27 closed session and that Abbs stated "we didn't have the votes" in response.
- Reed recalls the discussion occurring at a closed session at the "end of April or beginning of May." Reed recalls Perez stating that the Commissioners who attended the meeting

with [REDACTED] in his office had only planned to escalate the allegations to Reed's attention. Reed recalls telling Perez "that's not what you told me." Reed recalls Bir saying that there was "no vote."

V. FINDINGS OF RELEVANT FACTS

Based on the foregoing witness statements and documents, and with appropriate credibility determinations where appropriate, I make the following findings of relevant facts:

A. Knowledge of Rules and Procedures

1. Like all Commissioners, Bir, Perez and Abbs have received training on the requirements of the Open Meetings Act. As of January of 2026, they were also aware that Reed was not comfortable with Commissioners meeting together to discuss issues related to City employees because such meetings could create the conditions for an OMA violation. Bir, Perez and Abbs did not regard Reed's expressed discomfort with such meetings as a prohibition based on the requirements of the OMA but rather as a matter of optics.
2. [REDACTED] was aware of the Complaint Resolution Process in the City Employee Handbook which required complaints from City employees about the [REDACTED] to be made in writing to the City Attorney when [REDACTED] contacted Abbs about [REDACTED] allegations regarding [REDACTED] on March 23. At that time, Abbs, Bir and Perez were unaware of the Handbook's Complaint Resolution Process.

B. March 24 Meeting at Perez's Office

1. [REDACTED] met with Abbs on March 23 at Biggby to identify [REDACTED] concerns with [REDACTED] Abbs determined that these concerns needed to be brought to the attention of the Mayor as well as the Commissioners. Abbs contacted Perez on March 23 to arrange a meeting with Perez in which [REDACTED] could identify [REDACTED] concerns regarding [REDACTED] Abbs also determined to involve at least one other Commissioner in the meeting, which was ultimately Harrington. Abbs made this determination despite receiving previous guidance from Attorney Reed that concerns about City employees should be brought to the attention of the Mayor and despite Reed's previous expressions of his discomfort with multiple Commissioners meeting together to discuss City business.
2. Relevant text exchanges demonstrate that on March 23 Perez invited Bir to come to his office the following morning.

3. Perez, Abbs, Bir, Harrington and ██████ met in Perez's office on March 24. This timing is established by the foregoing texts, the statements of Abbs, ██████ and Harrington who recall meeting on that day, and Perez's recollection of the meeting happening "right away" after initially being contacted by Abbs.
4. ██████ effectively began the meeting by identifying ██████ concerns with ██████. ██████ used the "██████" document ██████ had prepared as an outline. ██████ delivered ██████ remarks essentially uninterrupted. Although there is some evidence of minor "clarifying questions" by the attendee Commissioners during ██████ presentation, there is no evidence of discussion amongst them during ██████ remarks. ██████ left the meeting immediately after giving ██████ presentation. ██████ did not ask the attendee Commissioners to respond to ██████ remarks and none of the attendee Commissioners gave any instruction or direction to ██████ during or after ██████ remarks.
5. There is limited evidence that Bir and Perez made independent statements about the concerns raised by ██████ being similar to complaints that they had heard from other sources after ██████ departed the meeting. There is no evidence that these remarks were anything more than isolated observational statements; there is no evidence that they triggered any further discussion among the attendee Commissioners. The evidence establishes that the attendee Commissioners discussed "next steps" with respect to the allegations made by ██████ – specifically, notifying Attorney Reed and the other Commissioners of the allegations, with Perez either volunteering or being tasked to make those notifications.
6. In determining this course of action, the attendee Commissioners intended to apprise the rest of the Commissioners of the allegations so that they would be prepared to consider them in an upcoming closed session and/or to obtain guidance from Attorney Reed on the matter. To the extent that the attendee Commissioners sought consensus during this meeting – e.g., Perez asking Harrington whether she was "with them" – the available evidence shows that it was with respect to informing the other Commissioners and Attorney Reed. Bir, Abbs and Harrington left the meeting with the understanding that Perez would so inform the other Commissioners and Attorney Reed.
7. There is no evidence that the attendee Commissioners engaged in any discussion of the implications of ██████ allegations on ██████ employment or removal from employment as ██████ during this meeting. There is no evidence that the attendee Commissioners "voted" on any issue or discussed voting on any issue at this meeting, including on any issue with respect to ██████ employment.

C. March 28 Meeting between Smith, Bir and Perez

1. Based on the witness statements and text exchanges, it is likely that Bir and Perez met with Smith for breakfast on Saturday, March 28.
2. Smith recalls it was Perez, not Bir, who informed him of [REDACTED] allegations at this meeting; Bir and Perez recall that it was Bir that did so. Regardless, there is no evidence that the conversation at this meeting included anything more than 1) an identification to Smith of [REDACTED] allegations in a general sense and 2) an understanding amongst them that informing the remaining Commissioners and/or Attorney Reed as originally determined in the March 24 meeting was the appropriate next step. There is no evidence that Bir, Smith and Perez discussed the substance of [REDACTED] complaints or their implications for [REDACTED]'s employment. There is no evidence of votes taken on any issue or any discussion of "votes" at this meeting.

D. April 1 Meeting between Reed and Perez

1. Despite the understanding formed at the March 24 meeting, Perez did not attempt to contact Attorney Reed until March 30. Aside from his meeting with Smith, Perez did not take any action to contact other Commissioners about the [REDACTED] prior to his meeting with Attorney Reed on April 1.
2. At the beginning of the April 1 meeting with Attorney Reed, Perez made the statement that he had the "votes" to "remove," "fire" or "move on" from [REDACTED]. This statement was knowingly false, and represented a substantial mischaracterization of any discussions Perez had with certain Commissioners to that date – Perez admits as much.
3. Perez claims that he corrected himself later in the April 1 meeting and told Reed that there were, in fact, no votes taken. Reed denies this. I credit Reed's version. In at least some of his April 1 and 2 phone calls to the Commissioners who did not attend the meeting in Perez's office Reed conveyed Perez's statement that he had "votes" regarding [REDACTED]'s removal. If Perez had corrected his statement about having "votes" during his April 1 meeting with Reed, Reed would have no reason to tell the other Commissioners that this was the case.
4. Perez suggested to Reed that they meet with [REDACTED] to inform him of the [REDACTED] and offer him the opportunity to resign. Perez admits he formed this approach on his own and with the knowledge that there had been no discussion of [REDACTED] removal with any Commissioners, including those who met in his office on March 24. As it happened, this approach was never

employed in light of Reed's insistence that an investigation be conducted to determine the veracity of [REDACTED] complaints as part of the "due process" to be afforded to [REDACTED]

E. Reed's discussions with Commissioners on April 1 and 2

1. Reed contacted Bir, Abbs and Harrington on April 1 to explain to them his recommendation for an independent investigation into [REDACTED]. In these discussions, Reed did not explore – and those Commissioners generally did not share – exactly what had been said during the March 24 meeting in Perez's office. As such, Perez's false statement to Reed that he had "votes" to remove [REDACTED] as the result of this meeting did not come up. Accordingly, Reed remained under the impression that [REDACTED] removal was discussed and the Commissioners attending this meeting did not have a chance to correct that impression.
2. In his discussions with Commissioners who did not attend the meeting in Perez's office, Reed likely mentioned Perez's statements to him regarding "votes" for [REDACTED] removal or otherwise indicated that [REDACTED] removal was discussed by the Commissioners at that meeting. Accordingly, at least some of the Commissioners who did not attend the March 24 meeting – Mullins and Miller in particular – shared Reed's impression as created by Perez when they came to the April 8 Commission meeting.

F.

[REDACTED]

G. The April 8 Closed Session

1. The initial "cause and central reason" for the closed session of the April 8 Commission meeting was the need to discuss Attorney Reed's recommendation for an independent investigation into the allegations raised

by [REDACTED] which Reed had explained in his phone calls with Commissioners over April 1 and 2, and in his meeting with [REDACTED] on April 1.

2. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

3. After [REDACTED] had left the closed session, discussion amongst the Commissioners centered around the circumstances of [REDACTED] resignation and its potential relation to the meeting of certain Commissioners in Perez's office. At that point, at least some, if not all, of the Commissioners who did not attend the meeting at Perez's office had been told by Reed that the meeting may have included a "vote" on, or discussion of, [REDACTED] removal by the attending Commissioners. By contrast, Abbs, Bir and Harrington appear to have been unaware at that point of Perez's false statements and mischaracterizations of the March 24 discussion. In short, two groups of Commissioners had two different impressions of events to that point. Only Perez was in a position to clear up this misunderstanding by identifying his characterization of the March 24 meeting as false.

4. At some point, Abbs and Bir became aware that Perez had mischaracterized the discussion during the March 24 meeting. Witness recollections about how this came about are so varied and inconsistent that it is not possible to determine an exact date. However, it is likely that at closed session of a Commission meeting between April 8 and April 22, Perez revealed that there was not a "vote" at the March 24 meeting in response to Reed's assertion that there had been one. When Reed indicated that Perez himself had told him that, Abbs and Bir became aware that Perez had mischaracterized their discussion. This caused Abbs to refute the assertion that there had been a vote and subsequently caused Abbs and Bir to express their frustration with Perez in separate conversations with him.

VI. APPLICATION OF STATUTES/RULES/POLICIES

Based on the foregoing findings of fact, and applying the statutes, rules and policies as directed by Resolution 1, I make the following conclusions:

A. The Open Meetings Act ("OMA")

"The OMA provides that a public body, when making a decision effectuating public policy, must make the decision at an open meeting unless there is an applicable exception." *Apsey v Stover*, 2002 WL 1065668 (Mich App 2002) at *2 citing MCL 15.263(1), (2). "The primary purpose of the OMA is to ensure that public entities conduct all their decision making activities in open meetings

and not simply hold open meetings where they rubber stamp decisions that were previously made behind closed doors.” *Schmiedicke v Clare School Bd.*, 228 Mich App 259, 264 (1998).

Michigan courts analyzing potential OMA violations apply the following elements: (1) whether there was a “public body”; (2) whether there was a “meeting” of a public body; (3) whether a “decision” effectuating public policy was made; and (4) whether any statutory exceptions are applicable. *See, e.g., People v Whitney*, 228 Mich App 230, 241 (1998).

Here, the City Commission is clearly a “public body” subject to the OMA.² The issue for determination in this investigation is whether, applying the remaining elements, gatherings of certain Commissioners prior to the April 8 closed session violated the OMA – specifically, the March 24 meeting between Perez, Abbs, Bir and Harrington in Perez’s office and the March 28 “breakfast meeting” between Perez, Bir and Smith.

“To constitute a ‘meeting’ ... as contemplated by the OMA, the following elements must be present: (1) a quorum; (2) deliberation or rendering of a decision; (3) on a matter of public policy.” *Ryant v Cleveland Township*, 239 Mich App 430, 434 (2000).

1. “Quorum”

Per the City Charter, the Commission consists of nine members. Charter, Ch. III, Sec. 2. The Charter states that “a majority of members elected to the City Commission shall be a quorum.” Charter, Chapter III, Sec. 7(b). Thus, at the times relevant here, five Commissioners constituted a quorum. The March 24 meeting in Perez’s office included only four Commissioners – Perez, Bir, Abbs and Harrington. The March 28 breakfast meeting included only Perez, Bir and Smith. Neither meeting on its own constituted a quorum.

However, Michigan courts have found that the requirements of the OMA cannot be avoided through serial subquorum meetings, and that multiple subquorum meetings can constitute a “constructive quorum.” *See, e.g., Booth Newspapers, Inc. v. Univ. of Mich. Bd. of Regents*, 444 Mich. 211, 222-23 (1993); *Hoff v. Spoelstra*, 2008 WL 2668298 (Mich. App. 2008) (“constructive” quorum found where two commissioners had “three separate meetings with each of the other three commissioners”). In *Booth Newspapers, Inc. v. City of Wyoming*, 168 Mich App 459 (1988), the Court of Appeals found a constructive quorum where members of a public body met in a series of subquorum lunch meetings. The court found that “while neither meeting alone had a sufficient number of council members attending to constitute a quorum ... [the] two day total ... was sufficient to constitute a quorum.” *Id.* at 465.

Here, the four Commissioners present at the March 24 meeting met to hear [REDACTED] allegations and determined a course of action as to them. Bir and Perez had essentially the same

² The OMA defines the term “public body” to include “a board, commission, committee, subcommittee, authority, or council which is empowered by the state, constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function.” MCL 15.262 (a).

discussion with Smith on March 28. Thus, I find that five Commissioners were involved in this “two day total” and, therefore, a constructive quorum existed for purposes of the OMA.

2. “Decision”

“Decision” is defined in the OMA as a “determination, action, vote or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.” *Schmiedicke*, 228 Mich App at 263, *citing* MCL 15.262(d).

Here, the evidence establishes that on March 24 after hearing [REDACTED] allegations against [REDACTED] and after [REDACTED] departed, Abbs, Bir, Harrington and Perez aligned that the next steps should be notifying the other Commissioners and Attorney Reed. There was also alignment that Perez would be the one to make the notifications. At the March 28 breakfast meeting, Smith essentially ratified this course of action. I find that this alignment amongst Commissioners as to this course of action represents at least some sort of “determination” sufficient to constitute a “decision” for purposes of the OMA.

3. “On a matter of Public Policy”

The evidence establishes that the intent of the determination to notify the remaining Commissioners and Attorney Reed was to apprise those individuals of [REDACTED] allegations so that the matter could be considered at a Commission meeting, most likely in a closed session. Bir, Abbs and Perez all stated as much, indicating that they anticipated that the allegations regarding [REDACTED] would be discussed amongst the entire Commission. For example, Abbs stated that those Commissioners attending the March 24 meeting wanted to ensure that the remaining Commissioners “had the same information” as the attendees had gained from their meeting with [REDACTED]

Further, there is no evidence that either the March 24 or March 28 meetings actually included any “votes” or discussion of “votes” on any issue, including any issues relating to [REDACTED] or employment status. There is insufficient evidence to establish any other discussion or consideration of [REDACTED] employment or removal from employment occurred during these meetings. Rather, the focus of the involved Commissioners was on socializing [REDACTED] allegations with the rest of the Commission and Attorney Reed to enable their consideration by the full Commission. Although reached in a roundabout way, the determination made at the March 24 and March 28 meetings was made in furtherance of including the full Commission in the decision process, not excluding it. In other words, the determination made by Commissioners at the March 24 and 28 meetings was one designed to put the issues raised by [REDACTED] where they belonged under the OMA – in front of the full Commission.

Michigan courts have recognized that even where, as here, a public body meets in a constructive quorum and makes a determination, not all determinations involve “public policy” such that the meeting is violative of the OMA. *See, e.g., Apsey v. Stover, supra*, at *2 (Township Board

members “were not debating or deciding public policy when they concluded that they had to publicly respond to what they deemed misinformation circulating within the community about [a] trespass case”). I find that to be the case here. The Commissioners present at the March 24 and 28 meetings were not making a determination about “public policy” when they decided to notify the other Commissioners and Attorney Reed about [REDACTED] allegations. And while [REDACTED] employment status is certainly a matter of public policy, the evidence does not establish deliberation over, or determination on, that issue at those meetings. Commissioners attending those meetings intended for that public policy issue to be considered by the full Commission. Such consideration is consistent with the purpose of the OMA, and it cannot be the case that a determination consistent with the statute also violates it.

Because the March 24 and 28 meetings did not involve a decision on a “matter of public policy” they were not “meetings” subject to the OMA. For the same reasons set forth above I also find that no decision “effectuating public policy” was made at those meetings. Accordingly, I conclude that the elements required to establish an OMA violation have not been met with respect to the March 24 and 28 meetings, and that Perez, Bir, Abbs, Harrington and Smith did not violate the OMA by participating in them.

B. The Sturgis City Charter

The following are provisions of the City Charter relevant to this investigation:

1. Chapter III. Section 5 - Restrictions on Powers of City Commission

This Section reads, in pertinent part:

Except for the purpose of inquiry, the Commission and its members shall deal with the administrative service solely through the City Manager, and neither the Commission nor any member thereof shall give orders to any of the subordinates of the City Manager.

This provision raises the issue of whether Perez, Abbs, Bir and Harrington violated these restrictions on their powers as Commissioners by meeting with [REDACTED] on March 24. I find they did not.

First, this provision is not a blanket prohibition on “dealing” with members of the administrative service such as [REDACTED] – it excepts dealings for the “purpose of inquiry.” The Charter does not offer any definition or interpretive guidance as to what constitutes “inquiry.” The common definition of “inquiry” includes “a close examination of a matter.” *Inquiry*, Webster’s II New College Dictionary 572 (2001). Thus, it would appear that this Charter provision permits Commissioners to at least hear issues brought to their attention by members of the City’s administrative service.

Here, [REDACTED] initially contacted Abbs to identify [REDACTED] allegations concerning [REDACTED]. [REDACTED] subsequently shared those concerns with Abbs, Perez, Bir and Harrington. I find that [REDACTED] identification of the matter, and the aforementioned Commissioners' attendance at a meeting in which [REDACTED] fall within the exception for "inquiry" set forth in Chapter III, Section 5. This conclusion is strengthened by the fact that [REDACTED] allegations concerned the [REDACTED] himself. It is not a reasonable construction of Section 5 to require members of the administrative service to deal exclusively with the [REDACTED] under these circumstances.³

Second, there is no evidence that Abbs, Bir, Perez or Harrington gave any "orders" to [REDACTED] in the March 24 meeting or at any other time. Therefore, there is no violation by these Commissioners with respect to this portion of Chapter III, Section 5.

2. Chapter IX, Section 4 - City Manager-Duties

This section reads, in pertinent part:

(n) The City Manager shall be the acting head of each and every Department in the City except for the law department. No member of the Commission shall interfere with the conduct of any department except at the express direction of the Commission, by resolution or ordinance duly passed and adopted.

I find that Mayor Perez violated this provision when he interfered with, or attempted to interfere with, the conduct of a City Department by falsely and unilaterally creating the impression that there was a basis for [REDACTED] removal, and by unilaterally attempting to offer [REDACTED] the option to resign.

Perez acknowledged that in his April 1 meeting with Attorney Reed he stated that he had the "votes" – or otherwise had support from Commissioners - to remove [REDACTED] as the result of [REDACTED]. Perez himself acknowledges that this was not true and represented a significant mischaracterization of his meetings with other Commissioners on the issue. Perez therefore knowingly created the false impression that [REDACTED] removal could be imminent. In doing so, Perez at least attempted to set in motion the ouster of the [REDACTED]. Perez compounded this by intending to present [REDACTED] with an option to resign in the face of unsubstantiated allegations – an approach that he acknowledges he formed on his own. Attorney Reed's intervention, and his insistence on an investigation into [REDACTED] allegations, ensured that Perez's mischaracterizations had no further effect on [REDACTED] employment. But Perez's unilateral efforts to engineer the removal of the [REDACTED] based on false pretenses are interference, or attempted interference, of the type prohibited by Chapter IX, Section 4(n).

³ Of course, as discussed below, the City's Employee Handbook contains a procedure for City employees to escalate the very issues raised by [REDACTED] to the City Attorney, which [REDACTED] ignored.

Moreover, Perez appears to have done little to timely correct the false impression he created. As found above, Perez did not immediately tell Reed that he did not actually “have the votes” to remove [REDACTED] leaving Reed under the false impression that voting among commissioners occurred in the March 24 meeting in Perez’s office. Reed, in turn, shared that statement with at least some of the Commissioners who did not attend that meeting, thus giving them the same false impression. And this, in turn, appears to have led those Commissioners to assume that the March 24 meeting was conducted in violation of the OMA, which is a primary focus of this investigation. Indeed, if Perez had never mischaracterized his discussions with Commissioners, or even if he attempted to correct those mischaracterizations on a timely basis, this investigation may not have been necessary.

C. Commission Procedural Policy

The following are relevant provisions of the Commission Procedural Policy:

Section 1: Responsibilities and Regulations for City Commissioners

The Specific duties of City Commissioners are spelled out in the City of Sturgis Charter. However, all elected officials share certain responsibilities. First, you must remember you are elected to make decisions as a collective body, not to act as individuals or apart from the City Commission.

As discussed above, Perez’s false characterizations regarding “votes” to remove [REDACTED] and his effort to offer [REDACTED] a chance to resign were unilateral. In other words, he was acting as an “individual” and acting apart from the City Commission with respect to these actions. Section 1 of the Procedural Policy is phrased more as an “expectation” to be observed by Commissioners rather than a “rule” capable of violation. Accordingly, I find that Perez’s actions were inconsistent with the expectation set forth in Section 1 of the Procedural Policy.

VII. CONCLUSIONS AND RECOMMENDATIONS

As set forth above, I make the following conclusions:

- Commissioners Bir, Abbs, Harrington, Smith and Mayor Perez did not violate the Open Meetings Act through their participation in meetings with each other on March 24 and 28;
- Commissioners Bir, Abbs, Harrington and Mayor Perez did not violate Chapter III, Section 5 of the City Charter through their meeting with [REDACTED] on March 24;
- Mayor Perez violated Chapter IX, Section 4(n) of the City Charter;

- Mayor Perez acted in a manner inconsistent with Section 1 of the Commission Procedural Policy.⁴

Neither the City Charter nor the Procedural Policy appear to prescribe consequences or remedies for violations or actions inconsistent with their provisions. Accordingly, I make no recommendations as to such. Ultimately, the conclusions of this report may pose political questions, but these are outside the mandate of the Investigator.

I do make the following recommendations based on my findings throughout the investigation:

1. Commissioner education on City employment policies and procedure for employee complaints in general

The City's Employee Handbook, at its Section 718, contains a "Problem Resolution" procedure which sets forth steps an employee should take if they believe "a condition of employment or a decision affecting them is unjust or inequitable." The procedure contains specific steps "if a problem or complaint relates to the City Manager" – i.e., "the employee should present the problem to the City Attorney in writing." Commissioners are not subject to the terms of the Employee Handbook because they are not City "employees." Abbs, Bir and Perez all stated that they were not aware of this procedure at the time [REDACTED] brought [REDACTED] concerns about [REDACTED] to them.

[REDACTED] stated that as [REDACTED] [REDACTED] was aware of this procedure and its steps regarding complaints about the [REDACTED] but decided not to follow it with respect to [REDACTED] complaints about [REDACTED] because [REDACTED] thought the procedure was "wrong," and reached out to Abbs instead. The failure of the City's then-[REDACTED] to follow this procedure in the Employee Handbook is truly the root cause of the issues leading to this investigation. If [REDACTED] had followed the policy and forwarded [REDACTED] allegations against [REDACTED] to Attorney Reed, it is almost certain that none of the subsequent events would have transpired. However, if the Commissioners who met with [REDACTED] had been aware of the proper procedure for complaints involving the [REDACTED] [REDACTED] they could have directed [REDACTED] to it and similarly avoided the events that led to the instant investigation. Accordingly, education for Commissioners on the employee complaint procedure in the Handbook is warranted.

More generally, there appears to be confusion amongst Commissioners as to how to proceed when presented with "issues" by City employees in general. Abbs, Perez and Bir in particular appear to have a practice of involving themselves in the concerns of City employees: in addition to [REDACTED] concerns that gave rise to this investigation, those Commissioners were involved in discussions of employee issues in early 2025 and early 2026. On each of these occasions, Attorney Reed expressed his discomfort with this practice based on OMA compliance concerns. Bir, Perez and Abbs appear to have regarded Reed's expression of discomfort as "suggestions" rather than

⁴ Resolution 1 includes Commissioners Miller and Mullins as individuals within the scope of this investigation. I find no violation of the OMA, the City Charter or the Procedural Policy with respect to them.

guidance. But discussions amongst Commissioners on matters involving City employees may create conditions which lead to OMA violations and/or violations of the City Charter. To avoid this, more clear guidelines for Commissioners regarding how to proceed when presented with employee complaints and issues should be established.

2. Reinforcement of OMA compliance

Despite annual training on the Open Meetings Act, there appear to be gaps in Commissioners' understanding of that statute. Specifically, there appears to be a lack of understanding among some Commissioners of what constitutes a "quorum" under the OMA and that a "constructive quorum" can be obtained through multiple subquorum meetings. Accordingly, further guidance for Commissioners on OMA "best practices" generally, and quorum issues specifically, is recommended. It bears noting that while this investigation found that all the legal elements required for an OMA violation were not met, some elements actually were met. This in itself should provide the impetus for increased focus on Commissioner compliance with, and commitment to, the requirements of the OMA. Moreover, such guidance should be regarded by all Commissioners as important steps necessary for OMA compliance, rather than mere "suggestions."

Please do not hesitate to contact me if you have any questions regarding this Investigation Report.