



**SPECIAL MEETING OF THE COMMON COUNCIL
MIDDLETOWN, CT**

**WORKSHOP: SPECIAL INVESTIGATION
AUGUST 13, 2018
6:00pm**

MINUTES

The Special Meeting of the Common Council of the City of Middletown, convened as a Workshop: Special Investigation Report, was held in the Council Chamber of the Municipal Building on Monday, August 13, 2018, at 6:00 p.m.

Present: Councilwoman Mary Bartolotta
Councilman Robert Blanchard
Councilman Carl Chisem
Councilman Gerald Daley
Councilman Grady L. Faulkner, Jr. (arrived 6:20PM)
Councilman Sebastian Giuliano
Councilwoman Deborah Kleckowski
Councilman Eugene Nocera
Councilman Philip Pessina
Councilwoman Linda Salafia
Councilman Robert Santangelo

Absent: Councilman Thomas Serra

Also Present: Council Clerk – Linda S.K. Reed
Corporation Counsel -- Daniel Ryan, Esq.
Sargent-at-Arms – Officer Jason Terrible

Members of the Public: 50

1. Call to Order

Mayor Daniel Drew calls the meeting to order at 6:00 p.m. and leads the public in the Pledge of Allegiance.

The Clerk reads the Call of the Meeting and Mayor Drew declares the call a legal call and the meeting a legal meeting. Mayor Drew states that he will voluntarily relinquish the Chair this evening to Deputy Mayor Santangelo.

2. Common Council Workshop

A. Approving a Waiver of the Common Council Rules of Procedure

APPROVED

RESOLUTION 100-18; K: resolution review/ CC waive Rules of procedure RES100-18 – 13 Aug 2018

WHEREAS, *The Charter* of the City of Middletown at Chapter III, Section 3 ("Meetings of the Common Council") provides, in pertinent part, at Paragraph E: "*The public shall have the right to address the Council regarding matters of public concern. Subject to the rules of the Council, the public shall have the right to address the Council at any Council meeting on any item on the agenda for the Council meeting at which they speak . . . ;*" and

WHEREAS, the rules of the Common Council, which are codified in the *Rules of Procedure of the Common Council*, effective November 17, 2015, provide at Section I ("Agenda and General Meeting Procedures"), Paragraph 12: "*When the Council holds a workshop, it is informational and open to the public. No public hearing will be held at these meetings.*"

WHEREAS, the Common Council has convened a special meeting in the form of a *Common Council Workshop* for the special investigator to present the report on the investigation of the Office of the Mayor, the Office of the General Counsel, and/or others associated with the Mayor's Office, followed by discussion with the investigator.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: Since the Common Council considers this investigation and the resulting report to be matters of public concern, the Common Council hereby waives Section I, Paragraph 12 of its *Rules of Procedure* during the August 13, 2018 *Common Council Workshop* so that, during this *Workshop*, members of the public have an opportunity to speak on this specific agenda item, subject to the rules governing public comment and decorum as set forth in Section I ("Agenda and General Meeting Procedures"), Paragraph 11 of the *Rules of Procedure*.

FISCAL IMPACT: None

Councilman Sebastian Giuliano reads the resolution, waiving Rule 12.1 of the Council's *Rules of Procedure* to allow a public hearing on a workshop and moves for approval. Councilman Eugene Nocera seconds the motion.

Councilman Giuliano explains that the *Charter*, Chapter III, Section 3, provides that the public can address the council on matters of public concern, subject to the *Rules of Procedure*. They may address the Council at any regular or special meeting. The Council *Rules* provide that, when the Council holds a workshop, it is open to the public, but without a public hearing. Given the level of interest, plus the discussion a week ago, it was deemed advisable to give the Council an opportunity to waive that rule and to allow public comment. He asks all members of the Council present this evening to support this resolution.

The Chair calls on Councilman Gerald Daley.

Councilman Daley states that he fully supports the resolution, adding that, unfortunately, he had to raise a point last week that what was scheduled last Monday did not conform to the *Charter* requirement that the public have the right to address the Council at any Council meeting. He is glad that it is remedied tonight. He supports the opportunity for public comment and will support the resolution.

There being no further discussion, the Chair calls for the vote. The motion is approved with 10 affirmative votes. The Chair states the matter is approved.

B. Presentation and receipt of the investigator's report regarding the investigation of the Office of the Mayor, the Office of the General Counsel, and/or others associated with the Mayor's Office, as unanimously authorized by Common Council resolution

The Chair explains that the public hearing will be after the report is presented. He states that there is now a presentation of the investigator's report of the Office of the Mayor, the Office of the General Counsel, and/or others associated with the Mayor's Office, as unanimously authorized by Common Council resolution. The Chair consults Corporation Counsel, Attorney Daniel Ryan and invites the investigators, Attorney Margaret Mason and Attorney Daniel Elliot, to the podium.

Copies of the report are provided and distributed to the Councilmembers. A copy is also given to Mayor Drew.

Attorney Mason presents the investigation report, dated August 6, 2018, to the Common Council.

TO: Middletown Common Council

FROM: Margaret Penny Mason, Esq.
Daniel P, Elliott, Esq.

DATE: August 6, 2018

RE: Report to Common Council Following Investigation

This investigation began as an inquiry into complaints of discrimination raised by Michele DiMauro in connection with her salary review, and also raised in a letter from her union to the Common Council. The union letter also raised issues of ethics and campaign law violations in connection with the solicitation of City employees for donations to the Mayor's former campaign for governor.

In total, we have conducted interviews with twenty-nine (29) individuals. Included in that sum are Mayor Daniel Drew, General Counsel Brig Smith, Deputy General Counsel Kori Wisneski, then Director of Human Resources Thomas Tokarz, then Human Resources Generalist Justin Richardson, and Faith Jackson, Director of the Office of Equal Opportunity and Diversity Management. Of the remaining 23 interviewees, most of them affirmatively reached out to us and requested to be interviewed. Most of them requested anonymity, and a few requested to be interviewed in our office rather than in City Hall. The interviewees included City employees at numerous levels, including a number in high-level management positions. The duration of our investigation was longer than originally contemplated, due primarily to the significant and unexpected number of individuals who continued to reach out to us requesting to be interviewed. Some delay was occasioned by temporary unavailability of counsel for members of the administration, due to his being on trial.

As interviewees continued to come forward, the scope of our investigation expanded. Many of the interviewees wished to speak with us about what they perceived to be unfairness in the hiring processes for various City jobs. A number of interviewees expressed to us that they felt as though the outcome of various job postings had been pre-determined, with -- in some instances -- political supporters of the administration having been pre-selected for positions. Others complained that they or a family member had been targeted for adverse employment actions based on their political opposition to the administration. Yet others complained that they had been subject to discrimination on the basis of protected characteristics. A number of these complaints¹ were brought to the attention of the administration witnesses, who in turn denied the allegations and provided what they considered to be justifications for a number of hiring and workplace decisions.

¹ Though not all of them, given that numerous interviewees had requested anonymity.

We note that our charge was to serve as investigators and fact-gatherers. Consistent with our charge, our questioning of the interviewees (both administration and non-administration) was non-adversarial; the statements made by the interviewees were not subject to cross-examination in the way that they might have been in a more formal legal setting, such as testimony at trial or in a deposition.

Given that each interviewee had his or her own complaints that were oftentimes highly specific to the individual, we express no opinion on the merits of any given complaint, nor do we express an opinion as to the merits of any defenses or responses provided by the administration witnesses. Several interviewees reported that the Mayor made derogatory references to women and was disrespectful toward Councilwomen and certain female employees of the City and Board of Education, but there were also complaints by both male and female employees about not being treated fairly in the hiring and promotion process. With regard to the DiMauro claim specifically, several interviewees reported that the Mayor stated that she would not be getting and/or did not deserve a raise, and that he commented about her being related to certain Common Council members. These allegations were discussed with the Mayor, who denied them. We cannot conclude one way or the other that the Mayor actually influenced the process. We note that DiMauro and another employee have discrimination and retaliation claims pending with the Connecticut Commission on Human Rights and Opportunities. We therefore defer to that process to resolve those complaints.

We do wish, however, to comment on a number of themes and/or concerns that we found to be common throughout the interview process.² We also herein provide a number of recommendations for the Council's consideration going forward.

²We emphasize that we found these themes to be common among those who reached out to us and requested to be interviewed. We cannot say — and do not say — that these themes are representative of the entire City workforce. We do, however, note that these concerns were raised by almost two dozen City employees, thus meriting thoughtful consideration by the Council.

- Many interviewees expressed concern that the Human Resources Department reports directly to the General Counsel's office. We understand this reporting structure to be a relatively recent development for the City. Many interviewees expressed a perception that the General Counsel's office views itself as the "Mayor's personal law firm." Accordingly, numerous interviewees who complained of adverse action based on political opposition to the administration expressed discomfort with HR reporting directly to the General Counsel's office. Numerous interviewees recommended that HR have a degree of separation from that office. We note that the administration witnesses did provide what they considered to be detailed justifications for placing HR under the supervision of the General Counsel. Specifically, administration witnesses expressed that this reporting structure is meant to encourage increased interaction between HR and legal counsel, in order to avoid legal actions and the incurring of inordinate fees to outside legal counsel. We express no opinion as to the merits of the complaints raised by the interviewees, but we do note that this reporting structure appears to create a problem in terms of perception, which can impact employee morale. We thus recommend removing the Human Resources Department from the supervision of the General Counsel's office. Human Resources personnel can still consult with the General Counsel's office as needed. This change can be accomplished by ordinance, just as the reorganization establishing this reporting structure was achieved by ordinance.
- In addition, the Council may wish to explore assigning a separate legal counsel, still in the Office of General Counsel, for the Office of the Mayor, so that there may be more clarity as to counsel's obligations.
- A number of interviewees expressed a belief that the neutral member on the five-person Labor Management Commission should be a true outside neutral. We believe this to be a good idea that would avoid potential arguments on a going-forward basis that any "neutral" has a bias one way or the other. This recommendation would require a change to the Labor Management process outlined in the collective bargaining agreements.
- A number of interviewees expressed discomfort that they had been solicited by the Mayor directly and/or by his campaign for governor for campaign contributions. Some did contribute because they feared for their jobs if they did not, and others believe that they may have been retaliated against for not making a donation. One person filed an ethics complaint with the City's Ethics Commission, resulting in a reprimand against the Mayor, which has been made public. The Council could consider referring the issue to State or Federal ethics and elections enforcement agencies.
- A number of interviewees expressed extreme discomfort with the identities of interviewers for City jobs. Several expressed that interviewers were biased against them, or were under inordinate influence from (or had been selected by) the administration. In order to avoid any perceived fairness issues in the application process, we recommend that the Council consider recommending that the Human Resources department retain an outside agency or neutral vendor to select interviewers for certain positions, such as for director and deputy director. This would require a collective bargaining agreement amendment.
- A number of interviewees expressed frustration with "outside candidates" (with -- the interviewees argued -- little relevant experience) being "pre-selected" for positions based on political support for the administration or on a personal relationship. We express no view as to the merits of the arguments, but again, this is a problem of perception and morale. The Council may wish to consider changes to the relevant collective bargaining agreements that would offer jobs to department employees then union members before offering them to outside applicants.
- This same problem of preselection prior to the interview process apparently exists also with internal, union candidates. Human Resources should insure that preselection for any position does not occur.

- A number of interviewees expressed extreme frustration with the fact that Board of Education employees are hired, supervised, disciplined, and fired by the City, rather than BOE. We recommend that the City allow the Board of Education more autonomy over hiring employees that will work for BOE. This would require a Charter revision to Chapter X, Section 1, related to Classified Service.
- A number of interviewees recommended that the results of Maximus (or "Archer") studies be made available to employees and their unions, in order to avoid confusion as to the results of salary review processes. Administration witnesses stated that the test is proprietary, and revealing results would be counterproductive, as applicants would tailor their applications to the criteria set forth on the test. On the other hand, transparency in the process would be welcome to applicants, and knowing the criteria is not necessarily different than knowing the requirements of a job description and tailoring one's application accordingly. We thus ask the Council to consider this issue. This would be a collective bargaining matter.
- Many complaints regarding perceived unfairness of the hiring and promotion process could be addressed by a more formalized merit system. Consider adopting the Merit System for hiring and promotion as provided for in the CT General Statutes § 7-407. This would have to be voted on by electors.
- We heard from some Common Council members that they felt the Mayor should not run Common Council meetings, Removing that role would require a Charter amendment.
- Although we do not recommend disciplinary action against this Mayor based on the facts uncovered in our investigation, a number of interviewees expressed frustration that there is no formal procedure by which a mayor could be disciplined in the event of misconduct. Indeed, should the Common Council determine that there has been wrongdoing on the part of a mayor, there is no formal mechanism by which it can voice its disapproval. For example, Connecticut law prohibits impeachment of the mayor. Robert's Rules of Order, under which the Common Council operates, provides for censure of a member only. Given that the Charter provides for the Common Council's investigation of a mayor, it could be amended to provide for censure should such an investigation indicate that such formal reprimand would be appropriate.

We have provided a list of our recommendations as part of this report. We look forward to discussing these issues with you.

TO: Middletown Common Council

FROM: Margaret Penny Mason, Esq. Daniel P. Elliott, Esq.

DATE: August 6, 2018

RE: Recommendations

Our investigation resulted in the following recommendations:

- Take Human Resources back out of the Office of General Counsel, creating a Human Resources Department, with a professional human resources director who reports to the Mayor. This would be accomplished by ordinance.
- Restructure by ordinance the Office of General Counsel so that one Deputy Counsel is designated to advise the Mayor, and another to advise the Common Council.
- Amend labor agreements to provide that the neutral member of the Labor Management Commission is from an outside agency.
- Amend labor agreements to require Human Resources to retain an outside agency or neutral vendor to select interviewers of qualified candidates for open positions for which interview panels are currently used.
- Amend labor agreements to require Human Resources to insure that preselection for employment positions does not occur.
- Amend labor agreements to provide that open positions are offered first to same department employees, then union employees, then outside candidates.
- Allow the Board of Education autonomy with regard to hiring, disciplining and firing of employees that work for the Education Department. This would require a Charter revision to Chapter X, Section 1, related to Classified Service.
- Consider amending the labor agreements such that the results of the Maximus (or "Archer") study used in the hiring process are made available to the subject employee,
- Consistent with the separation of powers between the legislative and executive branches, revise the Charter to remove the Mayor as presiding officer of the Common Council with a tie-breaking vote.
- Consider changing the hiring and promotion process altogether by adopting the Merit System provided for in the CT General Statutes, S 7-407 et seq. This would require a vote by the electors to answer, "Shall a Merit System for selecting and promoting public employees be adopted?" The

Charter would be amended to create a Civil Service Commission. Implementation of the merit system would be accomplished by ordinances. Collective bargaining agreements would need to be amended accordingly.

- Consider a Charter amendment to provide for censure of a mayor should the Common Council conclude such action is appropriate.

C. Public Hearing Opens

The Chair opens the public hearing at 6:23 P.M. He explains that they will allow for a public hearing. He explains that there are rules for anyone wishing to speak. The speaker should announce their name and address and will have five (5) minutes to speak. Seeing no one wishing to speak, the Chair closes the public hearing.

D. Public Hearing Closes

The public hearing closes at 6:24 P.M.

E. Question/Discussion: Investigator and Common Councilmembers

The Chair states that at this points there is questions/discussion with Attorney Mason.

The Chair calls on Councilman Gerald Daley.

Councilman Daley asks Attorney Mason to summarize the services that her firm was engaged to supply to the Common Council per your engagement letter and the authorizing resolution.

Attorney Mason replies, yes, that they were authorized to investigate a claim of discrimination by Michelle DiMauro and issues of ethics and campaign law violations and them as described, the scope of the investigation would expand depending on what we found.

Councilman Daley replies, okay. He then states that he wants to read the actual language, adding that he has a few concerns. He states that the authorizing resolution that was adopted by the Council in January states that we would waive the purchasing – normal purchasing procedures of the Council to allow the hiring of an outside law firm or professional organization to assist the Common Council in conducting an investigation of the Office of the Mayor and the Office of the General Counsel as well as in responding to the letter from the members of UPSEU Local 6457 Executive Board. He states there is nothing there about expanding the scope. He remarks that her engagement letter states that the purpose of this letter is to confirm the terms of engagement to represent the Common Council of the City of Middletown in conducting an independent investigation of the Office of the Mayor and the Office of the General Counsel in connection with a complaint of the alleged violation of the City's sexual harassment policy as well as in responding to correspondence from UPSEU Local 6457 in accordance with the Resolution 10-18, dated January 2, 2018. It is expected that the law firm will provide the Council with a report of findings and recommendations within 60 days. He asks what authorization was there for Attorney Mason to expand the scope and to into these other areas.

Attorney Mason states that they did indicate that we would, as we got . . .

Councilman Daley interjects, asking where was that indicated.

Attorney Mason replies, under fee arrangement. She continues, stating that, as we approached the 30 days and the amount of money authorized, we would discuss arrangements for continued work. She states that, when it became known that we would be undertaking this investigation, people called – contacted us – and asked to be interviewed, and so, because we did not know what the subject of their interview or comments would be, we listened to them and came up . . .

Councilman Daley interjects, asking if there was a screening or telephone conversation. He asks if, before incurring costs for the City to have in-depth interviews with these people, was there any kind of preliminary screening to determine if they had information relevant to her charge, to her mission so to speak.

Attorney Mason begins to reply, saying . . .

Councilman Daley interjects, saying that it seems like a lot of them brought up stuff that had nothing to do with the complaint.

Attorney Mason replies that they felt that the charge was broad enough to hear complaints about the hiring processes, which is what Michelle DiMauro's complaint was about.

Councilman Daley replies that the allegation was very specific as far as . . . it cited a City policy, a sexual and other harassment policy, adding that noting in the report indicated whether she found evidence to substantiate or refute the allegation of whether the policy was violated. That was the whole purpose that she was hired for.

Attorney Mason replies that what they said in the report was that they did not find that there was a violation by the Mayor.

Councilman Daley replies, so, again . . . he asks, who is your client in this engagement.

Attorney Mason replies the subcommittee of the common Council and the . . .

Councilman Daley interjects, saying that is not correct.

Attorney Mason continues, completing her sentence, saying . . . Common Council.

Councilman Daley states that she had one client: the Common Council. He adds, the subcommittee of the Common Council, the resolution, passed by the Common Council in January, states that “a subcommittee of the Common Council, comprised of the Majority Leader, the Deputy Majority Leader, and the Minority Leader, be appointed and authorized to sign an agreement on behalf of the Common Council to retain such outside law firm or professional organization and that a majority of the signatures of said subcommittee shall suffice to authorize such an agreement.” He states that they had no other authority or role or purpose. He asks Attorney Mason if she took recommendations, or did they in any way provide information that influenced her report.

Attorney Mason replies that they did not.

Councilman Daley remarks that Attorney Mason mentioned in the report that she heard from some Councilmembers. He asks if the members that she heard from were not from that subcommittee.

Attorney Mason replies that she interviewed people who requested to be interviewed, adding that several of them happened to be Council people.

Councilman Daley replies, okay. He asks Attorney Mason if she received suggested areas of inquiry and/or possible recommendation from the subcommittee members, other City staff, or other Councilmembers.

Attorney Mason replies that she did not.

Councilman Daley replies okay, okay. He states that copies of the bills that he obtained from the Finance Department have missing pages and large sections that are redacted or hidden. He asks Attorney Mason if she can explain why that was the case and who made those redactions.

Attorney Mason replies that she does not know the answer to that question, adding that she does understand that this information under Connecticut law is privileged, and adding that she did not make those redactions . . .

Councilman Daley interjects, saying, again, and asking Attorney Mason who her client is.

Attorney Mason replies: the Common Council.

Councilman Daley remarks, that, therefore, he has a right to that information, and that he has a right as much as anyone else, adding that, obviously someone in the City received that information because it was in her bill.

Attorney Mason replies that she is not aware of who did the redaction.

Councilman Daley asks Attorney Mason who she submitted bills to.

Attorney Mason replies that’s he believes that the bills were submitted by her staff to the Common Council Clerk’s office.

Councilman Daley replies, okay. He asks Attorney Mason if she received information from any individual with whom she had a prior acquaintance prior to her engagement, who had involvement in this investigation.

Attorney Mason replies, no sir.

Councilman Daley asks Attorney Mason if she did not have a prior social acquaintance with the Clerk of the Common Council.

Attorney Mason replies no, she did not.

Councilman Daley replies, okay, adding that he was advised that Attorney Mason did, adding by her (Council Clerk).

Attorney Mason replies, that’s incorrect.

Councilman Daley reiterates, by her, adding that your kids played on a team or something together.

Attorney Mason replies that she did not remember until the Clerk pointed it out to her, adding that she does not consider that a “social relationship.”

Councilman Daley replies okay. He continues saying, that, at the time . . . he asks Attorney Mason if the Council Clerk was one of the witnessed interviewed.

Attorney Mason replies that she is not going to answer that question.

Councilman Daley asks if Attorney Mason provided any information, preliminary findings, draft recommendations, or outline, bullet points to anyone prior to tonight.

Attorney Mason replies that she gave an oral report to the subcommittee.

Councilman Daley ask Attorney Mason if she retained assistance from any other parties in formulating the report, recommendations, or advice concerning that meeting that was scheduled for last Monday (August 6, 2018) or for tonight’s meeting, for example, the parliamentarian that has been referenced. He asks Attorney mason if she engaged her (the parliamentarian).

Attorney Mason replies, no, she did not.

Councilman Daley replies, okay. He states that Councilwoman Bartolotta stated last week that the subcommittee held an executive session with Attorney Mason that was properly noticed, yet there is no evidence in the Town Clerk’s office of notice or minutes of such meeting. He asks Attorney Mason to tell the Council when it took place.

Attorney Mason replies that she does not have that at her fingertips.

Councilman Daley interjects, asking if such a meeting did take place.

Attorney Mason replies that there was a meeting.

Councilman Daley asks Attorney Mason if she remembers approximately when that was.

Attorney Mason replies that she cannot recall the date.

Councilman Daley asks Attorney Mason if she would agree that the entire Council has a right to disclosure of any information transmitted between herself and the subcommittee.

Attorney Mason replies that it is not for her to say.

Councilman Daley asks Attorney Mason if she understands attorney/client privilege. He continues saying, if the client is the Common Council, each of us is equally her client, adding if he is correct on that.

Attorney Mason replies that she did not have any request from any other Councilmember for any kind of information.

Councilman Daley replies, saying he is making a request here, on the record, that she preserve any documents or communications that were transmitted between herself and the subcommittee, adding that he is requesting copies of them. He continues, asking Attorney Mason if she reviewed the 2012 taskforce report, that recommended merging what was, at the time, called Human Resources and Personal functions with what was then called the Legal Department.

Attorney Mason replies that she did.

Councilman Daley repeats, that she did, okay. He asks if she reviewed the January 2015 staff report that details the cost savings and other benefits realized since such merger occurred in May of 2013 (sic).

Attorney Mason replies that she did see that.

Councilman Daley repeats, “You did. “

Attorney Mason replies, that she believes so.

Councilman Daley replies, okay, good. He asks Attorney Mason if she reviewed the February 14, 2018 *Memorandum of Decision* in the Step 2 hearing of the grievance filed on Miss DiMauro’s behalf wherein the hearing officer found no evidence of discrimination.

Attorney mason replies that she did review that.

Councilman Daley replies okay. He asks Attorey Mason how that affected the course of her investigation.

Attorney Mason replies that it did not affect her investigation.

Councilman Daley asks if it was then that she opened additional lines of inquiry, adding, if so, why.

Attorney Mason replies, no.

Councilman Daley repeats, no. Councilman Daley asks if her interviews were conducted under oath.

Attorney Mason replies, no.

Councilman Daley asks if the interviewees signed statements summarizing information and answers that they provided and attesting to the truthfulness of such information.

Attorney mason replies, no.

Councilman Daley repeats, no. Councilman Daley states, ok, that is all that he has for now.

The Chair calls on Councilman Eugene Nocera.

Councilman Nocera thanks Attorney Mason and Attorney Elliot for their work on this matter and their recommendations. He states that he personally sees some of the recommendations are very interesting for the Council to pursue. He states that what concerns him, and Councilman Daley's questions, leaves some of the Councilmembers to ask themselves if the investigation moved in area that were not pertinent to the underlying charge. He adds it also concerns him that they have a situation where 20 to 25 individuals requested to be interviewed and the Council knows the interview process that occurs, that could be an unfair side being presented. He hopes that she tried to balance by reaching out to others.

Attorney Mason replies that they interviewed people, who reached out to them, and they interviewed the administration folks, who were named. They would not know who might balance what they heard from the people who reached out to, except for the administration folks, who had what they considered to be justification for things that they raised with them, brought to our attention . . .

Councilman Nocera interjects, asking Attorney mason if she would agree that, given the protocol she used could lead to a biased set of information unless she tried to reach out to others to validate or . . . what was being said.

Attorney Mason replies that, as said in the report, what they learned was obviously not what everybody -- every City employee -- felt. She restates that they did not know how to get another perspective other than asking the members of the administration to respond to issues that the interviewees raised. She adds that the administration could have suggested people to be interviewed if they felt. They talked to people who called them and said, "Interview me, please."

Councilman Nocera replies that the interview process, the interviews, are oftentimes, expected in a situation like this, the Council would expect counsel hired to undertake that approach so that we have fair and balanced data presented to the Council.

Attorney Mason replies that they would have been happy to talk to anybody that the administration asked them to interview, adding that is all she can say.

Councilman Nocera states that he must repeat that there are a number of recommendations that are clearly interesting to him, personally, to move on. Thank you.

The Chair calls on Councilman Philip Pessina.

Councilman Pessina offers his apology for his action the other evening, adding that he hopes that she understood, adding that he thinks she did, that they were so anxious to get this report because of the information that the Mayor, himself, put on Facebook, which did not help our community. Because it became divisive and it also attacked the Councilmember's' integrity and her integrity. He notes that Attorney Mason had also remarked that her integrity was under attack that night. He simply wants that to be on the record.

Attorney Mason replies, "Thank you, Councilman Pessina," noting that she accepts his apology and she understands where he is coming from.

Councilman Pessina continues, saying, as Attorney Mason read the report into the record, there were some very thought provoking management changes that she was recommending. He states that, along with what Councilman Nocera was talking about, was the balance of the interviews. He asks if there was any time, noting that she was hearing from, recollecting what she read aloud and adding that he will have to reread it, there was a lot of comment on the process of the Mayor's Office and the Union and what they felt should be a more fair and open process. He adds that for our candidates, who work hard every day in their departments, adding that he applauds the merit system, because he truly believes that there are al of employees in this City government, who work above and beyond and who should be recognized whether by promotion or management review. He goes back to his question: did she ever have an opportunity to speak with Union leadership, noting that there are serval unions, noting that she is being told one thing, adding to be fair, there is that side and this said and the actual truth in the middle. He asks if she had, or

attempted to have, conversations with the Unions about some of these allegations and how Union leadership felt.

Attorney Mason replies that's he does not want to disclose whom she interviewed other than the people in the administration, whom she has named. She adds that a number of the recommendations would certainly require working with the Unions so that the Council can here from the,

Councilman Pessina asks if she, in investigating the initial complaint, did she reach out and ask them if they could have a conversation and talk about some of the information to get a balance between what employees felt because perceptions reality.

Attorney Mason replies that she understands his question, but is not able to answer it.

Councilman Pessina remarks that all he wants to say is that he will look into these recommendations more closely. He notes that he was disturbed, at best, adding he should have controlled himself a bit more. He states that he is a very humanistic person and when he reads things on social media about questions of backgrounds and things that do not pertain to where the investigation was going, it hurts him personally. Secondly, he states he would feel more comfortable if it had not gone to the public, but rather let the Council talk about it: here are the recommendations. At the point when it was put out there, he can honestly tell Attorney Mason that not only community members, but those outside this community have questioned our City. He notes that the City has an unblemished record, noting that we work hard and have a lot of good thing going on in this City. He adds that we are trying to attract great people and great organizations to invest in our community, adding that we do not need this type of dirty laundry being aired out there. He reiterates that this is his personal opinion. With all that having been said, he reiterates that he will look at everything that she has given to the Council regardless of how she got it. He recognizes that some Councilmembers have raised some points, but the fact of the matter is, in his opinion, is that management and labor need to work more cohesively, more collaboratively, to the benefit of the employees in the City. He thanks Attorey Mason for accepting his apology.

The Chair asks if there is anyone else. He states that he would like to ask a question.

Councilman Santangelo states that earlier Councilman Nocera commented on the fact that . . . earlier Attorney Mason had mentioned that people had reached to her and Councilman Nocera commented that was there any attempt at all to balance what she was hearing. He remarks that a couple of things that he picked up on is the comment about the Mayor and how he solicited funds from the City Hall people, but nothing is mentioned that he acknowledged his error and returned the money. He also remarks, asking why, if she couldn't figure out who to contact in the City did she not contact the rest of the Council and ask them if they could recommend anybody

Attorney Mason replies that she did not ask.

Councilman Santangelo replies, correct, she did not ask, adding that he made a comment the other night that he had no idea who she is – only that she existed as counsel out there, somewhere – noting that it is absolutely correct about the fact that many of the Councilmember's were in the dark he acknowledges that they should not interfere with the investigation, but, he adds that, in looking for someone to balance, he notes that there are 12 of them sitting here, who could have provided a lot of names of people, who probably would have talked. He add that they could have offered names so she could talk to others to see how they feel about the City, about the way it's being run, and, going along with Councilman Pessina's comments about what happens here. He remarks that there was basically no attempt to talk to the other nine (9) people.

Attorney Mason replies that she did not ask the Council for the kinds of . . .

Councilman Santangelo interjects, saying there are nine (9) of us, who are very aware of that.

Attorney Mason completes her statement, saying: “. . . information you are talking about.”

Councilman Santangelo replies, okay. He states that he notices that . . . he asks Councilman Faulkner if that is his light.

The Chair calls on Councilman Grady Faulkner, Jr.

Councilman Faulkner apologizes for his late arrival. He remarks that he heard something that was interesting to him: that no one signed any of their statements. He asks Attorney mason if there is a reason or is that the way she practices.

Attorney Mason replies that this is the procedure for this type of investigation.

Councilman Faulkner asks if the statements are taken as fact or hearsay.

Attorney Mason replies that it certainly hearsay, noting that they considered what people said to them and came up with their report, conclusions, and recommendations.

Councilman Faulkner replies, alright. He states that what bothers him is that the Council doesn't really have anything to hang our hats on because they could probably have had a workshop on how to deal with the Mayor and brought in some consultants to do some of that stuff. He wonders if the Council is closer to what needs to be done after such an expenditure. He states that he is surprised, adding that Attorney Mason had no hand in it, but when asking for the extension of dollars, there was not a lot of substantiation other than "we really need some other work to be done," so there is a lot to be desired from this investigation for the money that was spent. He asks Attorney Mason if all the people interviewed were employees.

Attorney Mason replies that not everyone was a current employee, adding that most were

Councilman Faulkner remarks, a current or former employees, no one outside of our staff current or previous.

Attorney Mason replies that is right.

Councilman Faulkner states that is it from his perspective.

The Chair calls on Councilman Gerald Daley.

Councilman Daley expresses thanks for indulgence with is questions. He states that his interest here is only . . . an investigation is normally expecting to see evidence, substantiation, etc., noting there doesn't seem to be a lot here. He remarks that, frankly, a lot seems like a management consultant type of report. He asks Attorney Mason if her firm does management consulting. He asks Attorney Mason if she has any experience in management consulting.

Attorney Mason replies, no. She states that, if this investigation had turned up evidence of wrongdoing, the Council would have seen that, but it did not.

Councilman Daley says thank you. He states that the recommendation about adopting the provisions of the State statutes regarding civil service and whatnot set forth in the statutes, that allows municipalities to adopt some of those procedures, he asks if she looked at how this procedures compare with the City's existing personnel rules because the City has had for a number of years under the personnel rules and under the *Charter* a classified service that, in essence, is the heart of a merit system, classified service. He adds that the City's personnel rules do require selection by merit. He notes that the City has a full set of personnel rules that . . . he is just wondering . . . he guesses that would be one of the things that the Council would do: to look at how the provisions of the State system compared to the City's personnel rules and the provisions . . . the personnel rules and the State statutes would be subject to collective bargaining. He notes that a collective bargaining agreement that set forth the particular process for recruitment and selection would supersede in either case the provisions of the personnel rules of the State statutes. He asks Attorney Mason if that is correct.

Attorney Mason replies that she cannot answer that.

Councilman Daley replies, "You can't. Okay." He asks Attorney Mason if she looked at the personnel rules.

Attorney Mason replies, yes, she did.

Councilman Daley replies, okay. He states that Attorney Mason made a recommendation about a neutral, adding that he is a little confused by that. He remarks that he does not understand where there is flaw in that process. He asks Attorney Mason what her understanding is of the process for selecting the neutral in a job evaluation system. He states, for example, in the UPSEU contract, noting that is the bargaining unit that complained.

Attorney mason replies that's he believes that the neutral is the diversity officer.

Councilman Daley replies, "No."

Attorney Mason replies then she got that wrong.

Councilman Daley volunteers to read what it says: "The review committee will consist of two (2) members and an alternate appointed by Union, two (2) members and an alternate appointed by the City, and one (1) member chose – he remarks, the word should be "chosen" -- by the other members, if needed, as mutually agreed by the parties. He may be a City employee, who is not a member of the Union bargaining unit." He remarks, so you got to remember, select a neutral, adding that it seems like a fair way to him. He states, okay, adding that he guesses that the real elephant in the room, saying he is going to call it out, is did she, in fact, make the inquiries that were alleged in the Mayor's email of August 2nd to the Common Council.

Attorney Mason replies, so . . .

Councilman Daley interjects, asking if she would like him to read the,

Attorney Mason continues, stating that she believes that the Mayor suggested that she I delved into their personal lives, etc. in introducing herself to a witness, finding out about a witness. She states that since Mr.

Smith and Ms. Wisneski and the Mayor raised questions about what she asked them, she feels that she is able to discuss what she did ask them and the reasons for it without violating the confidentiality – the anonymity – that other people had asked for. She explains that she will respond specifically. She states that she did ask Brig Smith what brought him from Michigan, she believes, to Connecticut. She notes that Mr. Smith volunteered to her information about his personally life, adding that she did not ask him about that. She continues, stating that she received from Council Clerk Linda Reed from a woman named Erin Smith had called for her contact information and that the Clerk had given the caller her cell phone number. Attorney Mason thought that this person had given a fictitious name, “Smith” as she did not associate . . .

Councilman Daley interjects saying we know all attorneys are cynical.

Attorney Mason continues, stating that she did not associate “Erin Smith” with Brig Smith, adding that she did receive a call from Ms. Smith on her cell phone and she made some comments – allegations or claims – that Mr. Smith had worked on the gubernatorial campaign on City time. She states that, she asked Mr. Smith if he had done that and he said that he had not, adding “so that was that.” She states that a number of people felt, relative to Ms. Wisneski and questions about how she spend her time and money in connection with the gubernatorial campaign, a number of interviewees expressed or thought it was improper for Middletown legal counsel to holding fundraisers for the Mayor, so she asked Ms. Wisneski about that. Ms. Wisneski replies that there had been a fundraiser at her home that was sponsored by her husband, so that was the end of that. She remarks that she does not know if there were any others . . .

Councilman Daley interjects, asking Attorney Mason if she understand that, under State statutes, public employees have right to political activity.

Attorney Mason replies, yes, she does, adding that is just responding to people’s concerns that they felt it was improper for various member so of the administration to . . .

Councilman Daley interjects, saying, if . . . we have that understanding that, under statute, political activity was, in effect, protected activity, adding that public employees have right to engage in political activity, not on work time, but outside of work hours. He asks Attorney Mason why that would be a relevant topic for this investigation, adding that he is struggling to understand.

Attorney Mason replies that she apologizes if she offended Ms. Wisneski, adding that Ms. Wisneski did not suggest that she should not answer the question or couldn’t answer the question. She remarks that she is happy to apologize to Ms. Wisneski for asking.

Councilman Daley says, okay, adding that, again, he doesn’t want to incur any additional costs for the City or put Attorney Mason through any unnecessary trouble, but, as her client, he would like the detail of her invoices and any other documentation or material that was provided to her in the course of the investigation. He reiterates that he would expect that all of the Council would want that, adding that they are all – each of us – is entitled to it and that would include communications from the subcommittee members, or communications to the subcommittee members. He states that he trusts that Attorney Mason will get that to the Councilmembers forthwith. Thank you.

The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano, state that his questions will go to two areas, one is process and the other is some of the other specific items that she has already addressed. First as to process, he believes that the interviewees would have been the initial complainant, would have included the initial complainant

Attorney Mason replies, yes.

Councilman Giuliano continues, and possibly others suggested by the initial complainant.

Attorney Mason replies that people, who reached out, may have been suggested by the initial complainant, but they interviewed people because they asked to be interviewed.

Councilman Giuliano states that is the group we may call “volunteers,” the people who reached out to Attorney Mason.

Attorney Mason replies, right.

Councilman Giuliano remarks that the third group would be the parties under investigation themselves.

Attorney Mason replies, correct.

Councilman Giuliano notes that this would be the Mayor’s Office and the Office of General Counsel., adding that they were offered an opportunity.

Attorney Mason replies, yes, plus the Human Resources, the two (2) Human Resources people.

Councilman Giuliano asks if they were afforded an opportunity to suggest witnesses or interviewees of their own choosing.

Attorney Mason replies that they certainly were, could have.

Councilman Giuliano asks, in terms of fact-finding, as she pointed out in her report and has said numerous times, witnesses or interviewees were not placed under oath, were not confronted by parties, opponents, were not cross-examined, which in a more formal proceeding that would have all happen. He notes that pretty much all Attorney Mason she can say is that this witness said this and other witnesses said that.

Attorey Mason replies, that is right.

Councilman Giuliano notes that, as such, it's almost like is there enough evidence to get to a jury.

Attorney Mason replies, right.

Councilman Giuliano notes that there is enough here so that reasonable people can differ on the interpretation of it. He asks Attorney Mason if that is correct.

Attorney Mason replies, right.

Councilman Giuliano remarks that, as to some of the specific things: the initial basis for the Council investigation was the labor/management process as it applied to Michelle DiMauro. He asks Attorney Mason if that is correct.

Attorey Mason replies, yes.

Councilman Giuliano continues, noting that he believes that it ended up here because the Human Relations Director did not feel that she could conduct the investigation.

Attorney Mason replies, right, the Diversity person, clarifying the title as the Office of Equal Opportunity and Diversity Management.

Councilman Giuliano asks Attorney Mason if she is familiar with labor/management practices as it applies to UPSEU, that particular union.

Attorney Mason replies, yes, she believes so.

Councilman Giuliano states that the history of this is that six (6) UPSEU members applied for upgrades and the Labor/Management Committee voted to act favorably on four (4) of the six (6). He asks Attorney Mason is she is aware of that.

Attorney Mason replies, yes.

Councilman Giuliano states that it then went to Human Resources Director Tokarz for a review using Maximus study to evaluate them. He asks if that is correct.

Attorney Mason replies, right.

Councilman Giuliano notes that, after that, three (3) of these four (4) ended up in front of the Common Counsel without any additional action taken by the Labor/Management Committee. He asks if that is correct.

Attorney Mason replies that is what she understands.

Councilman Giuliano states that we wouldn't need an investigation to tell us that. We already knew that. He states that what he would like to know is did anybody explain how that happened.

Attorney Mason replies, no

Councilman Giuliano asks if anyone tried to explain how that happened.

Attorney Mason replies that there didn't seem to be an answer.

Councilman Giuliano replies that it's good to know that Attorney Mason didn't get any farther than he did when he asked those same questions. The fact that those matters ended up on Council agenda without being complete causes him to question who did that and why. He repeats the question to Attorney Mason, asking that no one was able to explain that to her.

Attorney mason replies that she believes that Mr. Tokarz explained the process with respect to Michelle DiMauro and she doesn't believe that she ever clearly understood why it ended up in from of the Council without the other process.

Councilman Giuliano remarks that it should have gone back to the Labor/Management Committee, adding that whatever Mr. Tokarz's recommendations were, whatever his analysis was, should have gone back to the Labor/Management Committee to either vote yes or no on them and apparently that never happened.

Attorney Mason replies that is her understanding, but there didn't seem to be an answer.

Councilman Giuliano adds that there is no explanation for that. Another issue or point that the report addresses is the appointment/hiring process by the Mayor. He asks Attorney Mason if she is familiar with the City Charter and the Mayor's hiring authority. He states that the Mayor's ability to appoint or hire is without limitation for all intents and purposes. The Mayor can . . . he can use no process at all, if he chooses. He states that it seems to him, noting he is trying to read between the lines in the report, the complaint in that area is that, whatever process being represented as being used, is not what he was actually using and that appears to be his understanding of what the complaint was. He asks Attorney Mason if that is what she was trying to say or is that something she found.

Attorney Mason replies that she does not want him to read between the lines.

Councilman Giuliano agrees, saying this is probably not a good idea.

Attorney Mason continues, saying that they did not find that Mayor influenced the process, which was the basis of the inquiry.

Councilman Giuliano states that some of his colleagues will remember that, when he was challenged on hiring, he said he could use a monkey with dartboard as the selection process, if he wanted to. The point he is trying to make is, if he says he using a monkey and a dartboard, he had better be able to produce the money and the dartboard. He continues, saying, the report talks about censure of the Mayor and he agrees that the only place he had heard "censure" is in *Robert's Rules*, where the Council, because we adopted *Robert's Rules*, can censure one of our own. He states that he has always taken the position that the Mayor is not a member of the Council; however, last Monday, he heard from the most senior member of this Council, the Corporation Counsel, and the Mayor himself, is that the Mayor is, in fact, a member of this Council.

Attorney Mason replies that she did hear that also.

Councilman Giuliano asks, that being the case, would the mayor not be subject to the same rules as the Council, adding that he would be subject to the same grounds as any Councilmember would be, if he is, in fact, a member of the Council.

Attorney Mason replies, saying "And that would be the question."

Councilman Giuliano remarks that if he will take them at their word. He states that, if the Mayor thinks he is member of the Council, then why should he debate him. Finally, he notes that Attorney Mason also discussed a lot of things that look like they would require amendments to the collective bargaining agreements.

Attorney Mason, replies yes and that she realizes . . .

Councilman Giuliano interjects, saying that is clearly beyond anything.

Attorney Mason notes that Council doesn't engage in that process, but can make suggestions to the legal counsel who does negotiate contracts as to their desires.

Councilman Giuliano states that, to pick up on something that Councilman Daley said about the Labor/management agreement and the suggestion about a neutral being truly a neutral, he asks if there is anything in the collective bargaining agreements, as written now, that would prevent the parties from doing precisely that.

Attorney Mason replies, "Probably not."

Councilman Giuliano remarks that, whomever they have been selecting as the neutral obviously has been agreeable to both sides and, if they don't think it's working then, then they are free to go outside the "usual suspects" for lack of a better term, could they not.

Attorney Mason replies, yes.

Councilman Giuliano states that is all he has for now. Thank you.

The Chair calls on Councilman Eugene Nocera.

Councilman Nocera notes that there are a number of recommendations that clearly, he, personally, feels they should move on so the data is interesting. He wants to go back to the methodology because it does bother him that . . . the interview process is a qualitative process. Accurate and rich data. The best practice in the field is something called the constant comparative method, so that you are constantly comparing information to arrive at valid and reliable recommendations. It concerns him that this process, noting that he has listened to every word that she said, and it doesn't appear – not at all – that there was a constant comparative process. He states that there were those who volunteered and, of course, she interviewed the

main characters in this process, so it does concern him about that. He adds that he hopes, in the future, if she is involved in this, that she chooses a constant comparative process.

Attorney Mason replies, thank you.

The Chair calls on Councilman Grady Faulkner.

Councilman Faulkner states that he read the material and the recommendations, noting that the one thing that he didn't see, and was hoping would pop up, is affirmative action. He asks Attorney mason if there was any talk of affirmative action from those she spoke with.

Attorney Mason replies that there was no talk . . . she does not want to disclose what people discussed with her. She believes that the reports states that a couple of people felt that protected class had something to do with a decision adverse to them, but, he is correct, she did not address affirmative action.

Councilman Faulkner replies to Attorney Mason that, if she thinks of anything, to let him know.

The Chair calls on Councilman Gerald Daley.

Coalman Daley asks if the Director of Equal Opportunity and Diversity Management, as Councilman Giuliano pointed out, the whole reason we are here is that the Director of Equal Opportunity and Diversity Management, who received the initial complaint, felt that she could not conduct the investigation, but, yet, shortly after that, she acted as the hearing officer in the Step 2 grievance and rendered a decision that there was no evidence of discrimination. He asks Attorney Mason how she can explain that, noting that if she could act as a hearing officer, what . . .

Attorey Mason replies that a labor hearing officer was for a grievance.

Councilman Daley interjects, saying the subject was the same, was largely the same. It had to do writhe job evaluation of the position and alleged discrimination.

Attorney Mason replies that she does not know.

Councilman Daley replies that, earlier, she said that she read the grievance.

Attorney Mason replies that she did.

Councilman Daley replies that he read it, too, and that's what it was about.

Attorney Mason replies that she cannot explain why she (Director of Equal Opportunity and Diversity Management) was able to, adding that she does not know the details, she doesn't understand the process sufficiently to understand why she was able to serve as a grievance hearing officer and . . .

Councilman Daley interjects, saying, once that decision was rendered, why did Attorney Mason not just conclude her investigation.

Attorney Mason replies, "Because there was more to it than . . . "

Councilman Daley interjects, saying not under her charge, repeating, not under her charge. Not under what she was . . .

Attorney Mason replies, "Sorry, but I disagree."

Councilman Daley replies, "You do? Hmm?"

Attorney Mason replies, that she disagrees.

Councilman Daley asks Attorney Mason if she would like him to read the resolution again, adding, and the engagement letter again. He continues, saying that her fee, the section that she referred to, says nothing about expanding the scope. He says that he is puzzled and troubled that the Council spent \$40,000 and that there is nothing in this report that gives the Council clear indication of what evidence there was relevant to the complaint. He adds that it does not at all address the question raised in the letter submitted by the UPSEU Executive Board, which was part of her engagement.

Attorney Mason replies that the letter from the labor union . . .

Councilman Daley interjects saying, that she did not address it.

Attorney Mason replies that she did and . . .

Councilman Daley interjects saying, not at all.

Attorney Mason continues, saying that it raised the question of discrimination on behalf of Michelle DiMauro and ethics violation related to the campaign.

Councilman Daley remarks that she was also . . . it asked about responding to the corresponded to the Executive Board. He states that they should have been referred to the State Elections Enforcement Commission, adding that it is the body that had jurisdiction over their issues. That was pretty simple. Anyway . . .

The Chair asks Councilman Daley if he has any more questions, Councilman Daley replies (inaudible.) The Chair notes that Councilman Pessina's light is off and confirms that he is all set. Councilman Pessina replies (inaudible). The Chair asks if there is anyone else. The Chair calls on Councilwoman Mary Bartolotta.

Councilwoman Bartolotta states that her question is: Is it normal for Attorney mason to solicit anyone to come in to be interviewed in this type of investigation.

(Comment that there is sound issue.)

Attorney Mason asks Councilwoman Bartolotta to repeat the question.

Councilwoman Bartolotta repeats the question: Is it normal in this type of investigation to solicit for anyone to come in to speak with her.

Attorney Mason replies, "No."

Councilwoman Bartolotta thanks Attorey Mason.

The Chair asks if anyone else has a question. The Chair calls on Councilman Philip Pessina.

Councilman Pessina asks if Attorney Mason or Attorney Elliott can tell the Council what role Attorney Elliott played in this investigation. He asks if Attorney Elliot was the principle investigator.

Attorney Mason replies that Attorey Elliot accompanied her on interviews and assisted by taking notes. She adds that they also compared thought on the different interviewees.

Councilman Pessina states, so Attorney Elliott was not the principle investigator concerning this investigation.

Attorney mason replies that she was the principle investigator with the assistance of her partner, Mr. Elliott.

Councilman Pessina thanks Attorney Mason.

The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano asks Attorney Mason to clarify, asking if she had subpoena power in this investigation, did she.

Attorney Mason replies, no she did not.

Councilman Giuliano states that the only way Attorney Mason could have interviewed people were if they came forward voluntarily to be interviewed, which is one way.

Attorney Mason replies, correct.

Councilman Giuliano continues, saying two would be if somebody suggested a potential interviewee.

Attorney Mason replies, yes.

Councilman Giuliana continues, adding she could have reached out to that interviewee, but they still would have had to voluntarily agree to talk.

Attorney Mason replies, correct.

Councilman Giuliano adds, finally, the offering – for lack of a better word – "targets" of the investigation an opportunity to some forward and be heard. And the same thing, they could have suggested interviewees, who could have agreed to talk to her or not.

Attorney Mason replies, correct.

Councilman Giuliano states, in terms of everyone talking about what Attorney Mason could have done, or should have done, Attorney Mason in hamstrung, in that sense, in all that she had were those who were willing to talk. He adds that those who di dnot want to talk with her, she had no right to compel them to talk.

Attorney Mason replies, that's right.

Attorney Giuliano remarks that what he finds, noting that he is not an expert on Common Council investigations, adding only as the target of one, but what he finds somewhat unique is the number of people, who were willing to come forward. He notes that, normally, no one wants to talk, so, to him, 29 people is an extraordinary number, adding that they all had something to say, whether it was useful or not. He notes that they were troubled about something, enough to come forward.

Attorney Mason adds, yes, noting that some did not want to be seen by security cameras coming in to City Hall to talk. She remarks that she found that somewhat impressive.

Councilman Giuliano states that, to those who think the report . . . the one thing he would have like to have seen is how the labor/management process broke down. He tried to get that out of the Human Resources Director Tokarz that night the issue was before Council and he could not get a straight answer. He reiterates that he was hoping that Attorney mason might be able to.

Attorney Mason replies, that's he is sorry, but she could not understand it either.

Councilman Giuliano states that, in terms of what the Council has here, he believes that there are suggestions, some of which the Council can do something about and some we cannot, but, he notes that there seem to be steps we can take to allay people's perceptions that something is not quite right. That is how he receives these, asking if that is what she is saying.

Attorney Mason replies, yes, adding to Councilman Pessina's point: the people, who came forward to talk to them, are dedicated employees, noting that they care about their jobs, this City, and they want to see things work fairly.

Councilman Giuliano thanks Attorey Mason.

The Chair calls on Councilman Gerald Daley.

Councilman Daley states that he hates to drag this on, but he needs to follow-up on some of what Councilman Giuliano said. First, it is his understanding that the Council, the client, has subpoena power, so, if there was, in fact, the need to subpoena a witness, she could have asked the Council. It is implicit in the Council's investigatory powers under the charter, adding he may be wrong about that, but was always led to believe that the Council did. He adds that he doesn't know if Attorney Mason has an opinion on that or not. He continues, stating that, secondly, this issue about Councilman Giuliano's surprise of the number of people, who came forward. The Council really doesn't know, noting that he understands and accepts Attorney Mason's read of the individuals, adding that he doesn't know who they were, so he cannot even speculate on what their motives or reasonings were, so, perhaps you take it at face value. He notes that is what she did and should do, but, in reality, this all occurred in a political environment, noting that parts of it had to do specifically with a campaign, so he asks if it is feasible to think that, perhaps, some of them might have had political motives, or other – they might have been, we have heard a lot in the news about disgruntled employees and what they can do – he asks Attorney Mason if she factored those possibilities in at all.

Attorney Mason replies, of course, adding that she did not get that sense.

Councilman Daley states, "You did not. Okay."

The Chair calls on Councilwoman Mary Bartolotta.

Councilwoman Bartolotta states that earlier on, this question was asked about Councilmembers reaching out to Attorney Mason, She states that she believes that Attorney Mason had said that she di dnot want to indulge into exactly the conversation, so she will ask Attorney Mason the question this way: The Councilmembers this evening, who are saying that they had no awareness, or that they are your client, or they have questions about the process, have any of them ever reached out personally and asked her a question.

Attorney Mason replies, "No."

Councilwoman Bartolotta asks Attorney Mason if any showed a concern about the process.

Attorney Mason replies that she did not have anyone – any Councilmember – reach out to her.

Councilmember Bartolotta asks if any of the question tonight, that were posed about the investigation, the concerns, were posed to her.

Attorney Mason replies, "Correct."

Councilwoman Bartolotta states that, for the record, she was not the point of contact for the subcommittee and that the majority Leader was for most of the time until the last couple of months where she dealt with procedural matters, adding that she has never been asked other than does she know what the report says. Other than when the email came out from the Mayor with the suggestions about inappropriate conducts, which was brought to her attention, and which she did state to the caucus that she was not aware, noting

that they seemed to know more than she did about questions. Councilwoman Bartolotta states with that being said and being so public, she asks Attorney Mason this question: Did she ever ask Attorney Mason what questions she asked anybody in this investigation.

Attorney Mason replies, "No."

Councilwoman Bartolotta asks Attorney Mason is she ever suggest any questions for this investigation.

Attorney Mason replies, "No, you didn't."

Councilwoman Bartolotta asks if she ever questioned the type of investigation that Attorney Mason was conducting other than it was the investigation that the Council asked Attorney Mason to conduct.

Attorney Mason replies, "No."

Councilwoman Bartolotta replies, thank you.

The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano asks Attorney Mason, on his behalf, same questions.

Attorney Mason replies, "No."

Councilwoman Bartolotta thanks Attorney Mason and Attorney Elliott for putting up with all of this. She thanks Attorney Mason and for being a very professional and pleasant person to interact with, and notes that that her professionalism this evening and her reputation will continue from this process. She thanks them for coming and speaking tonight.

Attorney Mason replies, saying thanks you and that she appreciates that, noting that it was their pleasure to work on this matter and they appreciate the opportunity to have done so.

The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano states that he would be remiss. He notes that only Councilman Pessina offered an apology, adding that there are many more than Councilman Pessina, who besieged her on Monday night. He says that he owes her an apology and an explanation, noting that his concern was an email and Facebook posting coming from the Mayor's Office had created a firestorm and it was his intention to throw water on and end that firestorm. He thought the best way to end the speculation as soon as possible was to get the report out as quickly as possible. He reiterates that this was his intention on Monday night and he was disappointed that they were not able to do that. He apologizes that his impatience felon her.

Attorney Mason replies, thank you and apology accepted, jokingly adding that it made for good video.

F. Common Council Workshop Closes

There being no further discussion, the Chair closes the workshop at 7:31pm.

3. Adjournment

Councilman Gerald Daley moves to adjourn. Councilman Sebastian Giuliano seconds the motion, The Chair calls for the vote. It is approved unanimously with 11 affirmative votes. The Chair states that the motion passes. The meeting is adjourned at 7:31P.M.

ATTEST:

LINDA S.K. REED,
COMMON COUNCIL CLERK

K: Review/ minutes/ 2018 August 13 Common Council special meeting 13 August 2018