



Findings, Recommendations and Report of the Ethics Review Committee to the Mayor and Board of Aldermen with respect to Ethics Complaint filed against Mayor Donchess (undated but attached hereto) filed by Laura Colquhoun and Laurie Ortolano.

THE COMPLAINT

Insofar as the five (5) page Complaint is attached to this report as Exhibit A, a detailed review of it is unnecessary. Laura Colquhoun and Laurie Ortolano (the "Complainants") made two (2) claims against Mayor Donchess (the "Mayor") each relating to the payment by the City of Nashua and authorized by the Mayor of legal expenses on behalf of Alderman Melbourne Moran, Jr. The first instance related to providing representation in a claim against Alderman Moran's license as a professional social worker. The second concerned attorney fees related to the defense of a civil action against Alderman Moran in which he was alleged to have made tortious public statements against a resident.

On January 30, 2025, the Ethics Review Committee ("ERC") held its initial review of the Complaint pursuant to Ordinance Section 12-32. D. At the time, the ERC found that the Complaint met the technical requirements of that ordinance and, specifically, that it alleged a violation of the conduct regulations of Ordinance Chapter 5. Ultimately the complaint was unsealed at the request of the Mayor, making it a public document.

Complete details of the complaint are in the attachment.

THE HEARING

On March 13, 2025, the Ethics Review Committee ("ERC") held a full evidentiary hearing on both complaints in compliance with City of Nashua Ordinance, Section 12-33 and the Rules of Procedure adopted by the ERC on May 4, 2017. At the hearing, any party wishing to speak was provided an opportunity to do so. Testimony was provided under oath. The ERC heard in detail from Complainants and the Mayor. The relative relevance of the testimony varied extensively, as explained below.

At the close of the hearing, the ERC voted to enter nonpublic session to receive legal advice regarding its obligations going forward. At the close of the nonpublic session, the ERC determined to reconvene at a later date to prepare and issue its report.

FINDINGS

The ERC finds that at the hearing there was minimal dispute of **relevant facts**. There is no dispute that the City paid for the legal fees of Alderman Moran. The dispute is whether the Complainants proved that the Mayor authorized these payments for personal gain. The Complainants submitted an exhibit binder at the time of hearing which the ERC accepted and reviewed. The exhibit list of that binder is attached hereto as Exhibit B.

The Mayor provided a statement and was subjected to more than an hour of cross examination. His testimony was clear and convincing with regard to the actions that he had taken in authorizing payment

of the attorney fees at issue in both cases. The Mayor was especially clear in explaining his motivations for authorizing the attorney fees at issue. Moreover, the Mayor had been before the Board of Alderman to seek approval for funds and consulted with the Risk Manager.

The critical finding which the ERC makes with regard to the Mayor's actions in this matter is that there was nothing about those actions which violated the Conduct Regulations or Ethics Rules of the City of Nashua. We believe that his actions in this matter were not taken with the motivations prohibited by the City's Conduct Rules. Rather those actions were taken for the sound public policy reason of providing municipal support for the citizens of the City who essentially volunteer their time so that the City will have a government and to support paid staff. In this regard, the Mayor provided a detailed history of the litigation which has been brought in the past against various City officials by these same Complainants and the extreme cost to the City of defending that litigation. It is clear to the ERC that if individual members of the City government, both volunteer and otherwise, were compelled to bear such financial burdens, there would be a reluctance to participate in municipal government in Nashua. Lawsuits can be a source of intimidation.

According to the Complainants, the City of Nashua has incurred over \$1.2 million in legal fees to defend her actions. According to the Mayor, the Complainants "sues everyone." There have been 18 lawsuits and at least 12 ethical complaints filed by the Complainants against corporation counsel. The Mayor testified, without contradiction from the Complainants, that none of the ethical complaints were found to have merit. The Mayor has made it clear that he has not only paid the legal fees of Mr. Moran but citizens and volunteers as well as city of employees that have been sued by the Complainants. The Mayor testified he would pay the legal fees, regardless of political party.

The numerous arguments advanced by the Complainants about such things as the Mayor's lack of compliance with State law as to procedural matters or lack of authority to indemnify Alderman Moran and the like are simply irrelevant to the ethical issues purportedly raised in the complaint and are thus not meaningful in the analysis of those ethical issues by the ERC.

During the hearing, each committee member directed and implored the Complainants to show the connection between the Mayor's actions in any personal benefit he received. The Complainants acknowledged that they did not have such evidence.

Specifically, the ERC unanimously finds that the Complainants failed to meet their burden by the preponderance of the evidence that the Mayor violated Ethical Code 5-95. We believe he acted for the public good in showing Alderman Moran and all similarly situated individuals, that if individuals were caught up in the onslaught of litigation brought by these particular Complainants, then the City of Nashua would stand with them. The ERC believes that the message which the Mayor's actions have sent throughout the municipal government is one which benefits the entire City by providing an important level of peace of mind to not only Alderman Moran but to all the City employees and officials who might get caught up in the maelstrom of litigation which local history has shown emanates from the Complainants.

We invite the public to read the entire transcript of the hearings.

RECOMMENDATION

For the reasons explained above, the Ethics Review Committee recommends that no further action be taken on the Complaint which was the subject matter of its proceedings described above.

Dated April 3, 2025

Timothy E. Bush



Lyndsay N. Robinson

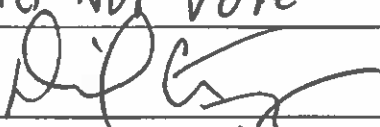


Michael J. Tabacsko

Roger Wiseman

Did Not Vote

David Tencza



John Fisher

