

Missoula City Council
Findings of Investigative Panel
Date: July 13, 2022

To Daniel Carlino:

Council is in receipt of an allegation that you have violated several rules, specifically:

1. Rule 5 of the Missoula City Council Rules, entitled “Conduct of City Council members” adopted by City Council on February 28, 2022, states:

City Council members are subject to federal, state and city non-discrimination and harassment laws. Council member conduct with one another and with staff shall be professional. The City Council President will make arrangements with the City’s Human Resources office to train newly elected City Council officials on responsibilities and obligations Council members have relating to employee relations as part of the official onboarding program. Training is required.

In the event of an alleged conduct violation, a confidential written complaint shall be reported to and investigated by a panel consisting of the City Council President, Vice - President and Chair of Public Safety Health and Operations. Complaints about discriminatory or harassing conduct made to other employees or Human Resources shall be forwarded to the panel. The panel shall conduct a confidential due process investigation of the complaint with the assistance of the City Attorney as set forth in the city’s human resources policies. In cases where a complaint is found to have merit, the panel shall determine and carry out the proper action/sanction up to and including remedies allowed under law. If the complaint is against an investigation panel member, the Land Use and Planning Committee chair shall serve in their stead.

2. Admin Rule 22 under City policies states:

Under Prohibited Uses of City email:

3) Solicitation of funds, political messages, and any harassing messages are specifically prohibited. All messages are subject to the Personnel Policies and Procedures and all state and federal rules, such as Human Rights Act (MCA 49), as amended.

3. City of Missoula Information Technology Acceptable Use Policy

4.3. Unacceptable Use

The following activities are, in general, prohibited.

Email and Communications Activities

2. Any form of harassment via email, telephone or paging, whether through language, frequency, or size of messages.

Councilor Training:

On November 29, 2021, you, as a newly elected city councilor, received training from Human Resources regarding new employee information; in other trainings, City Clerk Marty Rehbein and City Attorney Jim Nugent spoke to email use in regard to public records requests; and in December of 2021 when newly elected councilors met with council chairs, in person, the theme of respecting city staff in all interactions was discussed and emphasized.

Complaint:

On June 21, Police Chief Jaeson White sent a complaint to Council President Gwen Jones regarding an email you sent to Chief White on June 15, during the time period that Chief White was testifying in the Public Safety Health and Operations Committee for Missoula City Council, on the Entheogenic Resolution for the Decriminalization for Entheogenic Substances, sponsored by you. The email was sent approximately two minutes into Chief White's testimony.

From: Daniel Carlino <CarlinoD@ci.missoula.mt.us>

Sent: Wednesday, June 15, 2022 10:49:40 AM

To: Jaeson White <WhiteJ@ci.missoula.mt.us>

Subject: Can't wait to see you fired

You are a toxic police chief who doesn't care about our safety or improvement as a society.

In his Complaint, Chief White alleged the email was unprofessional and unethical, and alleged the email was sent "...in an effort to intimidate, threaten, harass and retaliate...".

Investigation:

This panel was convened to investigate the complaint, determine if Council Rule 5 was violated and list the remedy.

The information regarding this investigation was sent, via email, to you on July 6, 2022, and included attachments consisting of City Council Rule 5 and the complaint.

On July 7, 2022, you sent a document entitled "Complaint Response" to the City Council panel, consisting of a letter addressed "To whom it may concern", and apologizing for not upholding a professional workplace environment by sending the email to Chief White on June 15, 2022.

After factfinding by the panel of Council members as well as the City of Missoula Human Resources Department Head and Deputy City Attorney, this panel finds:

That you did violate Rule 5 of Council Rules.

The evidence substantiates that your behavior likely violates City of Missoula policies embodied in Admin Rule 22 and IT Rule 4.3.

We acknowledge your written letter of apology and your admission within it that you did not uphold a professional workplace environment.

We offered you an opportunity for due process and you have chosen to respond in writing. You were invited to attend an in person meeting on July 11, 2022, and chose to not attend.

Your violation of Rule 5 is significant for several reasons:

Council and staff expect to be treated professionally in their interactions with each other, to provide the best service to the community of Missoula. **If staff is providing relevant information on a topic Council is deliberating, staff should not be threatened merely for having a difference of opinion.** This can have a chilling effect on all city staff to provide information to Council. **It's not difficult to imagine that such an email could be sent with intent to influence the testimony of city staff, which would undermine the free exchange of ideas.**

City Council plays a role in appointing and removing City of Missoula department heads. To communicate with any staff as you have done damages the credibility and integrity of our hiring process, as well as overall trust in councilors by staff. **Further, it is personally damaging to staff to be threatened in this way.**

Council strives for a constructive working relationship in the City that is collaborative and based on mutual respect. Unprofessional actions can compromise that relationship. It can dissuade staff from fully collaborating and providing their honest professional guidance. **If staff are in fear of potentially being threatened by councilors, this damages the legislative process and is not in the community's best interest and is not quality representation for our constituents.**

This is your first warning of violating Council's rules. This letter of warning will be filed with the City of Missoula Human Resources Department.

Finally, in no way should this warning letter be construed as an attempt to limit your abilities to fulfill your oversight duties under the City Charter. Any member of Council can act professionally to offer incisive questions and constructive criticism to ensure the City of Missoula is well run with good staff and effective policies; indeed it is our duty as Council members.

Council leadership has spent a significant amount of time ensuring good onboarding training for all newly elected councilors, and providing guidance, mentoring and advice. We will continue to provide that guidance, in order to help councilors provide the best service possible to the community. As always, we remain available to you if you have questions or concerns.

Signed:

Council President, Gwen Jones

Council Vice President, Jordan Hess

Public Safety Health and Operations Chair, Stacie Anderson