



House Oversight Committee | Information Request

30 August 2024

Was any of the harassment, claimed by the three former city employees, committed by current city officials (elected or unelected)? Did any elected official involved in the harassment formally approve the settlements which then would keep their harassment secret? If so, who?

The former employees documented alleged harassment by certain elected officials in their settlement demands, which have been released publicly. There were no documented claims of alleged harassment against current City employees. Current elected officials include M. Matson, R. Dunn, Meginnis, Gripp, Jobgen, Kelly, Lynch, Newton, Reinartz, T. Dunn, and Burkholder. Newton, Reinartz, T. Dunn and Burkholder were not elected to the City Council until after the allegations were settled.

Based on currently available information, no elected officials who allegedly engaged in harassment voted to approve the settlements. All three agreements were ratified in open session at the December 13, 2023 City Council meeting. Members voting aye were: R. Dunn, Meginnis, Gripp, Condon, Jobgen, Ortiz and members voting nay were: Kelly; (Lee, Lynch, and Dickmann were absent).

Have the elected officials involved in the harassment, harassed any other City employees who have not come forward?

Yes, but the alleged victims of the harassment requested that they remain anonymous and no official complaints were filed by those individuals. The City has an internal written employee complaint and harassment policies which contain confidential complaint procedures designed to encourage victims of harassment to come forward. The City investigates all such harassment complaints regardless of the status of the person who is named in the complaint. The City also investigates other “informal” reports/complaints of harassment outside the formal complaint procedures, including complaints involving elected officials.

Have any City employees been forced to keep the harassment secret under threat of retaliation by current elected officials?

No, the City is not aware of any such occurrence.

Why was Spiegel paid so much more than Torres and Thorndike?

All harassment claims are evaluated on a case-by-case basis. After consultation with its outside legal counsel, the decision to settle Ms. Spiegel’s claim was made by the City Council based upon

the known facts and consideration of the potential liability risks to the City. The other settlements were based on a similar evaluation by the City under the facts and circumstances of each case.

Spiegel was allegedly harassed for eight years, what if anything was done during those eight years to stop the harassment?

The response to this question will include two parts: (1) an overview of the steps taken to mitigate the harassment that led to the settlement agreements, and (2) an overview of steps that have been taken since to mitigate any possible future exposures.

1. The city made efforts to mitigate potential harassment. Mitigation steps included the following:
 - a) Written communication warnings to cease inappropriate behaviors;
 - b) Meetings with certain elected officials advising them that behaviors as to City employees were inappropriate and advising them that behaviors should cease immediately;
 - c) Advising certain elected officials that continued inappropriate behaviors may result in City or personal liability;
 - d) Communication protocol implementation, prohibiting direct communications with the affected City employees;
 - e) Car riding policy, prohibiting elected officials from transporting City employees in their personal vehicles; and
 - f) Removal of an elected City Council member.

2. The City has taken additional steps to mitigate any **future** exposures and incorporate lessons learned. Mitigation steps have recently included the following:
 - a) **Physical space reconfigurations:** In the past, the administration, council, and mayor administrative support personnel were co-located in the City Council's office. In December 2023, the space was reconfigured to relocate the administrative personnel offices to the Administration Department. This ensures that administrative support personnel are not located in a closed-door office with elected officials who frequently come in and out to retrieve mail, discuss political matters, etc. without supervisory personnel present. This has been a positively received change and has allowed for elected officials to have private office. Additionally, a card reader was installed on the City Council office door so that access reports can be retrieved if it is ever necessary.
 - b) **Mandatory elected official training:** Beginning in December 2023, all returning and incoming elected officials are required to go through discrimination, harassment, and retaliation training led by outside legal counsel. The training is provided by Attorney Allison Wright. The training includes an overview and education on governing laws including the Iowa Civil Rights Act, Title VII, ADA, ADEA, Equal Pay Act, and applicable local ordinances. It also includes education on protected classes and prohibited conduct. The presentation concluded with practical tips for elected officials. Lastly, the Human Resources Director provided a brief training on applicable administrative policies.
 - c) **Communication procedures & enforcement:** The City has had a standing practice that allows for elected officials to communicate directly with department director level employees and other employees as identified by the City Administrator or department heads from time to time. These proper protocols have been trained

and reinforced with all returning and incoming elected officials. This protocol also provides for elected officials to copy in the City Administrator so that communications are known and interventions can occur if necessary.

- d) **Code of Conduct:** In the annual goal-setting process that occurs in January and February of each year following the election, the currently seated City Council identified the implementation of an elected official code of conduct as a key priority for the calendar year. A team of four elected officials were appointed to a committee to draft the code of conduct for the full City Council's consideration and adoption. As of the date of this letter, a draft has been prepared and reviewed with the City Council at a public meeting on July 16, 2024. Additional modifications are underway, and it's anticipated that the full council will formally consider this action item in Fall 2024.

EXHIBITS:

- i. **Training Packet** | A copy of the discrimination, harassment, and retaliation training provided by Attorney Wright is provided.

What is the point of an open meetings law if City officials can circumvent it by acquiring "consent" in private?

While most actions of a city must be taken in an open session, the Legislature has determined that certain actions may be authorized in a closed session for practical reasons. For example, a city may authorize the purchase or sale of real estate in a closed session. See Iowa Code §21.5. This is necessary to avoid premature disclosure that would affect the city's ability to freely negotiate the price of the property. Similarly, hiring discussions and decisions of City personnel are generally made in closed session to avoid reputational harm to those individuals. Finally, and most applicable to your question, the Iowa Supreme Court has held that authorization of legal counsel to settle litigation claims may be made in closed session and is not a violation of Iowa's open meetings law. See *Dillon v. City of Davenport*, 366 N.W.2d 918 (Iowa 1985). In that case the Iowa Supreme Court stated:

"The only practical method of providing authority to the city attorney to negotiate is in closed session. To make a public disclosure and alert the opposing side to proposed settlement negotiations would be self-defeating."

We find no merit in the claim that the resolution is void because it was passed in closed session." (emphasis added)

Thus, there are legitimate policy and fiscal reasons why the Legislature and the courts have recognized exceptions to the rule that all city council decisions must be made at an open meeting. It would be entirely impractical and counter-productive to require any governmental body to negotiate contracts or legal settlements at public meetings. The City Council acted legally and in good faith when it authorized the City Attorney, Tom Warner, to negotiate and enter into settlements with the three individuals and when the City Council voted in open session to ratify those settlement agreements.

Why are you taking a citizen to court who is requesting information instead of simply denying the request and allowing the process to play out?

The City followed the procedures authorized by the Legislature in Iowa Code Chapter 22 when it filed the declaratory judgment action as to the request to release Ms. Spiegel's demand letter. Iowa Code §22.10(4) specifically authorizes the City to request a ruling from the District Court as to whether a particular record is confidential and whether it must be released. The City is utilizing that procedure here. While Mr. Sidran is a named defendant, the City did not, and is not, seeking any relief against Mr. Sidran. He does not even have to participate in the case, and there are no consequences if he chooses not to participate. If the City were to simply deny the request and allow the process to play out, it would subject the City to potential liability under Chapter 22. The Legislature authorized this procedure so that governmental bodies like the City are not placed in a "no win" situation by allowing the City to seek a court ruling on whether the records should be released without violating Chapter 22 or the confidentiality of City records.

Why is the City of Davenport fighting efforts for more transparency?

The City is not fighting any transparency efforts. The City has worked, and will continue to work, diligently to increase its transparency efforts. An overview of the transparency initiatives are as follows:

- 1. Public Meetings & Comment Opportunities:** The City Council meets in open session four times per month on Wednesday evenings at 5:30 PM. The first and third Wednesday are committee of the whole, and the second and fourth Wednesdays are City Council meetings. The City provides an opportunity for speakers to address the City Council on any, and all, agenda items for up to five minutes including each individual item at committee of the whole. The City also permits citizens to make general comments to the City Council for up to three minutes each following the City Council meetings. Additionally, the council packet is posted twelve days ahead of the City Council meeting where the voting occurs and includes background information and relevant attachments. The packet is easy to access in an online system. Many of these processes are not required and are more generous and transparent than what other Iowa municipalities afford their citizens.
- 2. Chief Communications Officer Recruitment:** In February, the City identified transparency and improved communications as a key goal within the City Administrator's annual workplan. In early May, the City posted a Communications & Media Partnerships position recruitment process that has since been rebranded to a Chief Communications Officer. As identified in the job posting, one of the primary responsibilities of this cabinet-level position will be to develop and recommend an overall public transparency strategy. The selected candidate started with the City on August 19, 2024.
- 3. FOIA:** The City has always prioritized its FOIA program which is assigned to the Deputy City Clerk. The City has an interactive online submission system where requestors can track the response progress and receive all responses electronically. Below is a table illustrating the number of FOIA requests that have been received and addressed by the City for the last three calendar years.

Calendar Year	FOIAs Completed
2022	297
2023	525
2024	371

*The CY 2024 number is YTD as of August 20, 2024.

4. **Financial Data:** The City has been widely recognized for its financial transparency. Most recently, Moody’s Investor Services assigned a Governance Issuer Profile Score of G-1, the highest rating possible. In the credit opinion, Moody’s stated the following: *“Budget management and transparency and disclosure are strong with the city posting monthly financial updates online and multiyear projections.”*

Additionally, the City posts a monthly financial update on its website where users can track budget to actual and identify any variances. All of the City’s formal budget and accounting documents are posted online and linked for easy access. Budget workshops are recorded and also posted online, where the public is able to view all of the same attachments that are provided to the decision-making body.

5. **Accreditation Processes:** The City is committed to providing professionally managed services that meet or exceed industry standards and invites subject matter experts into its operations to evaluate its processes and procedures. The City currently has six accredited departments to include: police, fire, code enforcement, parks & recreation, public works/engineering & capital, and library. Additionally, the GFOA has formally recognized both the City’s budget document and its annual comprehensive financial report for decades through its related awards programs, and the City just received its first ever award for its investment policy.

Department	Initial Accreditation
Police	2006
Fire	2011
Code Enforcement	2022
Parks & Recreation	2011
Library	1986
Public Works	2007

EXHIBIT:

Benchmark Analysis | In this benchmark analysis across 11 other nearby cities, Davenport ranks among the cities offering the most access to the Council for public comment without the need to pre-register, five minutes to speak on agenda items and no time-based limitations on the number of people who can speak.