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June 16, 2022

Via Email
cstrome@newrochelleny.com

Charles B. Strome III
City Manager
City of New Rochelle
515 North Avenue
New Rochelle, NY 10801

Re: Advisory Opinion on Complaint Filed by Robert Cox dated March 20, 2022.

Dear Mr. Strome:

We represent the New Rochelle Board of Ethics. In this matter, one of the three members of the Board recused herself. The remaining two members agreed on a common set of facts. They agreed in part, and disagreed in part, as to the appropriate conclusions.

The Board hereby submits its advisory opinion.

Should you have any questions, the Board will make itself available at your convenience.

Sincerely yours,

Peter A. Meisels

Peter A. Meisels

Wilson Elser Moskowitz Edelman & Dicker LLP

PAM:kt
Enclosure

Charles B. Strome III
City Manager
June 16, 2022
Page 2

cc:

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ETHICS BOARD OF THE CITY OF NEW ROCHELLE

Advisory Opinion

The Complaint

The New Rochelle Board of Ethics received complaints filed by Robert Cox, dated March 20 and two dated March 28, 2022 (the "Complaint Letters") (copies annexed hereto as Exhibits A-1, A-3 and A-4), alleging that Mayor Noam Bramson violated the New Rochelle City Charter, the New Rochelle Ethics Code and /or New York State law by:

- 1) Seeking his appointment by the City Manager to the position of Commissioner of Development, for which he did not meet the qualifications provided for in the City Charter;
- 2) Efforts to have the City Manager rescind the appointment of Chief of Staff/Corporation Counsel Kathleen Gill to the position of Deputy City Manager/Corporation Counsel.
- 3) Seeking to install a person without the Charter required qualifications as City Manager.

Introduction

During the course of the Board's investigation and deliberations concerning the complaint of Robert Cox, the Board considered the testimony offered by Mayor Noam Bramson, all members of the City Council, the Development Commissioner Adam Salgado, the Human Resources Commissioner Robert Yamuder, the City Manager Charles B. Strome III, the Deputy City Manager/ Corporation Counsel Kathleen Gill, and the Chairman of the Business Improvement District Mark Jerome. In addition, the Board considered correspondence dated April 13, 2022, received from the Mayor's attorney, Steven Leventhal and a memorandum from the City Manager to the Mayor, attaching an ethical opinion from the International City/County Management Association ("ICMA") and two opinions from the City's labor counsel.

Jurisdiction of the Board of Ethics

Authority Granted By the Ethical Code

The New Rochelle City Charter establishes a Code of Ethics for officers and employees of the City of New Rochelle, which promulgates rules “in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.” § 94.02(1) Section 94.02(3) sets forth standards of conduct, including the prohibition of gifts over \$25 in circumstances giving rise to an appearance of impropriety, the disclosure of interest in legislation, prohibition of the use of one’s office to obtain unwarranted benefits for others, a *recusal requirement where a matter may financially benefit the officer or employee’s interest*, disclosure of financial interest per the annual financial statement required by Chapter 33 of the Code. § 94.02(3) (a), (e), (i), (m), (o).

In addition to the authority to receive and investigate a complaint to the extent it alleges a violation of financial reporting requirements (New Rochelle Code § 33-11(A)(5)) (authority to investigate alleged reporting requirement violations), the Board of Ethics also has the authority to investigate and issue an Advisory Opinion as to allegations concerning possible violations of other provisions of the General Municipal Law and/or the City’s Code of Ethics regarding *non-reporting* related violations, provided that it receives a written request for such an advisory opinion from a municipal officer or employee. See New Rochelle Code §§ 33-9(E) (Board of Ethics has all powers provided by GML Article 18); § 33-16 (authority to issue advisory opinions upon written request from anyone subject to Board’s jurisdiction); § 33-17(B) (Board has authority to conduct any investigation necessary to carry out the provisions of this article); General Municipal Law § 808(2) (authority to issue advisory opinions “with respect to this article and any code of ethics adopted pursuant hereto”).

§ 33-16 Advisory opinions.

Upon written request from *any person who is subject to the jurisdiction of the Board of Ethics*, the Board of Ethics shall render advisory opinions on the requirements of said provisions. An opinion rendered by the Board of Ethics, until and unless amended or revoked, shall be binding on the Board of Ethics in any subsequent proceeding concerning the person

who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person and may be introduced and shall be a defense in any criminal or civil action. *Such requests shall be confidential*, but the Board of Ethics may publish such opinions, *provided that the name of the requesting person and other identifying details shall not be included in the publication.* (emphasis added).

Provisions of State Law

Article 18 of the General Municipal Law concerns “Conflicts of Interest of Municipal Officers and Employees. General Municipal Law § 808(2) provides that a board of ethics “shall render advisory opinions to officers and employees” of the municipality “with respect to this article and any code of ethics adopted pursuant hereto.”

“Such advisory opinions shall be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the board may prescribe and shall have the advice of counsel employed by the board, or if none, the county attorney. In addition, it may make recommendations with respect to the drafting and adoption of a code of ethics or amendments thereto upon the request of the [officers and employees of the municipality].”

Summary of Relevant Facts

By Charter, the City of New Rochelle adopted a Council/Manager form of government approximately 90 years ago.

The Board’s investigation covered a period of time of approximately one year, from the Spring of 2021 to the Spring of 2022.

During the course of the efforts by City Manager Charles B. Strome III to identify candidates for the vacant position of Development Commissioner, a professional search firm made an unsuccessful attempt to find suitable prospects. In the Spring of 2021, the City Manager shared his frustration with Mayor Noam Bramson and made an off-hand suggestion that maybe the Mayor should apply for the job. According to the Mayor, he and the City Manager joked about it at first but it then evolved into a more serious conversation.

The City Manager decided to conduct a second search. Realizing that his comment was taken seriously and recognizing the negative Charter implications of any such appointment, a meeting was arranged to discuss the City Manager's concerns. At that meeting conducted over lunch, which was attended by the Mayor, the City Manager and the Chief of Staff/Corporation Counsel Kathleen Gill, the City Manager's concerns about the "optics" of any such appointment were discussed and the City Manager expressed that this was not something he could do. The City Manager was concerned about the propriety and appearances of hiring an elected official into the City's professional administration. The Mayor was unconvinced and opined that the optics did not matter if he was the most qualified person for the position, which he believed to be the case.

The Mayor continued to pursue his efforts to secure the position and another meeting was scheduled to discuss the issue. At that meeting which was held in the Mayor's office, attended by the Mayor, the City Manager and the Chief of Staff/Corporation Counsel, Ms. Gill, joined by the City Manager, expressed her legal opinion that any such appointment would constitute a Charter violation and her concern that it could constitute a violation of the City Manager's professional ethics. She also expressed that she was very concerned about the optics of such an appointment in the community. After expressing her concerns, she withdrew from the meeting. After the meeting, Ms. Gill made arrangements to secure an opinion as to the legality of such an appointment from outside counsel at the City Manager's request.

Shortly thereafter, the City Manager again advised the Mayor that he had Charter and ethics concerns and was not comfortable making that appointment. A few days later, the Mayor went to the City Manager's office and asked him to reconsider. Reluctantly, the City Manager suggested he take part in the second application process being conducted by the City's search consultants by submitting a resume. The Mayor declined to participate. However, the present Development Commissioner did submit an application.

The Mayor continued to mention to the City Manager the subject of finding a suitable candidate for the position of Development Commissioner. When resumes were submitted by the City's search consultants, he asked to see them. The City Manager provided him with the resumes of the finalists and

the Mayor advised the City Manager that it was obvious that the Mayor was the best candidate.

The City Manager requested and received an ethics opinion from the ICMA, an organization whose over 5000 members are professional managers employed by municipalities which, as did New Rochelle, adopted a Council/Manager form of government. After receipt of opinions from outside counsel and the ICMA, the City Manager prepared a memorandum to the Mayor explaining the reasons he was barred from appointing him to an administrative position, attaching the legal and ethical opinions. The City Manager's reasoning was based on the Charter, provisions of the Ethics Code, the ethical opinion submitted by the ICMA and legal opinions from the City's labor counsel. A copy of the memorandum is annexed as Exhibit B (the legal opinions are not attached because of the attorney-client privilege; the opinion from the ICMA is attached).

The fact that the Mayor made efforts to secure the appointment both before and after the City Manager advised him that he could not offer him the position, caused the City Manager to feel significant pressure. He was aware that the Mayor was unhappy with the decision and continued to pursue the appointment. The City Manager did not fear termination or retaliation, but felt uncomfortable because he knew the Mayor desired the appointment but there was no legal and ethical way that the City Manager could honor his wishes. The Mayor's continued effort to secure the position after the City Manager advised him that he could not make the appointment, created inherent stress. The City Manager believed that his advising the Mayor of his decision that he could not make the appointment should have been the end of the discussion. He felt pressured by the Mayor's continued efforts to secure the position. Knowing that the Mayor, his boss and friend, was hoping to get that appointment and would be disappointed, created substantial anxiety over an extended period of time. Before preparing his memorandum to the Mayor, the City Manager discussed his dilemma, stress and anxiety with his colleagues in and out of City government from whom he sought advice.

Despite the stress and anxiety caused by refusing to appoint the Mayor, an elected official, to an administrative position, of greater concern to the City Manager was an effort by the Mayor to become involved in his specific

personnel decision of appointing Kathleen Gill to be Deputy City Manager. The Charter provides:

The City Manager shall have the power to appoint and remove a Deputy City Manager, who shall perform such duties as he shall direct. (Section 41).

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office or employment by the City Manager or any of his subordinates. (Section 43).

Pursuant to the Charter, the Council, and all of its members, are barred from getting involved in specific personnel decisions and the City Manager has the right to appoint a Deputy City Manager at any time. The right to appoint a Deputy is absolute the Mayor has no role in that decision. When Mr. Strome inevitably learned of the Mayor's efforts, (See Exhibit-C) he confronted the Mayor. The Mayor denied seeking enough votes to fire the City Manager, but advised him of his efforts to poll the City Council, after the fact, and why he made a bad personnel decision.

The Mayor interprets the Charter differently from the City Manager. He believes that the Charter prohibits members of the Council from interfering "inappropriately" with the City Manager's appointment authority and precludes "inappropriate" compulsion or coercion. But laws that are not ambiguous must be given their plain meaning. The Charter language that "[n]either the Council or any of its...members shall request the appointment of any person to, or his removal from, office or employment by the City Manager" does not merely bar "inappropriate" interference, compulsion or coercion, it bars any interference, compulsion or coercion. Further, any City Manager clearly has a right to appoint a Deputy over which the Mayor and Council have no control.

In the months leading up to the Spring of 2022, the City Manager appointed four new Commissioners (Development, Parks and Recreation, Finance and Human Resources) about which the Mayor had no concerns that those appointments might somehow limit the options of a new City Manager. However, after the City Manager appointed Kathleen Gill to the position of Deputy City Manager /Corporation Counsel, the Mayor expressed concern

that such appointment might impede the search for a new City Manager and sought to bring that concern to the City Manager.

He contacted four of the other six members of the Council to discuss his dissatisfaction with the appointment. The City Manager serves at the will of the City Council. It was inferred by some members of the Council that the Mayor's seeking the support of a majority of the Council in criticizing the City Manager's appointment would be perceived by the City Manager as threatening. In this case, the consensus of the Council members was that Kathleen Gill has been fulfilling the role of Deputy City Manager for a number of years and has done an excellent job. The Mayor agrees that Ms. Gill has been the *de facto* Deputy City Manager and has performed very well. Nevertheless, the Mayor felt her appointment was a "structural change in the government itself" and might signal that there was an heir apparent for the position of City Manager and might impose a "leadership structure" that the next City Manager may not want. By "structural change" he meant "creating a position that had not been formally [sic] filled." However, that position had been filled in the past and the Charter specifically grants the City Manager the authority to fill it. Had other members of the Council agreed with his position, the Mayor planned to bring these concerns to the City Manager to do with their concerns "whatever he wanted to do." Assuming the Mayor had been able to gain support for his position, the City Manager would have been faced with rescinding his appointment or refusing to comply with the wishes of the legislative body that has the power to hire and fire him. There was speculation that the Mayor was dissatisfied with the legal opinion offered by Kathleen Gill as Corporation Counsel that his appointment to the position Development Commissioner would violate the Charter and believes that if she becomes the City Manager she will adhere to the same position taken by Mr. Strome in this regard.

Relevant Statutes

Section 39 Appointment and qualifications.

The Council shall appoint a City Manager who shall be the administrative head of the city government. He shall be chosen by the Council solely on the basis of his executive and administrative qualifications. No person elected to the Council shall, during the time for which he is elected, be chosen as City Manager.

Section 40 **Term and removal.**

The City Manager may be appointed for an indefinite period to serve at the will of the Council. When appointed for an indefinite period, before the Manager may be removed he shall, if he so demands, be given a written statement of the reasons alleged for his removal and shall have the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his removal, but pending and during such hearing the Council may suspend him from office. The action of the Council in suspending or removing the Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension and removal in the Council. Until the City Manager is chosen, or in the event of his disability or suspension, the Council may designate someone to perform the duties of City Manager during such period.

The City Manager may be appointed for a definite term not to exceed two years, at the expiration of which term the City Manager may be reappointed from time to time in the discretion of the Council, but in no event shall any one period of appointment be for more than two years

The Council may employ a City Manager for a definite term not to exceed two years under a written contract of employment, which contract shall contain such terms and conditions as may be specified by the Council. Such contracts of employment may be renewed from time to time in the discretion of the Council but no one renewal period shall be for a period in excess of two years.

Section 41 **Responsibility of Manager; powers of appointment and removal.**

The City Manager shall be responsible to the Council for the proper administration of all affairs of the city placed in his charge, and to that end, subject to the civil service provisions of this Charter, and except as otherwise provided herein, he shall have the power to appoint and remove all department heads and such officers and employees in the administrative service of the city as may be assigned by law.

The City Manager shall have the power to appoint and remove a Deputy City Manager, who shall perform such duties as he shall direct. He shall designate the deputy or a department head to undertake the responsibilities and powers of the City Manager and have the title of Acting City Manager during his absence or disability. During the period of a vacancy in the position of City Manager, the Acting City Manager shall have the responsibilities and powers of the City Manager and perform his duties under the title of Acting City Manager, until such time as the City Council may remove him and appoint an Acting City Manager or until such time as the City Council may appoint a City Manager.

Appointments made by or under the authority of the City Manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform. All such appointments shall be without definite term, unless for temporary service not to exceed 60 days.

Section 43 Council not to interfere in appointments or removals.

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office or employment by the City Manager or any of his subordinates. Except for the purpose of inquiry, the Council and its members shall deal with that portion of the administrative service for which the Manager is responsible solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the city, either publicly or privately.

Section 44 Duties of Manager.

It shall be the duty of the City Manager to act as chief conservator of the peace within the city; to supervise the administration of the affairs of the city; to see that the ordinances of the city and the laws of the state are enforced, except as otherwise in this Charter provided; to sign all contracts, deeds or leases that may be authorized by the Council; to make such recommendations to the Council concerning the affairs of the city as may seem to him desirable; to keep the Council advised of the financial conditions and future needs of the city; to prepare and submit to the Council the annual

budget estimate; to prepare and submit to the Council such reports as may be required by that body; and to perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council.

CONCLUSION

Complaint No. 1

It is not alleged that the Mayor, who has served the City as a Councilman for ten years and the Mayor since 2006, previously acted to advance his personal position in violation of the Code of Ethics or otherwise violated the City Charter. The City charter provides:

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office or employment by the City Manager or any of his subordinates.

The evidence relevant to this complaint is that City Manager first made the off-hand suggestion that the Mayor consider the position of Development Commissioner. Subsequently, the Mayor pursued the appointment despite being advised that the City Manager could not make any such appointment because it would violate the Charter and the ethical standards set for City Managers. There is no evidence to suggest that the Mayor intended to violate the Charter or that he did not believe his appointment to be in the best interests of the City.

Given the plain meaning of the Charter, the Mayor's motives, no matter how well intentioned, do not dictate the answer to the question of whether he requested that the City Manager appoint him to the position of Development Commissioner. The evidence is not contradicted that he did. Regardless of his intentions, he did violate the Charter in making and pursuing this request of the City Manager even though he did not initiate the dialogue. In addition, it was inappropriate under the Code of Ethics for him, while an elected official, to seek appointment to an administrative position and he should have recused himself from consideration of his appointment.

Complaint No.2

After the City Manager made an appointment pursuant to the Charter provision which provides him with the authority to appoint and remove a Deputy, the Mayor contacted four of the remaining six members of the Council to discuss his reservations about the wisdom of the appointment. Although he was unable to secure sufficient support to have a majority of the Council bring these concerns to the City Manager, his efforts were made known to the City Manager.

As a result of the Mayor's efforts, the City Manager was told that the Mayor was purportedly, whether true or not, attempting to find another three votes to threaten the City Manager's position. Being a veteran of the Council, he should have reasonably inferred that his efforts would be reported back to the City Manager almost immediately. When the City Manager confronted him the next day, he denied seeking enough votes to fire the City Manager but repeated all of the reasons why he thought the City Manager made a bad appointment. Since the appointment had been made, the City Manager was left with the choice of rescinding the appointment or having an unhappy Mayor.

The Mayor's actions, regardless of his intentions, brought pressure to bear on the City Manager. This constituted a violation of the Charter giving the City Manager the unconditional authority to appoint a Deputy and prohibiting any member of Council to request the removal of an employee.

Complaint No. 3

Concerning the question of whether the Mayor sought to appoint an unqualified person to the position of City Manager, we found no evidence to support that allegation. It was reported that the Mayor seeks to broaden the qualifications for the position of City Manager to include experience working with not for profit organizations. That alone does not establish any intention of appointing an

Dated: June , 2022

Charles C. Phipps, Chairman

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Dated: June , 2022



Charles C. Phipps, Chairman

I am honored to be serving in this role especially alongside someone as wise and just as Mr. Phipps. I respect his opinion but respectfully disagree with some of his analysis and conclusions.

We have been asked to opine on three different situations in the complaint brought by Mr. Cox. In the first instance regarding the Mr. Mayor's possible contravention of the City Charter by his seeking the Economic Development Commissioner position, I do concur that there is sufficient evidence for one to conclude that the Mayor has abrogated the Charter, however I believe that the Mayor misinterpreted the City Manager's comments on two separate occasions and these misinterpretations gave the Mayor the wrong signal as to the permissibility of his consideration for the post in question. In the original instance is the Spring of 2021, Mr. Strome, out of exasperation emanating from the search firm's inability to identify appropriate candidates, makes an off-hand comment suggesting that the Mayor should consider the job. Mr. Bramson should have known of the City Charter's provisions that would not permit this (while he was in an elected position) and should not have pursued it. Going along the timeline, the City Manager, having conveyed on multiple occasions his discomfort with the Mayor's pursuit of the role, once again expresses a comment (exhibiting his frustration) telling the Mayor, that if he believes that he is the best candidate for the job, to apply for it. Had Mr. Bramson followed this tack, even that might be a Charter violation, but he did not do so. The Mayor once again may have misinterpreted the City Manager's comment (which I highlight came out of frustration with the Mayor's persistence in pursuing the Commissioner's role) that it was permissible. In my mind, the Mayor's actions do evidence a clear and undeniable technical violation of the Charter, yet I find it difficult to excoriate him for doing what he perceived was in the best interest of New Rochelle where he may have incorrectly perceived the City Manager's comments as greenlighting his pursuit.

As for the second complaint raised by Mr. Cox, I find that the Mayor calling his colleagues to express displeasure with the selection of Ms. Gill as Deputy City Manager troubling though I'm not convinced that it is sufficient to qualify as a Charter violation. What he did was speak to fellow Council members and gauge their feelings about said selection. His intent if he found similar feelings among a sufficient number of colleagues would very likely have led to a Charter violation because this selection is solely under the domain of the City Manager, but merely canvassing other peoples' opinions is in itself not an action that abrogates the Charter. The Mayor's explanation that the selection of the Deputy Manager at the time that a search for a City Manager would make said search more difficult, while true, did not resonate with me as for the justification for making the calls to his Council colleagues. I would like to emphasize that little good could have come out of these phone calls and Mr. Phipps is right that it should have been obvious to Mr. Bramson, a savvy political veteran, that these calls would quickly get to Mr. Strome and his reaction would not be unexpected. Yet, the mere occurrence of the calls, while not prudent, do not qualify, in my mind, as a Charter violation. The result of them, had the Mayor pursued any additional action, would likely have, but in itself do not cross that line.

As for the third claim, I completely concur with Mr. Phipps' analysis.

A handwritten signature in cursive script that reads "David Beemant". The signature is written in black ink on a white background.

New Rochelle Board of Ethics
City of New Rochelle
515 North Avenue
New Rochelle, NY 10801

Robert Cox
Publisher
Talk of the Sound
10 LeCount Place
New Rochelle, NY 10801
(914) 335-4616

March 20, 2022

Ethics Complaint - Mayor Noam Bramson, et al.

Dear Chairman Phipps,

In the course of my reporting on the City of New Rochelle, it has come to my attention that an elected official of the City of New Rochelle sought to use his elected office to enrich himself by obtaining through coercion, actual or implied, a job with an annual salary exceeding \$200,000, plus benefits, for which he is not qualified under the New Rochelle City Charter, that he subjected a public officer to unwarranted assaults on their integrity and that he has sought to usurp the authority of the City Manager through coercion, actual or implied, and in so doing may have violated the New Rochelle City Charter, the New Rochelle Ethics Policy and New York State law.

To wit, Noam Bramson, the Mayor of New Rochelle, sought appointment by City Manager Charles B. Strome to the position of Commissioner of Economic Development.

Upon reason and belief, in so doing, Mayor Bramson violated the New Rochelle City Charter for the purposes of obtaining a lucrative management position in the City organization, a position for which Mayor Bramson is clearly unqualified.

Article VI Section 41 of the City Charter states the responsibility of the City Manager in making appointments as follows:

Appointments made by or under the authority of the City Manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform.

Article VII Section 76.00 of the New Rochelle City Charter enumerates the required qualifications for the Commissioner of Economic Development

- *reasonable knowledge of the generally accepted principles of community planning, traffic engineering and renewals and redevelopment projects and planning and administration.*
- *not less than 10 years of progressively responsible technical and managerial experience in any one or several of these areas.*

Mayor Noam Bramson does not meet *any* of the qualifications required under the City Charter to fill the position of Commissioner of Economic Development in the City organization and is prohibited under the City Charter from requesting, formerly or informally, any position in the City organization, but did so anyway, repeatedly, for about one year and possibly more.

In this effort, Mayor Bramson may have had the support of a former Commissioner of Economic Development, who, in turn, was seeking a lucrative consulting agreement for himself in the event Mayor Bramson was appointed as Commissioner of Economic Development.

Under Article III § 33-9 E, the New Rochelle Board of Ethics shall have “all the powers and duties as prescribed by Article 18 of the General Municipal Law”.

General Municipal Law 18 is the principal State statute governing conflicts of interest on the part of municipal officers and employees and, among other things, is meant “*to protect innocent public officers from unwarranted assaults on their integrity.*”

When we asked Mayor Bramson whether he had sought the position of Commissioner of Economic Development, he made the following statement in an email (attached).

Chuck and I had informal conversations about the possibility – it's intriguing in concept – but a shift like that is just unworkable on multiple levels, and I did not apply for the position. I am very enthusiastic about Adam's selection; he will do a splendid job.

Mayor Bramson is a member of Council.

Article VI Section 43 prohibits members of Council from interfering in *appointments* or removals by the City Manager.

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office or employment by the City Manager or any of his subordinates.

My reading of Article VI Section 43 (and I defer to the Ethics Board on this) is that the City Manager appointing a sitting elected official in and of itself may not be a violation of the City Charter but as Council members cannot request the appointment of any person — including themselves — to office or employment by the City Manager, the violation was in the asking, by

the Mayor. Attempting to get around that, as the Mayor has done, by claiming the requests were “informal conversations” is a distinction without a difference under the City Charter, especially when the City Manager serves at the pleasure of Council which operates largely at the direction of Mayor Bramson and so there exists coercion, actual or implied, in the asking by Mayor Bramson.

The ICMA advised the City Manager (attached) that appointing a sitting elected official would violate three of the twelve tenets of the ICMA Code of Ethics and concluded, “it is extremely important that the appointment be made after an open, transparent and competitive process. And that at the conclusion of the process, the individual selected meets the requirements of the position as outlined in the charter and the recruitment information. Absent those two steps, then the public will lose confidence that decisions are made in their best interests. Frankly, appointing a sitting elected official to serve in a staff position, even if they meet all the qualifications, looks like patronage and self-dealing.”

The concern is that if, as alleged, Mayor Bramson violated the City Charter, the New Rochelle Code of Ethics, New York State law, in particular Article 18 of the General Municipal Law, and/or any other applicable law, or policy, or aspect of the City Charter, in seeking appointment by the City Manager to a lucrative position over a period of months, he had an undisclosed conflict of interest and acted unethically and possibly illegally in pressuring the City Manager to act in a manner not in the best interest of the City of New Rochelle and in violation of the International City/County Managers Association (ICMA) Code of Ethics which would subject the City Manager to public censure by the ICMA.

The City Manager detailed his concerns in an undated memorandum (attached) to the Mayor sent earlier this month.

Further, it has also come to my attention through my reporting that Mayor Bramson does not want Kathleen Gill to ascend to the position of City Manager, as she would be unlikely to act differently than City Manager Strome with regards to appointing Mayor Bramson to the Development Commissioner position.

The City Manager serves at the pleasure of Council, which operates under the direction of the Mayor, so that Strome can be terminated at any time based on four votes of members of Council.

Since the City Manager announced the appointment of Kathleen Gill as Deputy City Manager on Thursday, Mayor Bramson, I am told, has reached out to four members of Council to organize four or more votes to go to the City Manager with enough votes in hand to demand the City Manager rescind the appointment of Gill as Deputy City Manager under a not-so-veiled threat that the Council would vote to fire Strome if he did not capitulate and rescind the Gill appointment.

Bramson may have received support from two other members of Council but not enough to accelerate what amounts to a *coup d'état* by the Mayor to circumvent the City Charter which re-

quires a Council/Manager form of government, and to install a puppet City Manager who would appoint Bramson to a \$210,000 a year job for which he is unqualified under the City Charter.

Article VI Section 43 prohibits Council from interfering in appointments *or removals* by the City Manager.

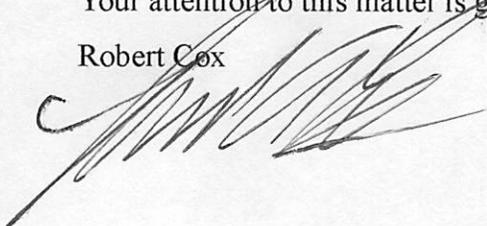
The efforts by Mayor Bramson to pressure the City Manager both regarding his appointment as Commissioner of Economic Development and so that Strome would rescind the appointment of Kathleen Gill as Deputy City Manager appear to be blatant violations of the City Charter.

By his actions Mayor Bramson offered Strome a series of Hobson's choices: (1) appoint Bramson as Development Commissioner or risk the ignominy of censure for violating the ICMA Code of Ethics; and (2) rescind the appointment of Kathleen Gill as Deputy City Manager paving the way for a City Manager of Bramson's choosing who would be willing to appoint Bramson as Development Commissioner or risk the ignominy of being fired after three decades of service to the City of New Rochelle.

Mayor Bramson's actions raise grave questions of whether he, and others on Council, may have knowingly and deliberately violated the New Rochelle City Charter, the New Rochelle Code of Ethics, New York State law, in particular Article 18 of the General Municipal Law, and/or other applicable laws, or policies, or aspects of the City Charter.

Your attention to this matter is greatly appreciated.

Robert Cox

A handwritten signature in black ink, appearing to read 'Robert Cox', is written over the typed name. The signature is stylized and cursive.

New Rochelle Board of Ethics
City of New Rochelle
515 North Avenue
New Rochelle, NY 10801

Robert Cox
Publisher
Talk of the Sound
10 LeCount Place
New Rochelle, NY 10801
(914) 335-4616

March 28, 2022

Ethics Complaint - Mayor Noam Bramson, et al.

Dear Chairman Phipps,

Please amend my ethics complaint filed on March 21, 2022 to include the following.

Over the past week, I am told the Mayor is seeking to install his former campaign manager, Alisa H. Kasten, to the position as City Manager despite her glaring lack of qualifications.

Article VI Section 39 of the New Rochelle City Charter specifies that the Council shall appoint a City Manager as the administrative head of the city government chosen solely on the basis of his executive and administrative qualifications and shall appoint no one as City Manager who has not had three years' service as City Manager.

Kesten is as qualified under the City Charter to be City Manager as Bramson is qualified to be Development Commissioner, which is to say not at all qualified.

Your attention to this matter is greatly appreciated.

Robert Cox

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Kesten is as qualified under the City Charter to be City Manager as Bramson is qualified to be Development Commissioner, which is to say not at all qualified.

Your attention to this matter is greatly appreciated.

Robert Cox

Charles B. Strome III
City Manager
(914) 654-2140



515 North Avenue
New Rochelle, NY 10801
Fax: (914) 654-2174

Email – Cstrome@newrochelleny.com

City of New Rochelle
New York

PERSONAL AND CONFIDENTIAL

TO: HONORABLE MAYOR NOAM BRAMSON
FROM: CHARLES B. STROME, III, CITY MANAGER
SUBJECT: DEVELOPMENT COMMISSIONER

As you are well aware, we have been mutually considering whether there is an appropriate match for me to appoint you as Commissioner of Development for the City. As we have both discussed, this would be an extraordinarily unusual appointment for both me, as City Manager, and you, as the sitting Mayor of the City.

From the beginning, I have been as up front and honest as I can be as to what I would consider in determining if this is the right thing to do. I have continually advised you that I would be doing significant due diligence and talking to a select group of people to get opinions from elected officials, my colleagues in the profession and a small number of developers or developer representatives.

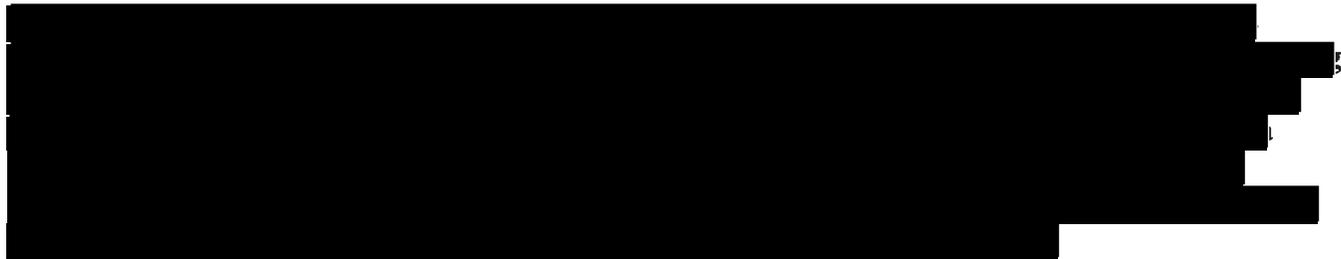
As I told you previously, that list included the County Clerk, two members of the City Council, two City Managers and two developers. I have asked all to keep our conversation in confidence. Apparently, some did not and I apologize for that. As expected, the reaction and advice from this group was mixed and proved not very helpful in my ultimate decision.

Although you may disagree, I have always felt there were two major obstacles for me to consider making this appointment. One is the optics of a professional manager appointing an elected official (politician) to a management position in the City organization. To my knowledge this has never been done before here and is exactly the main point of the Council/Manager form of government – the separation of politics and administration. Once an appointment of this kind is made, the slippery slope has begun and there will be pressure on future managers to make similar appointments. Secondly, I was very concerned with my reputation as a professional Manager and how my peers would react to such an appointment. As you know, I am retiring at the end of the year and after serving as a professional administrator for over 30 years, I do not want my reputation tarnished among my peers, even in retirement. It is very important to me that my professional reputation be preserved.

EXHIBIT B

I have also mentioned that I was concerned about the City Charter implications and the professional ethics implications of making such an appointment. I wanted to be sure that assuming I could get past the optics of the situation (and I still believe that would be extremely difficult), I was not in violation of either the City Charter or my Professional Association's (ICMA) Code of Ethics, a code I have dutifully followed for over 30 years and take very seriously.

To that end, I sought two opinions: 1) an opinion from the City's outside legal counsel on whether appointing a sitting elected official was a violation of the City Charter and 2) an opinion from ICMA on whether appointing a sitting elected official could be considered a violation of our Code of Ethics, which would subject me to public censure by the Association. I have attached copies of both of those opinions as well as a copy of the ICMA Code of Ethics



As with any legal opinion, this one is subject to different interpretation. So, on its own, I do not believe it would prevent me from finding a path to making such an appointment. However, a much larger factor for me is the ICMA Code of Ethics that I abide by. As you can see from the opinion from ICMA's Director of Member Services and Ethics Director, appointing a sitting elected official would violate three of the twelve tenets of the Code of Ethics. It is clear that the Code of Ethics requires the appointment be made after an open, transparent and competitive process. You will recall that after the first recruitment effort I decided to hire an executive recruiting firm to assist in the second effort. When I suggested you participate in that process by submitting a resume, you decided you would not do so.

The conclusionary paragraph in the opinion states:" But it is extremely important that the appointment be made after an open, transparent and competitive process. And that at the conclusion of the process, the individual selected meets the requirements of the position as outlined in the charter and the recruitment information. Absent those two steps, then the public will lose confidence that decisions are made in their best interests. Frankly, appointing a sitting elected official to serve in a staff position, even if they meet all the qualifications, looks like patronage and self-dealing."

As a result of the above, I simply am not willing to put myself in the position of being charged with a violation of my profession's Code of Ethics and subject myself to public censure among my peers. I have spent my entire career promoting professional government and the Council/Manager form of government and I will not retire looking like I didn't really mean it.

I want you to understand that I and I alone have made this decision. You should also know that despite all of the land mines that would have come along with appointing you to the position, I gave it very serious consideration. I can tell you that most of my peers in the profession would

have dismissed the idea out of hand. The bottom line for me is that in the end, I believe, given all of the above, appointing a sitting elected official to a professional position (qualified or not) could be a violation of the City Charter and is most certainly a violation of my professional Code of Ethics. I am not willing to do that.

I know you will be disappointed with this decision but I am hopeful you will accept it and understand that I gave it serious thought and am just not able to come to the conclusion that it is the right decision to make. I am truly hopeful that this will not change the working relationship we have had over my remaining time in office. The whole process has been very uncomfortable and the time has come, in fairness to both you and me, to end it at this time. I know this is not the outcome you would have liked and I am sorry for that. But I do believe it is the right and only decision I, as City Manager, can make.

From: Martha Perego <mperego@icma.org>
Sent: Thursday, February 24, 2022, 11:22 AM
To: Strome, Chuck
Cc: Yamuder, Robert; James Palmer; Patti Dwyer; Gill, Kathleen
Subject: RE: ETHICS OPINION

EXTERNAL SENDER: DO NOT CLICK links or open attachments unless you recognize the sender and know the content is safe. If unsure, contact IT for guidance.

Chuck: Good morning! I reviewed your email below and the letter from the city attorney that you included. Here is my assessment of the situation.

As the city manager responsible for selecting, appointing and supervising the Commissioner for Economic Development for the City, you are ethically obligated under the ICMA Code of Ethics to appoint that individual based on merit, i.e. they meet the requisite qualifications for the position. The relevant portion of the Code is:

Tenet 11. Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

Should you appoint an individual who lacks those qualifications, especially an elected official, then you also run the risk of violating two other very important Tenets of the profession:

Tenet 3. Demonstrate by word and action the highest standards of ethical conduct and integrity in all public, professional, and personal relationships in order that the member may merit the trust and respect of the elected and appointed officials, employees, and the public.

GUIDELINES

Public Confidence. Members should conduct themselves so as to maintain public confidence in their position and profession, the integrity of their local government, and in their responsibility to uphold the public trust.

Tenet 10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

I can certainly understand that well intentioned people may be offering suggestions for how the city can fill this position to provide a very important function. But it is extremely important that the appointment be made after an open, transparent and competitive process. And that at the conclusion of the process, the individual selected meets the requirements of the position as outlined in the charter and the recruitment information. Absent those two steps, then

the public will lose confidence that decisions are made in their best interests. Frankly, appointing a sitting elected official to serve in a staff position, even if they meet all the qualifications, looks like patronage and self-dealing.

I believe that your stance on the matter is correct and aligns with the requirements of the ICMA Code of Ethics. Glad to have a follow-up discussion if that would be helpful.

Regards,
Martha

Martha Perego, ICMA-CM | Director of Member Services & Ethics



International City/County
Management Association
777 N. Capitol Street, NE
Washington, DC 20002

(202) 962-3668 Ofc.
(703) 772-2317 Cell
mperego@icma.org
www.icma.org

From: Strome, Chuck <Cstrome@newrochelleny.com>
Sent: Tuesday, February 22, 2022 10:29 AM
To: Martha Perego <mperego@icma.org>
Cc: Yamuder, Robert <ryamuder@newrochelleny.com>; James Palmer <jpalmer@vobny.com>; Patti Dwyer <pdny212@gmail.com>; Gill, Kathleen <kgill@newrochelleny.com>
Subject: ETHICS OPINION

To: Martha Perego, Director of Member Services and Ethics Director, ICMA
From: Charles B. Strome, III, City Manager, City of New Rochelle, New York
Subject: Request for an Ethics Opinion

Dear Martha:

My name is Charles B. Strome, III, City Manager of the City of New Rochelle, New York. I have been a member of ICMA for over 30 years. I am writing to you today in the hopes that you can provide me with an opinion that would resolve an issue I am facing here in New Rochelle.

I have been the City Manager here for almost 23 years and am retiring at the end of 2022. Except for a few years, I have worked with the same Mayor during my time as City Manager. We currently are attempting to fill a senior executive level position in our organization, the Commissioner of Economic Development. Our recruitment efforts have been difficult and the position has been vacant (occupied by an Interim Commissioner) for more than a year now. We are in the final stages of the process utilizing the services of an executive recruiter.

Since we have been having difficulty, the Mayor has been suggesting that he would be the best qualified person for the position – something I am obviously resisting. It is an uncomfortable position to be in as we have a very strong Council/Manager system here in New Rochelle and I obviously would not want to do anything to weaken that system. And, appointing the sitting Mayor to such a position would obviously do that, whether or not he was the most qualified person for the job.

I have attached an opinion from our outside Legal Counsel summarizing the difficulty of such an appointment based on the City Charter and State Law. Despite all the arguments he makes, it is not an outright opinion that such an appointment violates the Charter or the State Law.

The reason for my email to you is to seek an opinion from ICMA that such an appointment would be a violation of the ICMA Code of Ethics. Such an opinion would completely resolve the matter for me. For the record, I have no intention of making such an appointment but this opinion would make the process much easier for me at this point. It is my opinion that a Manager appointing a sitting Mayor to a professional position of which the Mayor is not qualified could be a violation of Tenet 7, Tenet, Tenet 10 and Tenet 11 of the ICMA Code of Ethics. Receiving such an opinion, if I am correct, from ICAM would be very helpful and much appreciated.

If you could review this request and let me know if such an opinion is possible, I would greatly appreciate it. My contact information is as follows:

Charles B. Strome, III
City Manager
City of New Rochelle, New York
(914) 654-2145 (Office)
(914) 760-0385 (cell)
cstrome@newrochelleny.com

From: Bramson, Noam <nbramson@newrochelleny.com>

Sent: Sunday, March 20, 2022, 7:39 PM

To: Strome, Chuck <Cstrome@newrochelleny.com>; tarcor211@aol.com <tarcor211@aol.com>

Cc: Lopez-Hanratty, Martha <mlopez@newrochelleny.com>; Yadira Ramos Herbert <yadira.ramos.herbert@gmail.com>; Ivar Hyden <ivar@ivarhyden.org>; Kaye, Sara <skaye@newrochelleny.com>; Fried, Elizabeth <efried@newrochelleny.com>

Subject: Re: Ethics Codes

Given the sensitive nature of this claim, I think it important to offer a full and clear description of the conversations in question, and to address what I believe are significant mischaracterizations in the inquiry.

- Chuck's memorandum announcing the Deputy Manager appointment raised for me concerns related to timing and context. On the eve of our search for a City Manager, I felt that a title change might constrain a new Manager's ability to establish a leadership structure of their choosing.
- I reached out to Council Members Lopez, Ramos-Herbert, Kaye, and Fried to seek their feedback. (I would have called CMs Tarantino and Hyden, as well, but they had already responded to Chuck's memorandum via email to express their support, and so their views were known.) The purpose of my outreach was to determine whether or not others saw the matter similarly to me. If my concerns were widely-held, then I would judge it appropriate to bring the issue to Chuck's attention. If not, then I would let the matter go. At no time did I say or imply that a vote would be held. At no time did I say or imply that Chuck would be threatened, implicitly or explicitly, with termination. At no time, did I say or imply that Chuck would be "forced" to rescind his appointment. Instead, I viewed such a prospective conversation with Chuck as fully consistent with the informal discussions many of us have had about personnel over the years and which Chuck has typically welcomed, while always reserving for himself the full and final right to make appointments, as he deems appropriate.
- During these calls with Council Members, some argued that -- regardless of whether my concerns were valid or shared by others -- raising them with Chuck would simply create tension without constructive purpose. I was persuaded by and accepted this point. With that, I considered the matter closed.
- The following morning, Chuck received a call -- I do not know from whom -- letting him know of these conversations. From this call, Chuck obtained the misimpression that I was seeking his termination, and then confronted me with his concerns. I assured Chuck in clear and unambiguous terms that he was mistaken. He accepted this assurance that I was not seeking or threatening his termination, confirmed this in subsequent conversations with others, and then acknowledged to me that he had misinterpreted the information received in his call earlier that morning. It was only in this context -- in order to set the record straight and explain what had actually transpired in the prior day's discussions with Council Members -- that it was necessary for me to describe to Chuck my concerns about the Deputy City Manager appointment. In

other words, I never initiated a conversation with Chuck about this subject and had no plans to; had it not been for Chuck raising the matter with me, we would never have discussed the issue at all.

Most of us have, at one point or another, shared personnel assessments with each other and/or offered suggestions to our management team. To deem the conversations in question a violation of the Charter requires a significant mischaracterization of their content and is also inconsistent with our long-standing practice of open, respectful manager-council interactions on all subjects.

It is unfortunate that this sequence of events, conversations, and misunderstandings has now obviously generated an uncomfortable level of tension and mistrust among us. I accept my share of responsibility for preserving the constructive relationships we have all enjoyed and worked hard to build.

I do not anticipate addressing this issue further via email, but I will, of course, share this account with outside counsel if asked, and will also be pleased to answer questions that counsel may have. Feel free to call me if you would like to discuss.

Noam

From: Strome, Chuck <Cstrome@newrochelleny.com>
Sent: Sunday, March 20, 2022 11:05 AM
To: tarcor211@aol.com <tarcor211@aol.com>
Cc: Bramson, Noam <nbramson@newrochelleny.com>; Lopez-Hanratty, Martha <mlopez@newrochelleny.com>; Yadira Ramos Herbert <yadira.ramos.herbert@gmail.com>; Ivar Hyden <ivar@ivarhyden.org>; Kaye, Sara <skaye@newrochelleny.com>; Fried, Elizabeth <efried@newrochelleny.com>
Subject: RE: Ethics Codes

In response to your inquiry below, I will seek an opinion from the City's outside counsel relative to the Code of Ethics. On the question of the Charter, I will also request an opinion but I believe the answer to your question is rather clear. I have attached the relevant Article of the Charter for your review. The most relevant sections as they relate to your question are the following:

Section 41: "The City Manager shall have the power to appoint and remove a Deputy City Manager, who shall perform such duties as he shall direct. He shall designate the deputy or a department head to undertake the responsibilities and powers of the City Manager and have the title of Acting City Manager during his absence or disability. During the period of a vacancy in the position of City Manager, the Acting City Manager shall have the responsibilities and powers of the City Manager and perform his duties under the title of Acting City Manager...."

Section 43: “Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office or employment by the City Manager or any of his subordinates. Except for the purpose of inquiry, the Council and its members shall deal with that portion of the administrative service for which the Manager is responsible solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the city, either publicly or privately.”

As I stated above, not being a lawyer I cannot provide a legal opinion on either the Charter or Ethics question and I will ask our outside Counsel to do so. However, it is my opinion the sections of the Charter cited above speak for themselves relative to the question you posed.

As to this particular instance, I can advise you that my position on this appointment would not change even if all 7 members of the City Council approached me and requested that I rescind the appointment. As you requested, I have copied the entire City Council on this email.

Let me know if you need any additional information.

From: tarcor211@aol.com <tarcor211@aol.com>

Sent: Saturday, March 19, 2022 1:16 PM

To: Strome, Chuck <Cstrome@newrochelleny.com>; ivar@ivarhyden.org

Subject: Ethics Codes

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Chuck

After speaking with some council members it has come to my attention that the Mayor has reached out to them to persuade them in going to you with four votes to force you to rescind the appointment of Kathleen Gill as Deputy City Manager. My question to you would be is this a violation of the Ethics Code and City Charter to pursue this by the Mayor. It seems to me that the Mayor would be threatening the City Manager with his job by letting him know if he does not do what he wants he will be terminated. Can you get an opinion on this and let us know.

AI