



CITY OF HUNTINGTON BEACH
CITY COUNCIL MEETING – COUNCIL MEMBER ITEMS REPORT

TO: THE HONORABLE MAYOR AND CITY COUNCIL

FROM: CASEY MCKEON, CITY COUNCILMEMBER

DATE: DECEMBER 20, 2022

SUBJECT: REQUEST FOR INFORMATION AND ACTIONS RELATED TO THE RWG REPORT

A lawsuit was brought in early 2018 by attorneys Neal Moore and Scott Field against the City of Huntington Beach and our City Attorney, Michael Gates. That case was centered on age discrimination allegations because they were written up and/or demoted for their poor performance. For three years, 2018, 2019, and 2020, the City Council spent sums of taxpayer money preparing that case for trial. As many have said before, City Council met with handling attorneys, including outside attorneys from Greenberg Gross in Closed Session on approximately 10 occasions over the course of those 3 years of litigation preparing that case for trial. As many have said, the prior, 2018 City Council viewed this lawsuit as a frivolous suit, else the City Council would not have met in Closed Session 10 times to direct the handling attorneys for three years to prepare this lawsuit for trial.

In any event, notwithstanding the clear City Council decisions and control over the lawsuit, the later City Council after the 2020 November election decided at the very last minute to settle the lawsuit. Then, that same City Council improperly retained attorney Craig Steele of the law firm of Richards Watson Gershon behind closed doors and away from the view of the public to investigate our City Attorney, Mr. Gates, regarding the handling of the 3-year litigation by outside attorneys from Greenberg Gross. The City Attorney is THE designated attorney of the City by the people. The City Charter is clear about this, and City Council was not at liberty to hire their own attorney behind closed doors to conduct any investigations or do any legal work. This, in my view, was nothing more than a political witch hunt - all done in secret. Mr. Steele was a friend of the Kalmick family, he had worked for Dan Kalmick's father in Seal Beach for years. The Council's secret hiring Mr. Steele in violation of the City Charter and without having gone out publicly for a new RFP, and hiring Mr. Steele outside of the normal public contracting processes reeks of impropriety and sheer politics. More shocking - Mr. Steele never interviewed Mr. Gates, the person at the center of this sham investigation, nor did Mr. Steele interview anyone from Mr. Gates's office, any of the Greenberg Gross attorneys, and he did not interview anyone of the Councilmembers who were actually present in the 10 Closed Session meetings who made the decisions and witnessed first hand Mr. Gates's role and conduct in the handling of the case.

This kind of highly suspect, politically motivated "investigation" cannot stand in Huntington Beach. We are far better than that. We must demand the truth about what actually happened.

RECOMMENDED ACTION

1. City Council vote tonight to waive the attorney-client and Closed Session confidentiality privileges for the 10 Closed Session Meetings on the Moore v. City, Gates lawsuit for the sole purposes of allowing Mr. Gates to give his side of the story - to return to City Council with a public presentation on what was discussed and decided (by Councilmember votes) in those 10 Closed Sessions, and
2. City Council to vote tonight to waive the claimed attorney-client and any other confidentiality privilege on any and all communications between Councilmembers and Craig Steele and his attorneys regarding this "investigation," and
3. Direct the City Manager to work with IS to preserve all emails/texts/communications between City Council Members and Craig Steele and Richards Watson Gershon (RWG) and between former City Manager Oliver Chi and RWG, and
4. City Council to vote tonight to waive the claimed attorney-client and any other confidentiality privilege on any and all RWG invoices for the work they have done on this "investigation" (going back to 2020) and to have those invoices, all of them, sent by the Finance Director and City Manager to Mr. Gates for review to make determinations as to the propriety of the work by RWG and to see if a new investigation should be undertaken to analyze the propriety of RWG's investigation of Mr. Gates in the first place, and the propriety of the taxpayer dollars spent on the Steel "investigation," and
5. Direct the City Manager to remove the RWG report from the City's website - so that there are no links and no availability on the City's website whatsoever. If any member of the public wants a copy, they can send a request to the City Attorney's office to produce public records under the CPRA, and
6. Direct Mr. Gates, after review of the aforementioned communications and invoices, to return to City Council with recommendations if any further action could be taken to correct the actions of RWG and the City Council retainer of RWG and the spending of taxpayer moneys on such an "investigation" behind closed doors and away from the public visibility and accountability.

