



RESPONSE TO H ITEM



PART 2

Michael E. Gates
City Attorney

www.huntingtonbeachca.gov/files/users/city-attorney/Review-of-Steele-RWG-Legal.pdf

MCKEON H ITEM – REVIEW OF RWG

December 20, 2022, H Item by Council Member McKeon:

A lawsuit was brought in 2018 by former attorneys Neal Moore and Scott Field against the City of Huntington Beach and City Attorney, Michael Gates. For years, City Council met with handling attorneys, including outside attorneys from Greenberg Gross in Closed Session about the lawsuit. The 2018 City Council viewed this lawsuit as a frivolous suit, else the City Council would not have met in Closed Session multiple times to direct the handling attorneys for three years to prepare this lawsuit for trial.



MCKEON H ITEM – REVIEW OF RWG

December 20, 2022, H Item by Council Member McKeon:

The City Attorney is ***the*** City's attorney ***designated*** by the people at election time. 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 perform any legal work. This Steele Investigation, in my view, was nothing more than a political witch hunt - all done in secret.



MCKEON H ITEM – REVIEW OF RWG

December 20, 2022, H Item by Council Member McKeon:

Mr. Steele never interviewed Mr. Gates, the person at the center of this “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 9 Closed Session meetings and who made the decisions and witnessed first-hand Mr. Gates's conduct in the handling of the case.



MCKEON H ITEM – REVIEW OF RWG

December 20, 2022, H Item by Council Member McKeon:

4-3 Vote, **COUNCIL ACTION:**

1. Waive the attorney-client and Closed Session confidentiality privileges for the Closed Session Meetings on the *Moore, Field 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 Closed Sessions



MCKEON H ITEM – REVIEW OF RWG

December 20, 2022, H Item by Council Member McKeon:

4-3 Vote, **COUNCIL ACTION:**

2. Waive the claimed attorney-client and any other confidentiality privilege on any and all communications between City, Councilmembers and Craig Steele and his attorneys regarding this "investigation." City Manager to preserve all emails/texts/communications between City and Craig Steele and RWG and between former City Manager Oliver Chi and RWG



MCKEON H ITEM – REVIEW OF RWG

December 20, 2022, H Item by Council Member McKeon:

4-3 Vote, **COUNCIL ACTION:**

3. City Attorney, after review of the aforementioned communications and RWG invoices, return to City Council with recommendations if any further action could be taken against RWG for the spending of taxpayer money on the "investigation," done behind closed doors and away from the public visibility and accountability.



MCKEON H ITEM – REVIEW OF RWG

Moore, Field v. City, Gates Lawsuit

Filed in 2018 by attorney Neal Moore, who had voluntarily retired from the City Attorney's Office in 2017, and attorney Scott Field, who even though having filed a lawsuit, continued to work in the City Attorney's Office for 3 more years. Both alleged age-discrimination and a hostile work environment.

The defense of the case was that those two attorneys, after years of many attempts at correction, refused to meet the expectations of the City Attorney's Office; and, after many years of demonstrating "very poor" legal judgment, both were disciplined for lack of competence, of which had resulted in substantial monetary exposure to the City.

MCKEON H ITEM – REVIEW OF RWG

Moore, Field v. City, Gates Lawsuit

All of 2019 and 2020, the *Moore, Field v. City, Gates Lawsuit* had been litigated aggressively, and for those two full years, the 2018 City Council repeatedly voted to take the case to trial and authorized payments for outside counsel, i.e., that there was no merit to the case or to settling.

(Peterson, Semeta, Hardy, Carr, Posey, Delgleize, Brenden)

Two years and the previous City Council never expressed concerns over the handling of the case. There was never any concern by anyone about attorney ethics or conflicts of interest.

MCKEON H ITEM – REVIEW OF RWG

Moore, Field v. City, Gates Lawsuit

November 3, 2020 – City Election

Kalmick, Moser and Ortiz elected

New City Council sworn in December 2020

Carr, Moser, Kalmick, Posey, Delgleize, Ortiz, Peterson

MCKEON H ITEM – REVIEW OF RWG

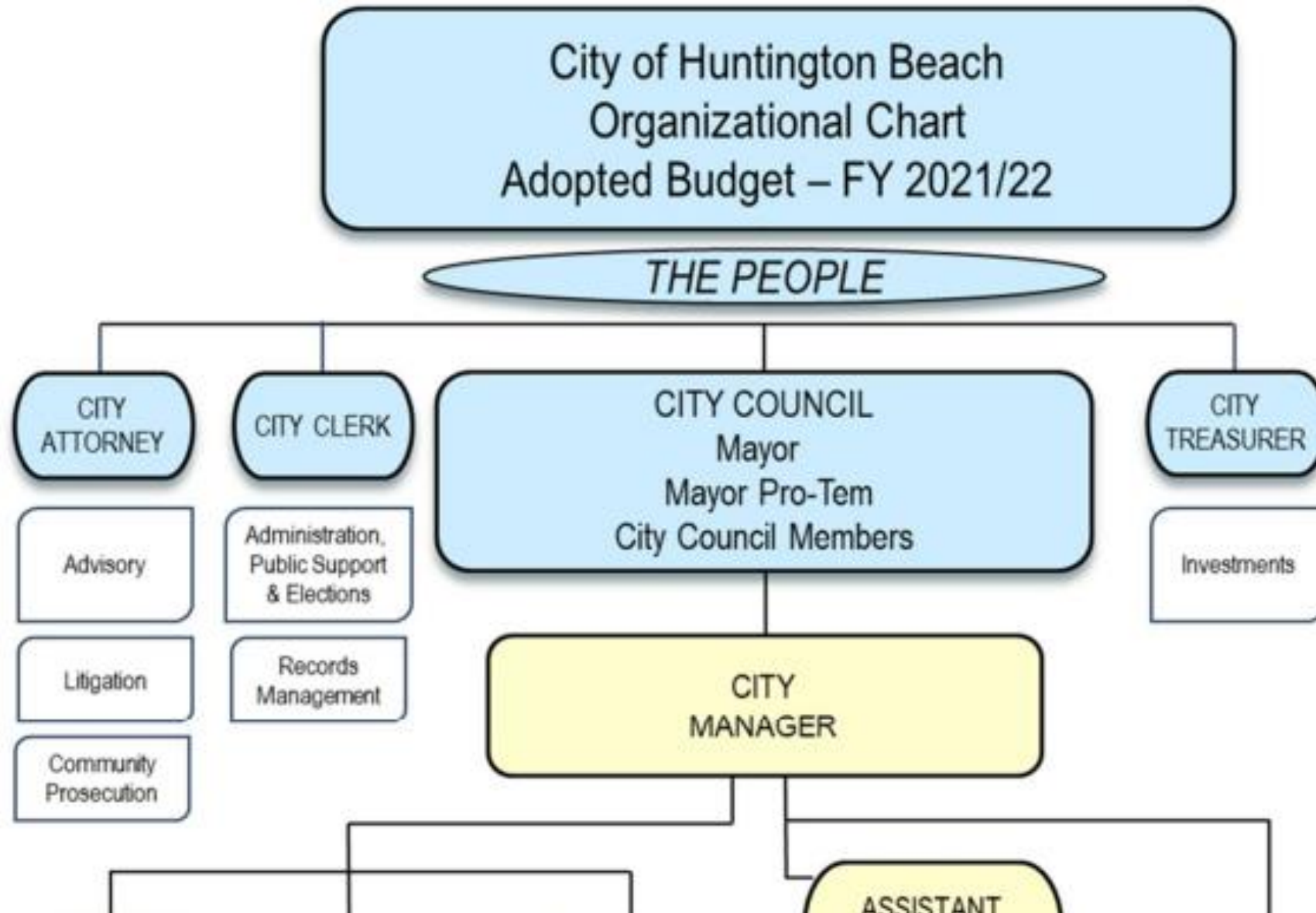
Moore, Field v. City, Gates Lawsuit

In an unexpected turn, during an April 19, 2021, Closed Session, the new 2020 City Council voted 5-2 to **settle the lawsuit for \$2.5 million.**

While the new 2020 City Council voted 5-2 to settle this lawsuit for \$2.5 million, which had been considered “frivolous” by the previous City Council, *I refused to settle.* I was not a part of the Settlement Agreement, **I did not consent to settlement, and I did not sign the agreement. I wanted my day in court – I was denied by the City Council decision.** Nevertheless, I was dismissed by the Plaintiff attorney because they were pleased with the very favorable settlement and wanted to put case to rest.

(Carr, Moser, Kalmick, Posey, Delgleize – Aye; Ortiz, Peterson – No)

PROPRIETY OF CRAIG STEELE RETAINER



PROPRIETY OF CRAIG STEELE RETAINER

Section 309, City Charter:

City Attorney is Elected by the People to:

“Represent and advise the City Council and all City officers **in all matters of law...** [and] **Represent and appear for the City in any or all actions or proceedings** in which the City is concerned or is a party...”

PROPRIETY OF CRAIG STEELE RETAINER

City of Huntington Beach, AR 201:

“The City Attorney at his or her sole discretion may choose to contract with outside legal counsel or provide the legal services through the City Attorney’s Office. Once outside legal services are identified and retained, the City Attorney’s Office will provide oversight and monitoring in order to control quality and costs of the outside legal services.”

PROPRIETY OF CRAIG STEELE RETAINER

The Court of Appeal stated about our City Charter:

“The City Council may hire other attorneys to help the City Attorney discharge her official duties, but may not relieve her of such duties. Any such attorneys hired by the City Council are under the City Attorney’s supervision and have no authority to give opinions or act independently of the City Attorney.” (*O’Connor v. Hutton*, 1981)

PROPRIETY OF CRAIG STEELE RETAINER

Case Law on Elected Attorney:

The City Attorney's powers are plenary. The City Council cannot usurp the powers or duties of the City Attorney.

Courts have expressly recognized the rule that a public agency may not contract and pay for services which the law requires an elected official to perform. (See *McQuillin*, Municipal

Corporations; *Jaynes v. Stockton*, (1961) 193 Cal.App.2d. 47; *Merriam v. Barnum*, 116 Cal. 619; *Montgomery v. Superior Court*, (1975) 46 Cal.App.3d 657)

PROPRIETY OF CRAIG STEELE RETAINER

Also during an April 19, 2021, Closed Session, newly elected Council Member Dan Kalmick called for an “Independent Investigation” into the City Attorney’s “handling” of the *Moore, Field v. City, Gates* Lawsuit. Council Member Kalmick alleged “ethical” concerns over “conflicts of interest” and “overbilling” by outside law firm, Greenberg Gross. ***Those allegations, even after thousands spent investigating, were never substantiated.***

City Council voted 5-2 to have former City Manager retain an Independent Investigator to investigate/review the City Attorney and the case.

(Carr, Moser, Kalmick, Posey, Delgleize – Aye; Ortiz, Peterson – No)



PROPRIETY OF CRAIG STEELE RETAINER

“Independent” Investigation

May 13, 2021, Oliver Chi officially hires

Craig Steele

of **R**ichards **W**atson **G**ershon



Notably, the newly seated City Council after 2020 *never voted publicly to waive any attorney-client or Closed Session privileges* to allow the “Independent Investigator” to review any confidential lawsuit documents or related confidential communications. This is important. To properly waive any privilege or confidentiality by a Council, it must be recorded publicly.

This never occurred – this is important.

PROPRIETY OF CRAIG STEELE RETAINER

What is an “Independent Investigation”

Hiring an attorney for an “Independent Investigation” is used to achieve an **OBJECTIVE** or **IMPARTIAL** review of the facts. “Independent” or “Special” Counsels are “outsiders” who *impartially* gather facts and *impartially* evaluate them. They are **disinterested** in the outcome of the investigation and have no financial interest in working with one of the parties.

Importantly, Independent or Special Counsels **do not** establish an attorney-client relationship with the party who retained them to conduct the investigation. We retain Independent Investigators all the time – there is no attorney-client privilege established. This is important to what happened here.

PROPRIETY OF CRAIG STEELE RETAINER



By the way, if retaining Steele was permissible and everything was above board...

Why were related documents not disclosed by Oliver Chi when asked a year later?

PROPRIETY OF CRAIG STEELE RETAINER

In 2022, Oliver Chi was requested *repeatedly* to produce records evincing the retainer/work of Steele and RWG (even via CPRA requests)... response: there were no such records or documents.

NOTE: City Attorney asking for documents regarding use of outside counsel and getting no response.

**HOWEVER, what Oliver Chi said was not true –
As will be seen, there were plenty of records!!!**

PROPRIETY OF CRAIG STEELE RETAINER



Craig A. Steele
T 213.626.8484
F 213.626.0078
E csteale@rwglaw.com

May 7, 2021

BY EMAIL

Oliver Chi
City Manager
City of Huntington Beach
2000 Main Street
Huntington Beach, California 92648

Re: Legal Services Agreement

Dear Mr. Chi:

We are very pleased to have the opportunity to provide additional services to the City of Huntington Beach (the "City"). This letter will replace the existing legal services agreements between the City and ("RWG") for specialized services. This letter will set forth the bases for general municipal law services on an "on-call" basis to the City Manager and staff.

We will represent the City regarding general municipal law issues based on the terms specified herein. Our legal fees for these general services will be billed at the rates specified in this letter and will not exceed one thousand dollars (\$100,000) unless an additional amount is agreed by the City. We write to set forth the terms upon which the firm will provide services to the City, and the basis upon which we will bill for our services and


Oliver Chi
May 7, 2021

Our legal relationship and the terms of this agreement are governed by the laws of the State of California.

In order for the Firm to work on this matter, please sign this letter to me.

I look forward to working with you and the City.

Very truly yours,


Craig A. Steele

Agreed and Accepted:
City of Huntington Beach

Date: 5/13/2021

By: Oliver Chi

Oliver Chi
Title: City Manager

12261-0004/2442371.1

Oliver Chi
May 7, 2021

Exhibit A
Task Order 1

At the direction of the City Council, by 5-2 vote on April 19, 2021, RWG is directed to:

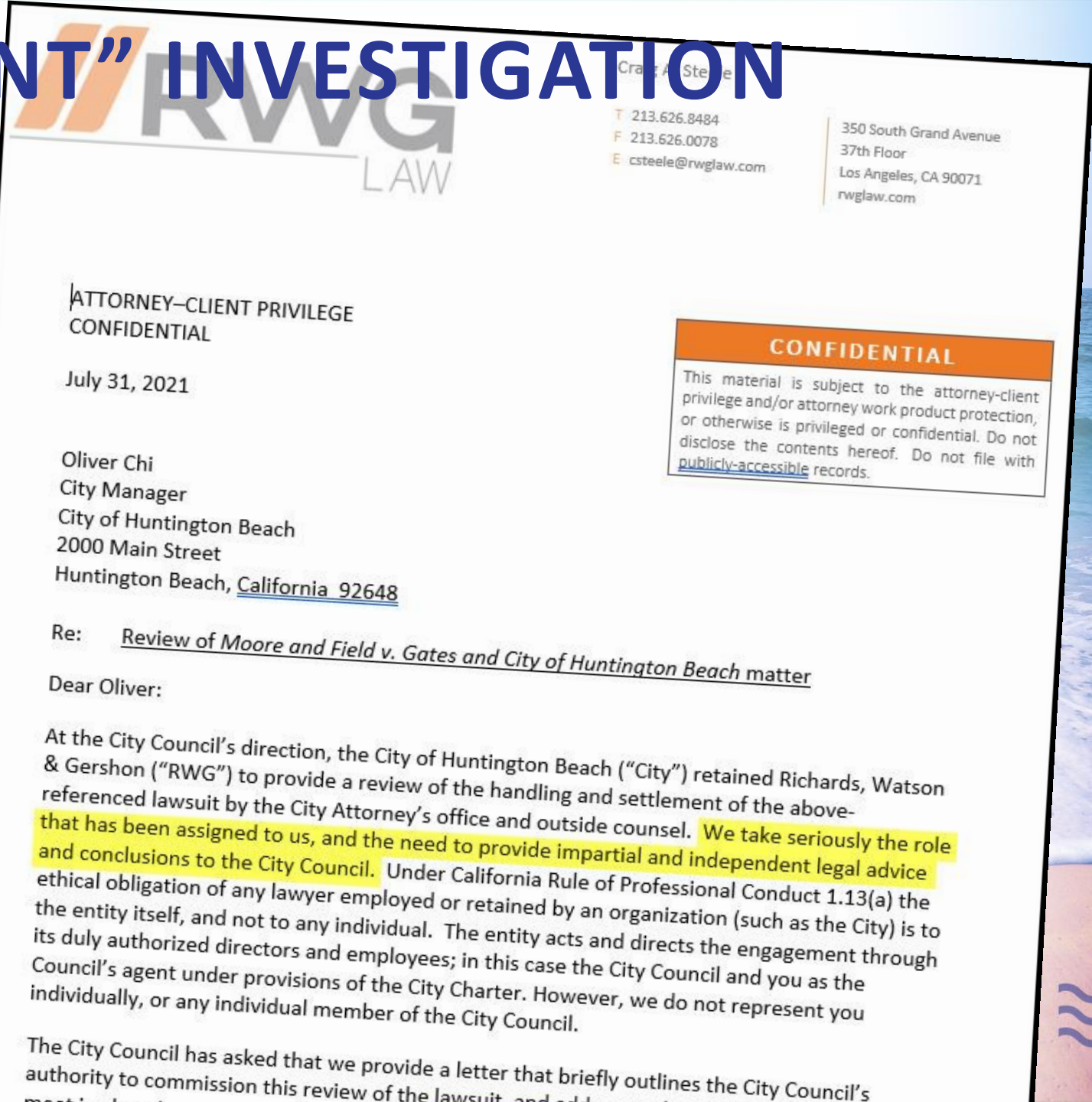
- Conduct an investigation into the City Attorney's overall handling of the *Scott Field v. Michael Gates & City of Huntington Beach* case.
- As part of that review, assess internal practices within the City Attorney's Office to determine if applicable industry and / or legal standards are consistently followed.
- During the review, note any other irregularities that are identified as it relates to the City Attorney's Office related to this case or other matters.

The City Manager's office will cooperate by scheduling interviews as deemed appropriate and providing documents or other background information.

"INDEPENDENT" INVESTIGATION

July 31, 2021 Letter, Steele

"We take seriously the role that has been assigned to us, and the need to provide impartial and independent legal advice and conclusions to the City Council."



“INDEPENDENT” INVESTIGATION

RWG Report by Craig Steele of July 5, 2022

First Sentence:

“The City Council **requested** in May of 2021 that Richards, Watson & Gershon (“RWG”) provide an **independent review** of the City’s handling of an employment-related lawsuit against City Attorney Michael Gates and the City, brought by two now-former employees in the City Attorney’s office.”

“INDEPENDENT” INVESTIGATION

Steele Letter of December 23, 2021 to FPPC

First Sentence:

“I have been retained to serve as special counsel to the City Council of the City of Huntington Beach for a review of the City’s handling of a lawsuit...”

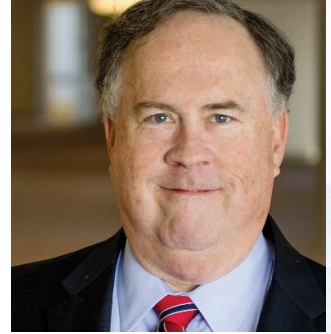
(***note “handling of a lawsuit”)

“INDEPENDENT” INVESTIGATION

Oliver Chi hired

Craig Steele

of Richards Watson Gershon



1. Steele worked with Oliver Chi for years in Monrovia
2. Worked for Mayor Joe Kalmick for years as City Attorney of Seal Beach

“INDEPENDENT” INVESTIGATION

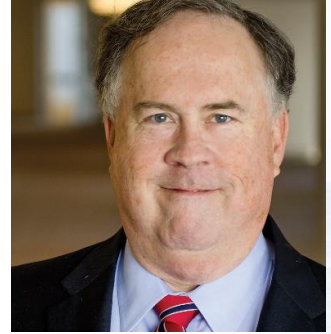


The California League of Cities advises: refrain from selecting lawyers to serve as independent or outside counsel who are friends or colleagues of council members to avoid the appearance of “cronyism.”

Practicing Ethics: A Handbook for Municipal Lawyers,
League of Cal Cities.

“INDEPENDENT” INVESTIGATION

Steele boasts that he worked for partisan:



“political figures such as U.S. Senators Albert Gore, Jr., Alan Simpson, and Lloyd Bentsen, Assembly Speaker Willie Brown, Los Angeles Mayor Tom Bradley, and Honolulu Mayor Frank Fasi.” – Craig Steele

<https://www.rwglaw.com/people-craig-steele>

“INDEPENDENT” INVESTIGATION

RWG Report by Craig Steele of July 5, 2022

Steele *was not even* qualified to review “litigation” matters!

Second Paragraph – Steele had **NO LITIGATION EXPERIENCE**:

“I have been a **Municipal Law practitioner** for my entire career of nearly 30 years, with over 25 years as a sworn contract City Attorney in four cities. I have been the City Attorney in Monrovia since 2002, where former City Manager Oliver Chi served for a period as City Manager prior to coming to Huntington Beach.”



“INDEPENDENT” INVESTIGATION

RWG Report by Craig Steele of July 5, 2022

Steele *was not even* qualified to review “litigation” matters!

Third Paragraph – **Outside of His Expertise:**

“I was engaged to look at the record and evaluate **how the litigation was handled, and to advise whether it might have been handled in a different way...**”

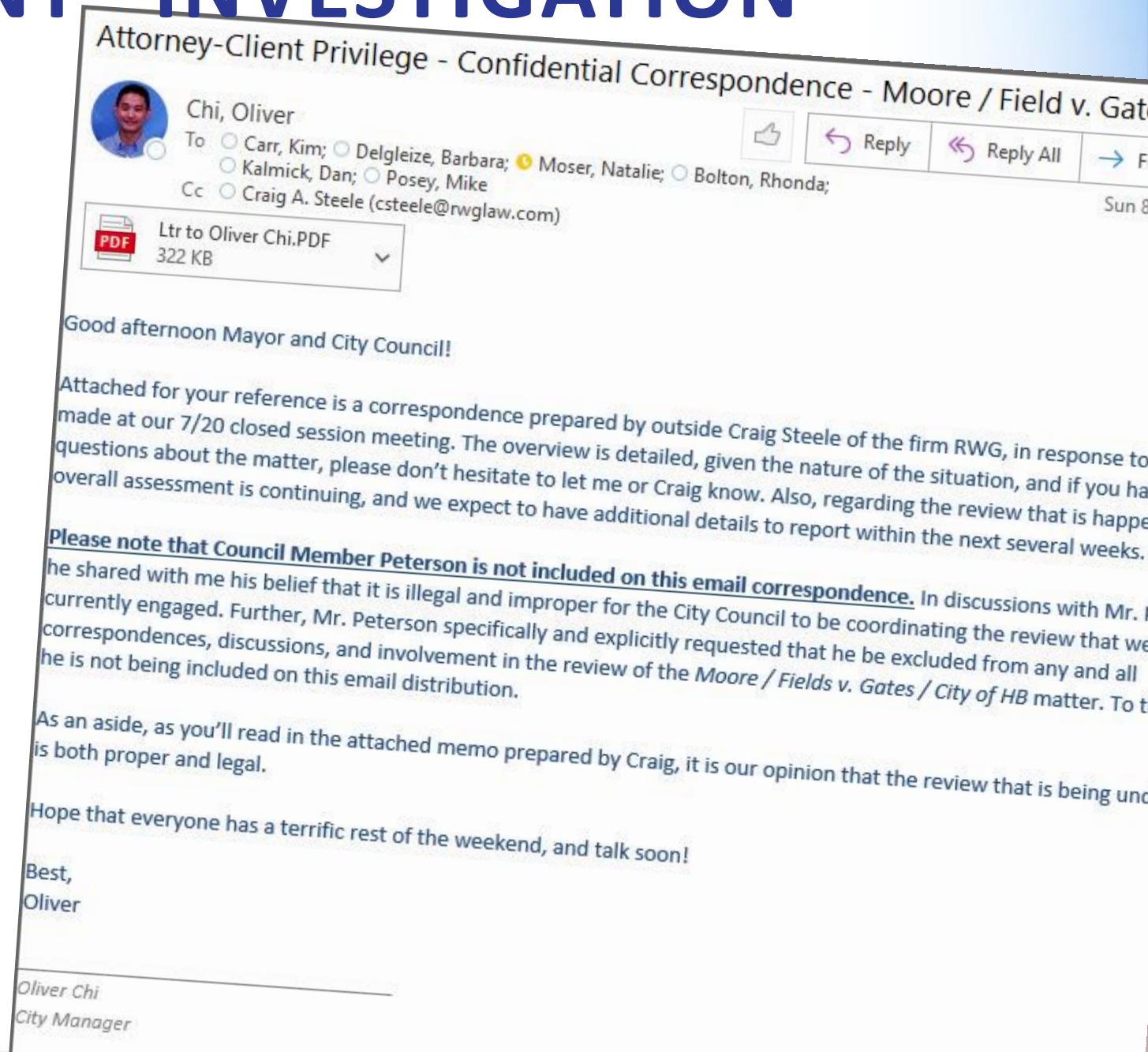
“INDEPENDENT” INVESTIGATION

A review of emails with Steele show:

Steele gave the 2020 City Council advice on *hiring him [Steele]* ...

Erik Peterson *not*

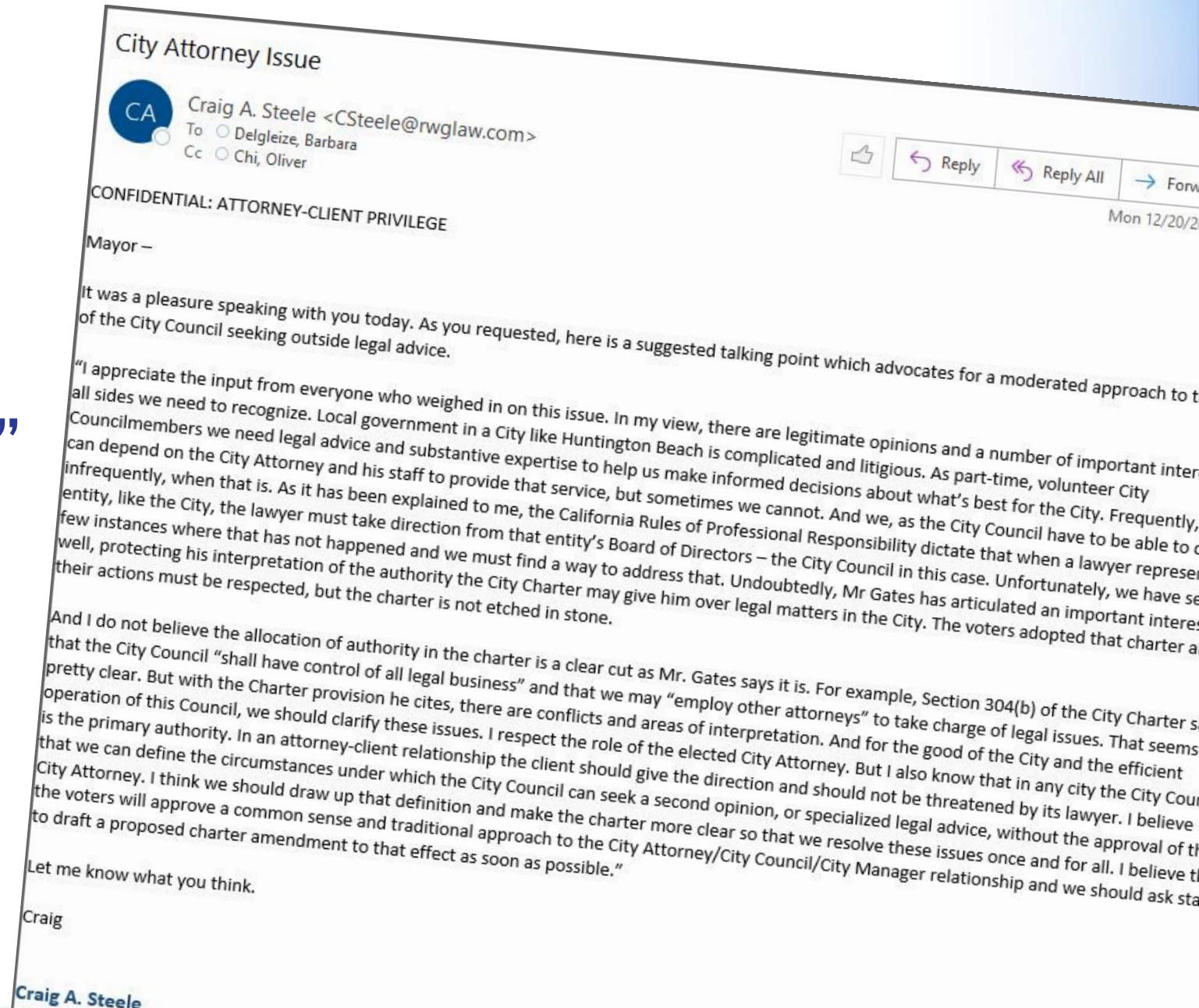
included



“INDEPENDENT” INVESTIGATION

A review of emails with Steele
show:

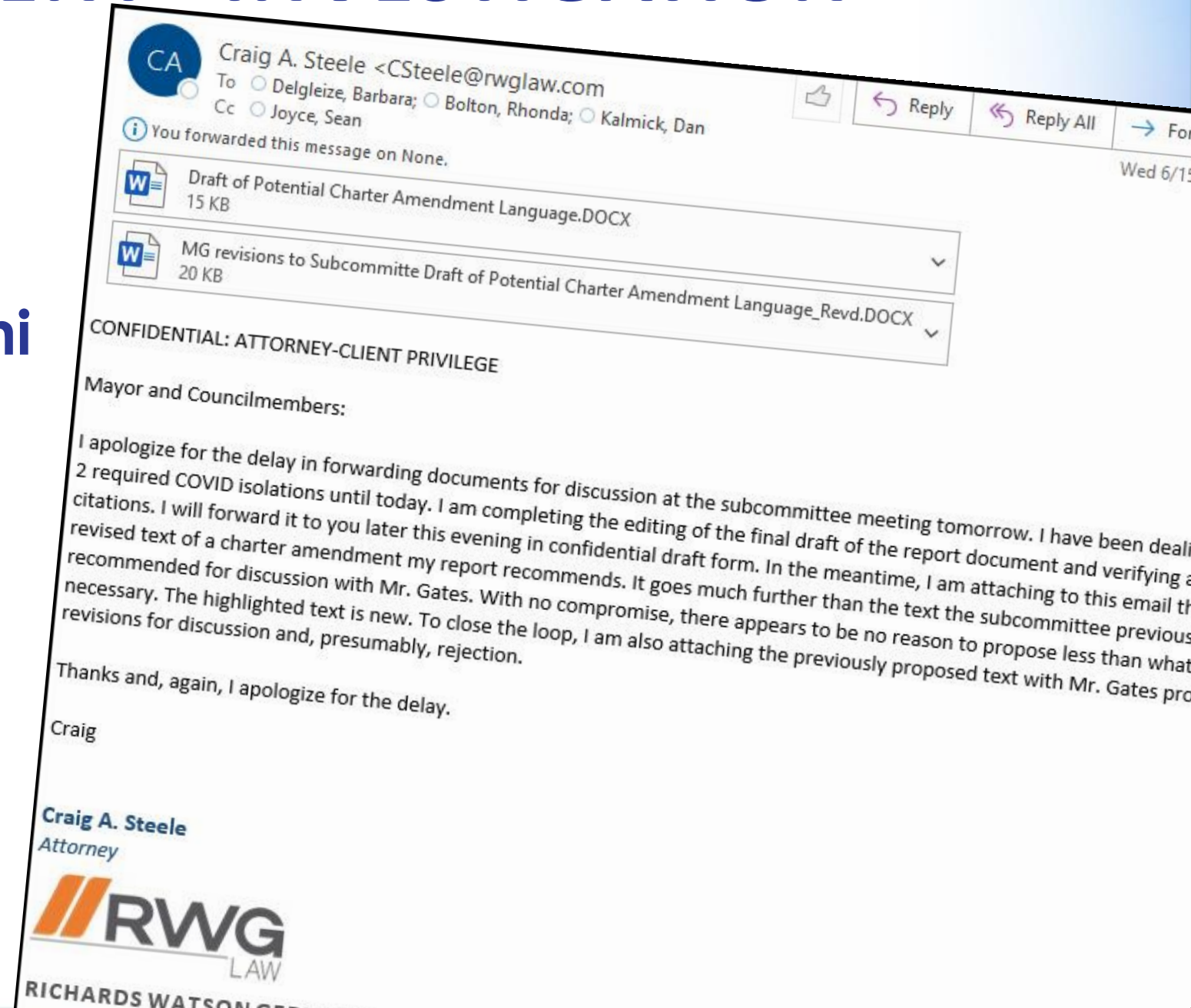
Steele gave Mayor
Delgleize “talking points”
advocating hiring him



“INDEPENDENT” INVESTIGATION

A review of emails with Steele show:

Steele assisted Oliver Chi and 2020 Council Members with 2022 proposed Charter Amendments



“INDEPENDENT” INVESTIGATION

Also, recent review of invoices show that from 2020, the City paid thousands for legal services to Craig Steele and his law firm, RWG, where he is an equity partner. These legal services were quietly requested by the former City Manager Oliver Chi without City Attorney consent or approval, and therefore no oversight or accountability.

“INDEPENDENT” INVESTIGATION

Beginning in 2020, Steele and RWG provided the following services to City, among others:

- Consulting on Shayna Lathus case
- Preparing 2022 Charter Amendments for 2020 Council
- Advising on Election Law(s)
- Attorney work on Separation Incentive Program
- Attorney work on DBFOM Public Works
- Attorney work on various Personnel Matters
- Consulting with Council Members on Politics
- Providing Talking Points to Mayor re Hiring Outside Legal

“INDEPENDENT” INVESTIGATION

Those legal services were not authorized by the me or anyone from my City Attorney Office.
They were:

- Initiated without the City Attorney's knowledge or consent
- Signed Retainers without City Attorney's consent
- Services Billed without City Attorney consent or review of invoices
- Billed by RWG without any City Attorney oversight as to what was being billed and how much was being billed
- Paid by the City without any City Attorney oversight as to what was being billed and how much the City was paying
- All done at taxpayer expense with no accountability

“INDEPENDENT” INVESTIGATION

In recently discovered email, Steele revealed his **bias** and **lack of impartiality**, “Independence.”



On December 16, 2021, Steele wrote to Chi about the upcoming 2022 proposed Charter Amendments:

“ask the voters to improve the system and then he [Gates] can take all his arguments and shove them up his ass”

- December 16, 2021 email from Craig Steele to Oliver Chi

“INDEPENDENT” INVESTIGATION

RWG Report by Craig Steele of July 5, 2022

After the City spent over a year of time on this
“Independent Investigation,” and thousands of dollars paid to
RWG, the Steele final Investigative Report concluded...

**“I did not find evidence of any violation of the law by the City
Attorney, the current members of his office, or the Greenberg
Gross firm.”** pg. 27 Steele/RWG Report

HISTORY OF COUNCIL ACTIONS ON *MOORE, FIELD*

Brief Case Handling History

HISTORY OF COUNCIL ACTIONS ON *MOORE, FIELD*

January 10, 2019 – Served with Lawsuit

**SAME DAY – I Internally Announced my Recusal
Designated Williams to Conduct RFP**

Discussed in Closed Session with City Council 9 times

January 22, 2019 – **Gates announces recusal verbally
and in writing**

**Council Votes 7-0 for Williams' rec's;
Retain law firm of Greenberg & Gross**

(Posey, Peterson, Hardy, Carr, Semeta, Brenden & Delgleize)

HISTORY OF COUNCIL ACTIONS ON *MOORE, FIELD*

What is “Recusal”? – An attorney steps away from representing a client due to a “conflict of interest,” which is a **legal determination** made by a lawyer.

Defendants/Clients still “communicate” and participate in the attorney-client relationship (Rules Professional Conduct, Rule 1.4)

There was **no** conflict of interest to participate in the litigation as a defendant

HISTORY OF COUNCIL ACTIONS ON *MOORE, FIELD*

Discussed in Closed Session with City Council 9 times

June 3, 2019 – Status of Case by attorneys

No Vote Taken

(Posey, Peterson, Hardy, Carr, Semeta, Brenden & Delgleize)

July 1, 2019 – Status of Case by attorneys

**Council Votes 6-1 (Peterson absent) to
authorize \$200,000 for GG attorney's fees**

(Posey, Peterson, Hardy, Carr, Semeta, Brenden & Delgleize)

HISTORY OF COUNCIL ACTIONS ON *MOORE, FIELD*

Discussed in Closed Session with City Council 9 times

March 2, 2020 – Status of Case by attorneys

Council Votes 7-0 to authorize

\$750,000 for Greenberg Gross attorney's fees

(Posey, Peterson, Hardy, Carr, Semeta, Brenden & Delgleize)

May 18, 2020 – Status of Case by attorneys

Council Votes 7-0 to reject

\$5.8 million demand by plaintiffs

(Posey, Peterson, Hardy, Carr, Semeta, Brenden & Delgleize)

HISTORY OF COUNCIL ACTIONS ON *MOORE, FIELD*

Discussed in Closed Session with City Council 9 times

September 8, 2020 – Status of Case by attorneys

Council Votes 7-0 to reject

Renewed \$5.8 million demand by plaintiffs

(Posey, Peterson, Hardy, Carr, Semeta, Brenden & Delgleize)

November 2, 2020 – Status of Case by attorneys

Council Votes 7-0 to authorize

\$500,000 for Greenberg Gross attorney's fees

(Posey, Peterson, Hardy, Carr, Semeta, Brenden & Delgleize)

HISTORY OF COUNCIL ACTIONS ON *MOORE, FIELD*

Discussed in Closed Session with City Council 9 times

November 3, 2020 – ELECTION

(Posey, Peterson, Kalmick, Carr, Moser, Ortiz & Delgleize)

December 21, 2020 – Status of Case by attorneys

No Vote Taken

(Posey, Delgleize, Kalmick, Carr, Moser, Ortiz & Peterson)

HISTORY OF COUNCIL ACTIONS ON *MOORE, FIELD*

Discussed in Closed Session with City Council 9 times

April 19, 2021 – Status of Case by attorneys

**Council Votes 5-2 to accept
\$2.5 million settlement proposal**

**New Council Majority “orders”
“Independent Investigation”**

(Posey, Delgleize, Kalmick, Carr, Moser, Ortiz & Peterson)

OTHER IMPROPRIETIES INVOLVING STEELE

There were many concerning Closed Sessions held often listed as “**Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (d) of Gov. Code Section 54956.9**,” in which I was “excused” by the City Council majority; Council Member Erik Peterson also left believing that such a conference of City Council behind closed doors without the City Attorney present was a violation of the Brown Act. A review of RWG invoices and emails shows that subject matter discussed was **not** potential litigation with significant exposure to the City; rather, they were closed-door discussions about the Steele “Independent Investigation” of the City Attorney. There is no Brown Act exception for a Council body to go into Closed Session to discuss and Independent Investigation of another Elected Official. Based on information, those such Closed Sessions took place on:

July 20, 2021

November 16, 2021

December 21, 2021

January 18, 2022

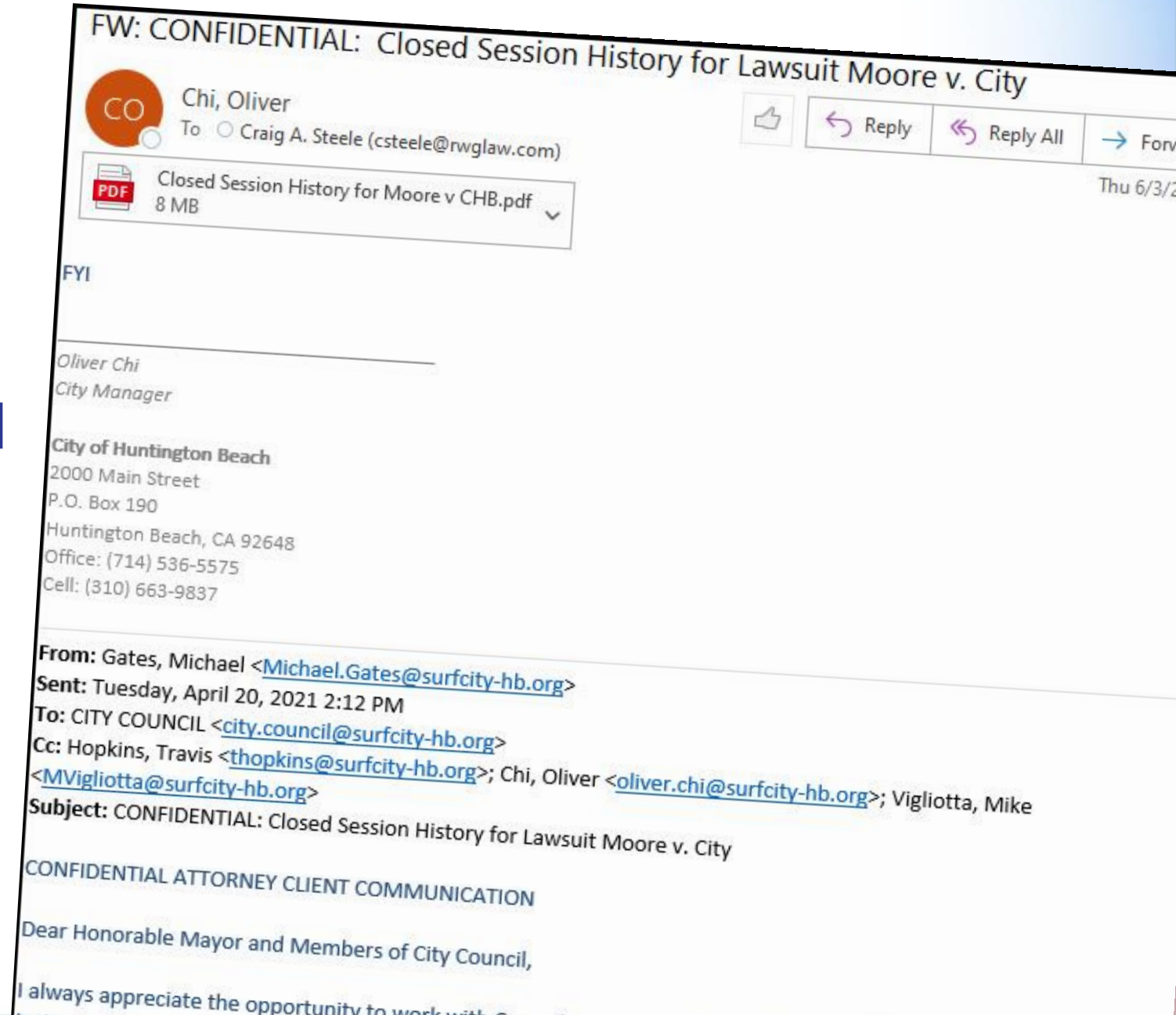
April 5, 2022

June 21, 2022

OTHER IMPROPRIETIES INVOLVING STEELE

A review of emails with Steele shows:

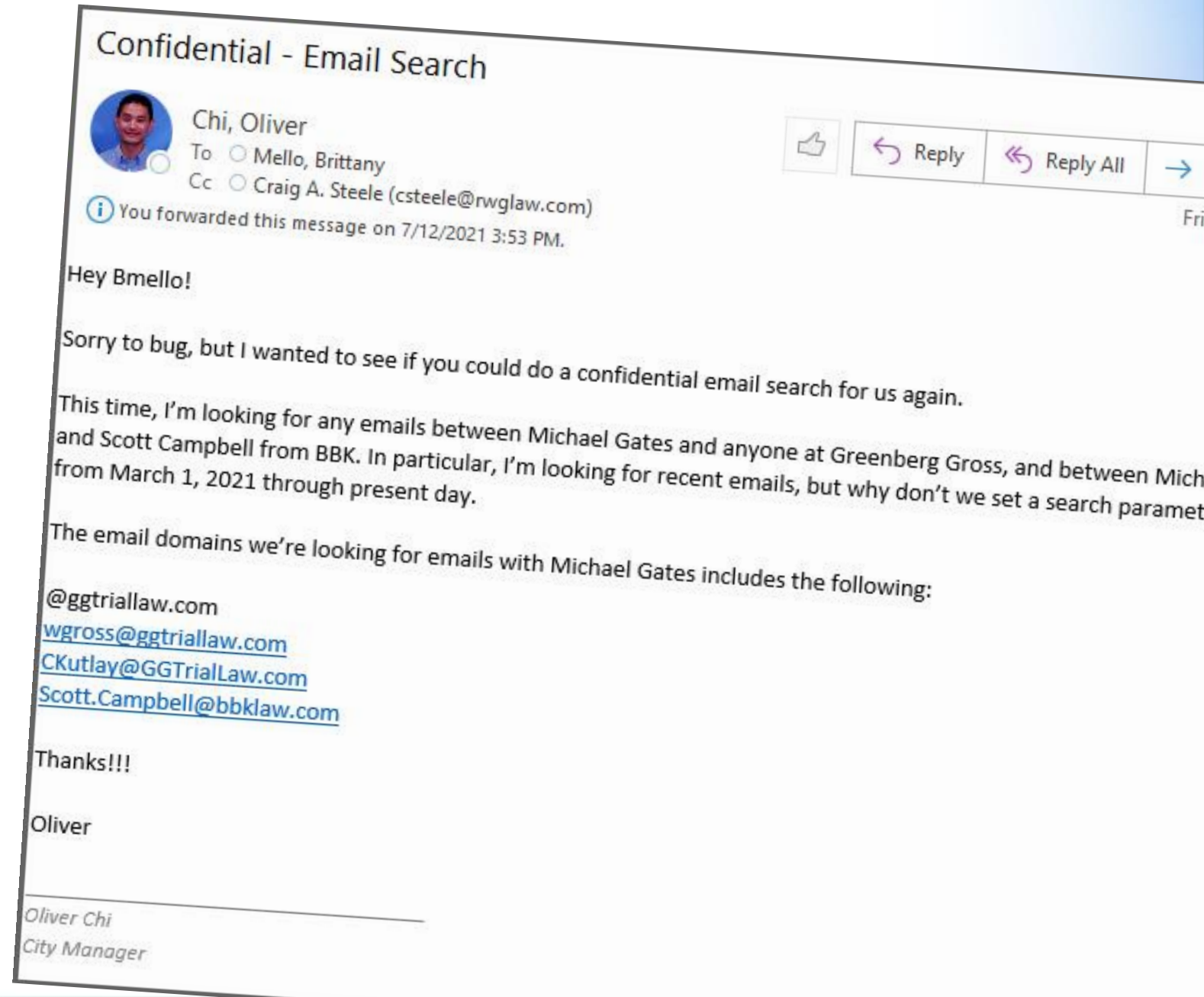
Oliver Chi sends to Steele
my **CONFIDENTIAL** Closed
Session emails intended
only to be viewed by my
City Council – in violation
of Closed Session rules



OTHER IMPROPRIETIES INVOLVING STEELE

A review of emails with Steele shows:

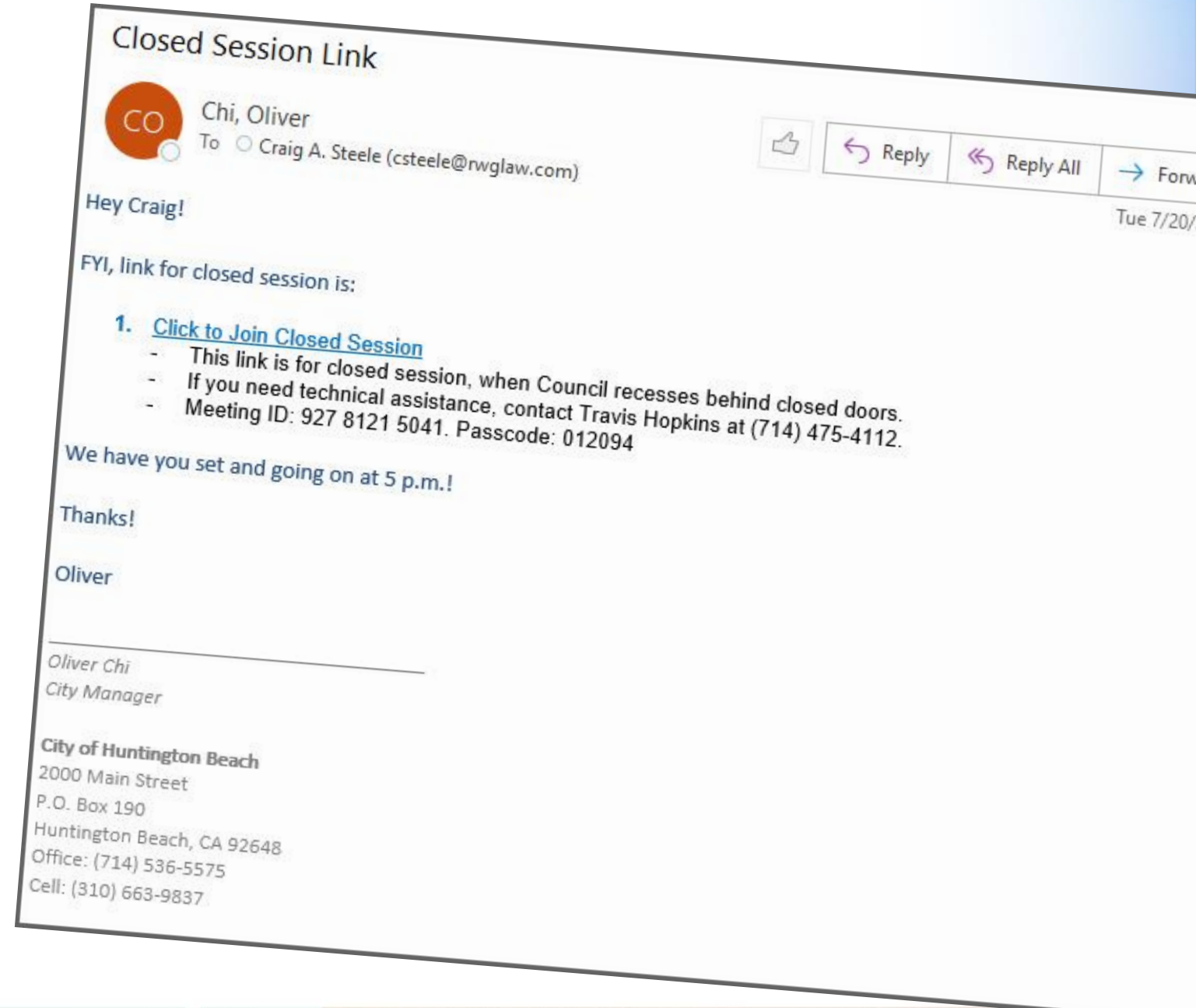
Oliver Chi wrote to B. Mello that, over my objections based on privilege, she search the server anyway to get my privileged emails



OTHER IMPROPRIETIES INVOLVING STEELE

A review of emails with Steele shows:

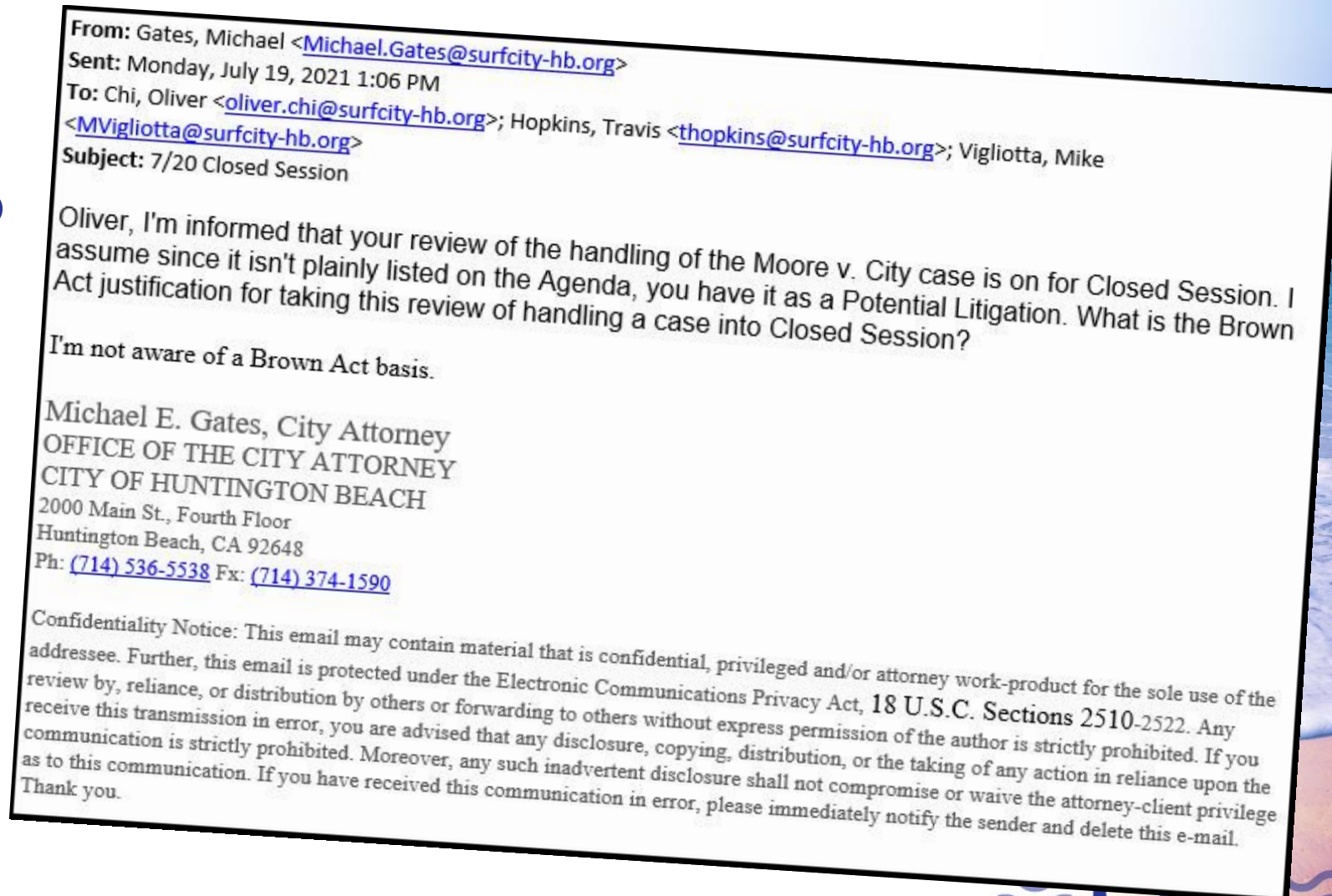
Steele improperly attended Closed Sessions with 2020 City Council, and without the City Attorney



OTHER IMPROPRIETIES INVOLVING STEELE

A review of emails with Steele
shows:

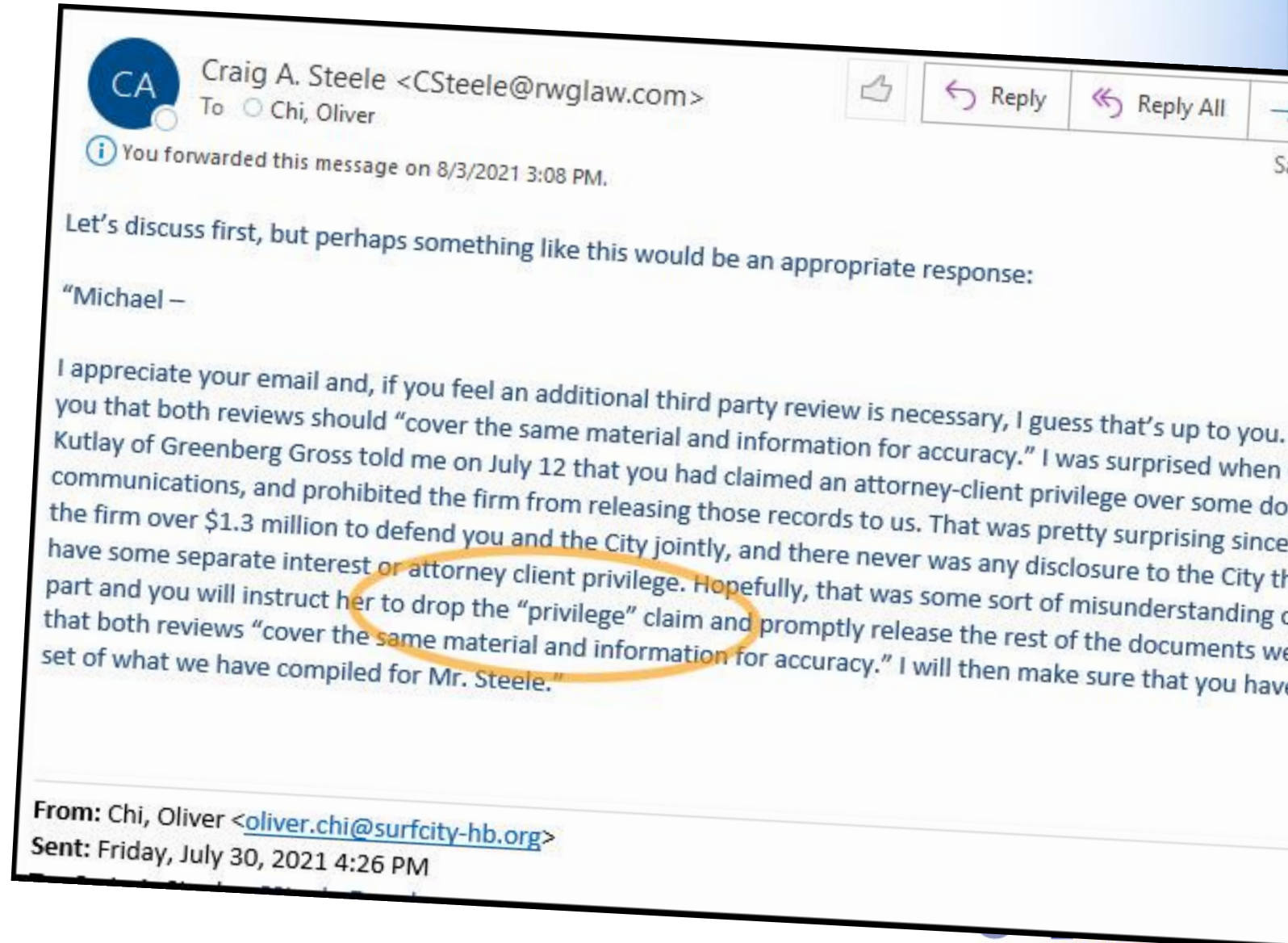
**I OBJECTED in writing to
City Council
improperly going into
Closed Sessions in
violation of the Brown
Act.**



OTHER IMPROPRIETIES INVOLVING STEELE

A review of emails with Steele shows:

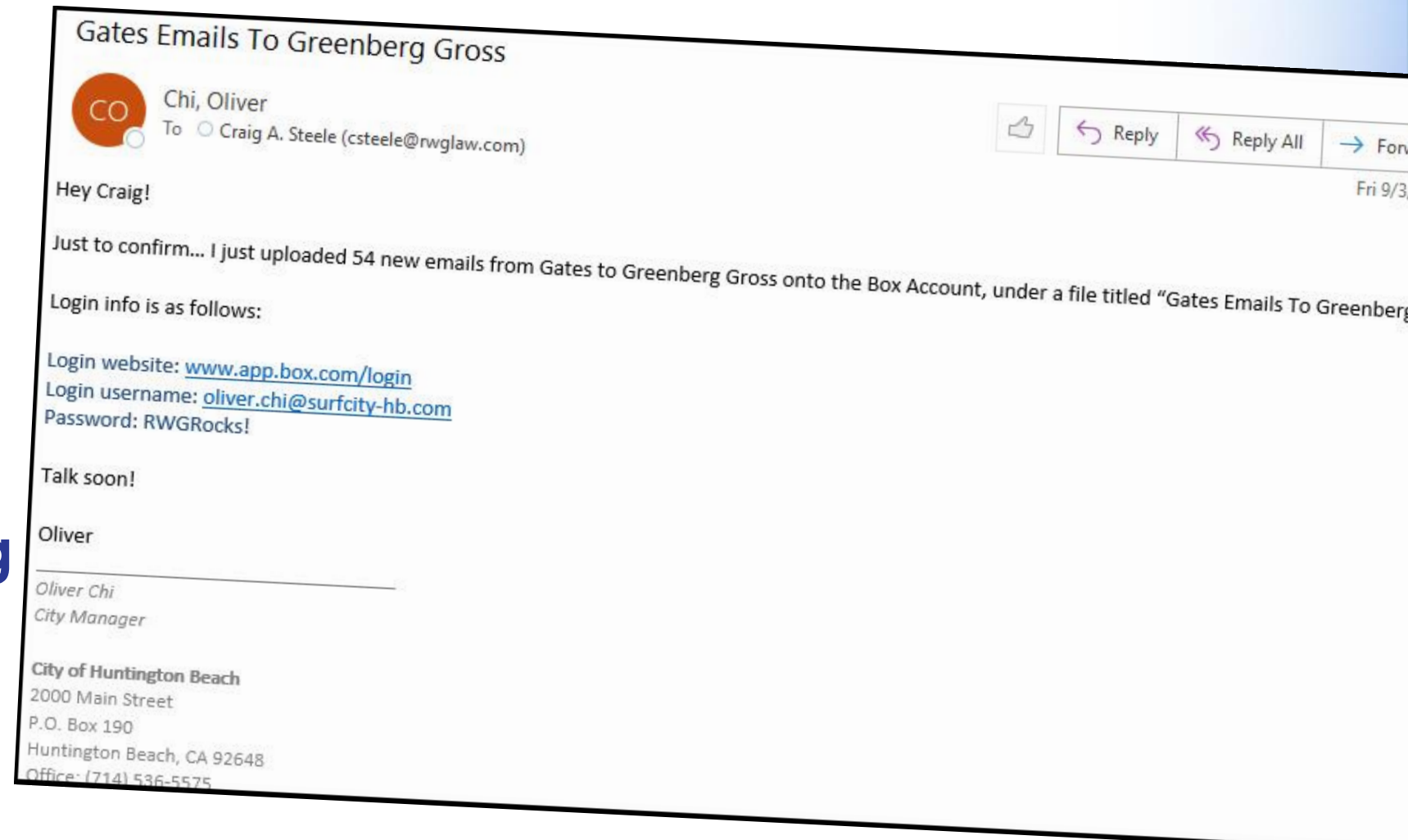
**Steele insisted that I
“drop [my attorney-
client] privilege claim”
regarding my private
attorney emails**



OTHER IMPROPRIETIES INVOLVING STEELE

A review of emails with Steele shows:

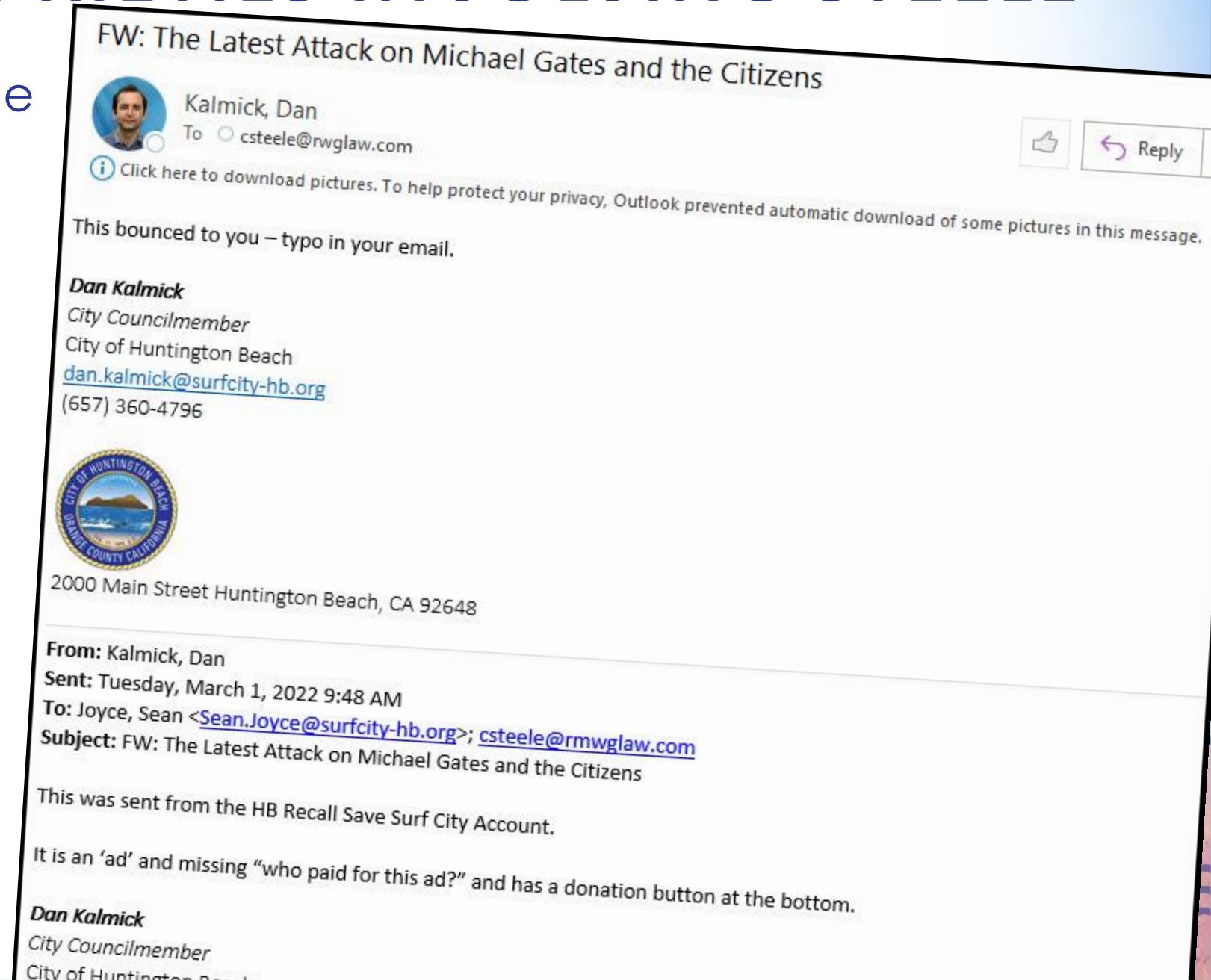
Oliver Chi sends my attorney-client privileged emails to Steele notwithstanding my previously placed objections



OTHER IMPROPRIETIES INVOLVING STEELE

A review of emails with Steele shows:

**Council Members
consulting with Steele
about personal
political concerns**



MCKEON H ITEM – REVIEW OF RWG

Take-Aways from Closed Sessions:

- The previous City Council (Peterson, Hardy, Brenden, Semeta, Delgleize, Carr, Posey) voted regularly to approve the \$1.5 million spent on Greenberg Gross legal services.
- I recused myself on day one and always acted in the lawsuit as a defendant – no “conflicts of interest” existed.
- The case was viewed by the 2018 City Council as “frivolous” for two full years until the new 2020 City Council was seated, then it was settled.
- The \$2.5 million settlement yielded a \$1 million payout to Scott Field who ran against me for City Attorney in 2022 and was endorsed by Kalmick and Bolton.

MCKEON H ITEM – REVIEW OF RWG

Again, at the April 19, 2021, Closed Session, newly elected Council Member Dan Kalmick suddenly called for an “Independent Investigation” into the City Attorney’s “handling” of the *Moore, Field v. City, Gates* Lawsuit. Council Member Kalmick alleged “ethical” concerns over “conflicts of interest” and “overbilling” by outside law firm, Greenberg Gross.

Yet, neither Kalmick nor Moser and ultimately Bolton were present during any of the City Council Closed Sessions discussing this lawsuit during the preceding two years. They would have not basis to have any “concerns.”

(Carr, Moser, Kalmick, Posey, Delgleize, Ortiz, Peterson)

MCKEON H ITEM – REVIEW OF RWG

Review of Records revealed the following:

1. On multiple occasions, Oliver Chi forwarded to Craig Steele highly confidential and privileged Closed Session Memos spanning the two years prior that had been prepared by the City's Attorneys.
2. Oliver Chi and Craig Steele met in Closed Session with the new 2020 City Council on numerous occasions (by Zoom) to discuss the "Independent Investigation," yet there is no Brown Act authority to do so, and no confidentiality or privilege attaches to such closed-door discussions. Peterson refused to participate on the objection that such meetings are illegal.

MCKEON H ITEM – REVIEW OF RWG

Review of Records revealed the following:

3. On multiple occasions, Oliver Chi forwarded to Craig Steele highly confidential and privileged ongoing email communications and attachments that the City Attorney had directed to City Council.
4. For months, Steele helped develop and provide counsel for all the 2022 Charter Amendments
5. Steele helped Delgleize and others with “talking points” to be read at the City Council meetings regarding 2022 Charter Amendments advocacy and ability to hire own attorneys.

MCKEON H ITEM – REVIEW OF RWG

Review of Records revealed the following:

6. Among those Charter Amendments, the initial proposal was to take the “Elected” City Attorney away from the people and convert the City’s form of government to an appointed attorney – one hired by the Council. Steele was involved in helping with this and would have benefitted financially from it if his law firm was given the legal work.
7. While I asserted attorney-client privilege between me and the Greenberg Gross attorneys, *over my rightfully-placed objections*, Chi secretly directed IS staff to access the email server and surreptitiously take my privileged and confidential emails, then Chi forwarded “54” of my private email communications with my attorneys to Craig Steele.

MCKEON H ITEM – REVIEW OF RWG

Review of Records revealed the following:

8. Oliver Chi and Craig Steele had circulated drafts of the RWG Craig Steele “Investigative” Report to all City Council, except for Peterson, soliciting a review and feedback by all Council Members, a meeting subject to the Brown Act. Council Members did review and provide feedback. Peterson had requested of Oliver Chi to not include him in those communications on the belief that it was illegal.
9. Craig Steele and/or his staff met over many months at City Hall and/or Zoom with Council Members to discuss the “Independent Investigation” and proposed 2022 Charter Amendments.

MCKEON H ITEM – REVIEW OF RWG

Review of Records revealed the following:

10. Craig Steele met with Oliver Chi, Kim Carr, Mike Posey, Dan Kalmick, Rhonda Bolton, Natalie Moser, and Barbara Delgleize to invade prior attorney-client privileged communications with the City Attorney and gather information about prior confidential Closed Session meetings with the City's Attorneys and/or the Greenberg Gross attorneys.
11. Steele knew or should have known based on the City authorities that *contracting* around the City Attorney in violation of the people's designation of the City Attorney as City legal counsel was **void**.

MCKEON H ITEM – REVIEW OF RWG

Notably, I was never interviewed by Craig Steele or his firm as part of his “Independent Investigation” of me. Normally the subject is interviewed.

None of my staff were interviewed. None of the Greenberg Gross Attorneys were interviewed by Steele. None of the following former Council Members who were key witnesses to the subject Closed Sessions were interviewed: Peterson, Hardy, Semeta, or Brenden.

Yet, records show Bolton, Moser, and Kalmick, who **were not present** during any of the handling of the lawsuit from 2019 through its settlement, **were not present** for any of the Closed Sessions, and **had no information** about what had happened, in 2019 and 2020 were interviewed by Steele.

MCKEON H ITEM – REVIEW OF RWG

Even though Steele claimed to have been an “Independent” “Special” counsel, when asked for records, he claimed “attorney-client privilege,” which is not possible if he was commissioned to conduct an “independent” investigation...

- **He worked for Chi in Monrovia, for Kalmick in Seal Beach, and then for Chi again in Huntington Beach earning thousands for his law firm from our City – he is an equity partner and has a financial interest, that is not “independent.”**
- **He met with and communicated with Kalmick, Bolton, Moser and Chi regularly – in person, by email, and during improper Closed Sessions.**

MCKEON H ITEM – REVIEW OF RWG

Even though Steele was commissioned for an “Independent Investigation:”

- **He shared early drafts of his report with the City Council Members (not including Peterson over his objections) for months before issuing the Steele final report;**
- **He received highly confidential City Attorney emails and Closed Session attorney work product memos from years past – while having no attorney-client privilege relationship as an “Independent” “Special” counsel to protect those;**
- **In a December 2021 email to Oliver Chi, Steele made a statement against (Gates), which revealed his bias – undermining his independence;**
- **He boasted about working for highly partisan politicians in the past.**

MCKEON H ITEM – REVIEW OF RWG

Possible Next Steps:

1. Steele's conduct referable to the State Bar
2. City consider a challenge Richards Watson Gershon on legal fees billed for improperly retained legal services
3. Consider referring the concerns about violating my attorney-client privilege, possible breaches of Closed Session(s) confidentiality, concerns about compliance with Brown Act, Public Records Act, and other laws, out for further investigation/handling



THANK YOU

By Michael E. Gates, City Attorney

