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September 12, 2025

VIA EMAIL & HAND DELIVERY

Council President Blaine Griffin
Council Clerk Patricia Britt
Cleveland City Council
Cleveland City Hall
601 Lakeside Avenue – Room 220
Cleveland, OH 44113

Dear Council President and Council Clerk Britt,

My name is Sam O’Leary, and I represent Councilman Joseph Jones with respect to the August 14, 2025 letter (“Letter”) reprimanding Councilman Jones based on investigative reports commissioned in response to recent allegations of threatening or intimidating behavior purportedly directed toward Council staff. Although that correspondence expresses disappointment and frustration with Councilman Jones’ alleged conduct, these feelings and sentiments regarding this situation cannot usurp the facts described in the August 8, 2025 and August 12, 2025 reports as amended (collectively, the “Report”), nor can those emotions form the impetus for the actions taken and threatened against Councilman Jones in the Letter.

For the reasons detailed below, while Councilman Jones shares the goal and is committed to achieving a work environment that is free from intimidation, bullying, and harassment, there are nevertheless, numerous and serious factual, procedural, and legal failings of Council’s investigation, and many of the measures that have already been imposed against Councilman Jones are unlawful, anti-democratic, violative of Council Rules and procedures, and are otherwise inappropriate in light of the investigation’s failings.

Numerous issues with the investigation and its conclusions

Initially, it must be noted that there is no indication that any investigation of Councilman Jones was ever authorized as required under §46 of the Charter of the City of Cleveland (“Charter”), nor that it was conducted in accordance with that Section. In fact, the investigation was characterized by its opaque nature, conclusory statements, and apparent bias toward finding wrongdoing on the part of Councilman Jones. Despite the opaque nature of the investigation and its questionable conclusions,

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it apparently was the basis of the Letter reprimanding Councilman Jones, which was sent to all Council and all staff. While Councilman Jones is not shrinking from these issues, it should be pointed out that Council leadership's decision to keep some aspects of its investigation confidential and private (as might be expected in typical handling of human resources issues) while actively publicizing other aspects is perplexing, to say the least—particularly when neither approach finds legal support in the Charter or Council Rules.

To address the lack of transparency with respect to the investigation and Report, and to obtain documents relevant to the circumstances giving rise to Incident 1 and Incident 2 pursuant to R.C. 149.43 *et seq.* undersigned counsel is requesting the records described in the attached Exhibit A, which is incorporated herein by reference. Please promptly advise should any of the requests require additional clarification. Further, I ask that should any delay in the production of the requested records be anticipated, that the more readily available records be produced on a rolling basis.

Regarding the incidents which led to the Investigation, both Incident 1 (involving Witness 1) and Incident 2 (involving Witness 2) are more fully described in the Letter. However, the respective Incidents can be briefly factually summarized as follows. In Incident 1, Councilman Jones made a joking comment that he would kill someone if that person publicly disclosed his computer passwords/credentials. Admittedly, the wording of Councilman Jones' comment transcended what might be described merely as colorful, and Councilman Jones has already acknowledged that the comment—albeit clearly nonthreatening—was inappropriate for the work setting. However, under no circumstances could the comment be considered a serious, credible, or real threat. Without demeaning the very serious issue of workplace violence, by way of example, someone who says, “if you eat my sandwich, I'll kill you,” would conventionally be understood to be saying that they are very hungry and are looking forward to eating their sandwich—not that they possess any current intent to harm or kill anyone (or even that the speaker is angry).

Not only was the conditional “threat” made by Councilman Jones to Witness 1 not intended seriously, but it was obviously predicated on the individual subject to the comment engaging in conduct that both Witness 1 and Councilman Jones knew would never occur.

Put as simply as possible, most people who speak English as a first language understand that the phrase “**if you _____, I'll kill you,**” is a relatively common colloquialism and idiom, not an actual threat of violence.¹ Again, while Councilman Jones regrets his phrasing around his sentiment that he did not wish for his computer passwords and credentials to be publicly disseminated, the assertions that he was verily threatening to kill a coworker—or even that the coworker believed as much—are as far-fetched as they are contrived. In fact, prior to Incident 1, Councilman Jones believed he had a close, professional relationship with Witness 1, which often included the jocular exchange of comments made in jest, and discussion of details of their respective personal lives (such

¹ A simple Google search of the phrase returns the following explanation as the top AI result: “The phrase ‘If you _____, I'll kill you’ is a **hyperbole—an exaggeration for emphasis—that is almost never meant literally.**” Likewise, in its idiom section, thefreedictionary.com defines “(one) will kill (someone)” as “One will be extremely, belligerently angry with someone (**though not with an actual intent to kill them**).”

as Witness 1's affinity for his motorcycle).

Further to the point regarding the nature of the exchange that forms the basis of Incident 1, the Letter mentions that the investigation included an interview with a student who witnessed the exchange, however, the Letter states—without support and in conclusory fashion—that the unnamed investigator “found the student not credible and inconsequential to the conclusions in the report.” There is no explanation provided as to why the student's testimony was found not to be credible by the investigator, nor does the Letter provide the context that the student is an adult—legally competent to provide testimony, and that the testimony in this instance refuted that Councilman Jones used profanity or that he repeated the comment three times. Contrary to the impressions the Letter attempts to conjure, Councilman Jones' remark to Witness 1 was not delivered repeatedly, he did not use profanity, and he did not raise his voice at Witness 1 or engage in any physical behavior that would be considered threatening. Again, it is unclear why the student witness' testimony on these issues was deemed neither credible nor relevant.

Respectfully, what is not credible is that Witness 1 truly took the “threat” seriously—particularly when Witness 1, in his own words, indicated that—at least initially—he did not. Rather, per Witness 1's own report of the incident, “I wanted to take this as a sick joke and forget about it, but **after it was brought to my attention** that he was threatening, or intimidating other members of the staff...” (ellipses in original). It is worth questioning here, which employee pushed Witness 1 to report Incident 1—particularly if that employee was Witness 2.

In reporting Incident 1, Witness 1 went on to underscore that he did not feel threatened by the comment when it was made: “[t]he more I thought about this, the more it began to bother me. Unfortunately, I had to consider the **possibility** that he wasn't joking.” **Thus, in Witness 1's own words, at most, he merely “consider[ed]” it a “possibility” that Councilman Jones' comment was anything other than an ill-advised jest.** Considering the equivocal nature of Witness 1's complaint and the context of the comment at issue, the Letter's conclusion that Incident 1 warrants additional punitive measures against Councilman Jones and/or the residents of Ward 1 is without merit, and renders the purportedly altruistic motivations of Witness 1 and the Letter—at best—highly dubious.

With respect to Incident 2, Councilman Jones is accused of inadvertently sitting next to an employee in a Council meeting, with whom he had previously been advised to have no contact. Salient details—all of which were seemingly ignored by the authors of the Letter—include the following: (1) Councilman Jones was unaware that he was sitting next to Witness 2; (2) when he became aware he was seated next to Witness 2, he immediately moved; (3) Councilman Jones sat in the seat next to Witness 2 because he was having difficulty hearing a presentation, and the seat next to Witness 2 was the next available seat that was closer to the speaker; (3) Councilman Jones did not engage, or attempt to engage, in any physical or verbal contact with Witness 2; (4) while Councilman Jones was not aware that the individual seated next to him for a period of a few minutes was Witness 2, it was also not Councilman Jones' understanding that he was prohibited from doing so.

To that point, the Letter does not dispute any of those points, because the investigation did not find any credible evidence to the contrary. Specifically, the Letter states that “[Councilman Jones] stated that [he] did not intend to violate that [no-contact] directive, **and there is no objective evidence contradicting the stated lack of intent. * * * The investigation suggests that [Councilman Jones]’ lack of intent mitigates [his] actions during the Council meeting.**” Nevertheless, the Letter claims that sitting next to Witness 2 demonstrated a “disregard for the actions taken after the first investigation” and claims that is the case “whether intended or not.” However, this rush to condemn Councilman Jones’ actions ignores basic logic: one cannot “unintentionally” show “disregard” for something. To disregard something is to know of it, and then ignore it. Thus, it is axiomatic that, to disregard something, one first has to be aware of it. The Letter completely fails to reconcile how Councilman Jones’ “lack of intent mitigates [his] actions during the Council meeting[,]” yet, the Letter condemns Councilman Jones’ actions as “inexcusable considering previous warnings and reprimands.” Again, to mitigate means to excuse, so if Councilman Jones’ actions during the Council meeting were “mitigate[d],” it begs the question as to why Council leadership seems so intent on punishing him anyway—for actions its own report and investigation found were excusable based on his lack of intent to engage in any unprofessional conduct or violate any directive.

In sum, a closer examination of the facts and circumstances underpinning Incident 1 and Incident 2 demonstrate just how specious the resulting complaints and allegations truly are. In its consideration of Councilman Jones’ conduct respect to Incident 1, Council should give additional weight to the explanation of context and to Witness 1’s own description of the comment and its aftermath—especially that it was the influence of at least one other employee(s) that prompted him to report the incident. Likewise, with respect to Incident 2, should heed its own Report and find that Councilman Jones’ behavior at the committee meeting in question was completely “mitigate[d].”

The restrictions and penalties in the Letter cannot be imposed unilaterally without Due Process, and are otherwise unlawful

Regardless of the legal and procedural issues raised in this correspondence, Councilman Jones does not object to completing the additional training referenced in the Letter, as a demonstration of the good faith with which he approaches this issue, as well as demonstrating his understanding of the seriousness of the allegations asserted against him, and his continued commitment to a workplace that is free from threats, harassment, or other unprofessional conduct.

In addition to his willingness to participate in additional workplace training, Councilman Jones likewise has no objection to the directive(s) contained in the section of the Letter headed “Direct Communication Prohibited.” To the extent that Witness 1 and Witness 2 have represented that they are incapable of performing any job duties that involve or relate to direct (or even **indirect**) contact with Councilman Jones or his staff, these duties should, and must, be reassigned to other Council staff so that Councilman Jones can continue to provide superb constituent services and effective advocacy to Ward 1 residents. This should not be controversial, as the Letter itself notes that Witness 2’s issues with Councilman Jones stem from his “pattern of making repeated complaints to council leadership about Witness 2’s work, causing Witness 2 to repeatedly justify their actions and justify their work.” In this respect, it should be strongly considered that directing, supervising, and evaluating the work

performed by Council staff is entirely within the purview of members of Council, and that consistent and substantiated dissatisfaction with an employee's job performance—without more—is neither harassment nor intimidation. In any case, Councilman Jones does not object to the directive against direct contact with Witness 1 and Witness 2, so long as (1) the directive is reciprocal; and (2) job duties relating to Councilman Jones belonging to Witness 1 and Witness 2, respectively, are reassigned to other employees in a manner that does not disadvantage Councilman Jones or impugn his ability to represent his constituents.

However, the Letter goes too far when it also states that, “[y]ou are hereby informed that your suspension from all committee duties will continue, at least until the end of the term. * * * you are prohibited from participating in any way in scheduled committee hearings; you may not sit at the table during committee hearings; you are prohibited from speaking and may not ask questions or testify during committee hearings.” Council members have a right to participate in committee meetings, both as members of Council and as a member of the general public. In fact, a committee member's failure to attend a committee meeting is punishable under Council Rule 14.2 *See* Council Rule 14-2, Councilmember Absences (“Each absence of a committee member, not authorized by the chair for good cause, or the absence of the chair, not authorized by the President of Council for good cause, shall be deemed a violation of the Rules of Council under Section 29 of the Charter, punishable by a fine of one hundred dollars (\$100.00) for each unauthorized absence. Moreover, members who are not part of a committee still have a literal seat at the table, reserved for them. *See* Council Rule 14-3 Committee Room Seating (“Seats at the table in the committee room **shall be reserved for** * * * members of Council not members of the Committee [.]”) These types of penalties do not serve to advance any of Council's objectives related to creating a professional and collegial workplace. Rather, these penalties seem calculated to cause Councilmember Jones embarrassment and disadvantage Ward 1 residents.

Moreover, correspondence from Council Clerk Britt dated August 26, 2025 threatens Councilman Jones with “future loss of ward-based funding.” That Council would attempt to eliminate funding from worthy programs and initiatives in Ward 1 based on factors that have nothing whatsoever to do with the worthiness of those programs and their positive impact on the community and its residents is as shocking as it is misguided. To the extent Council leadership's intention is to improve the workplace environment, it should never resort to reducing important programs and services on which Ward 1 residents rely to a political cudgel, particularly when Councilman Jones has indicated a willingness to abide by directives and participate in additional workplace behavior training.

Another unsettling circumstance relating to the recent investigation of Councilman Jones is his apparent lack of representation by any of the City's legal counsel—whether Council's legal staff or the City's Law Department. More specifically, if a Council member is being investigated related to their official duties, Council's attorneys should be a resource for that member. If a conflict exists such that Council's attorneys cannot represent the council member with respect to that matter, then the member should be expressly advised by Council's attorneys and/or the City's Law Department that a conflict exists, and arrangements should be made for the member to obtain outside legal counsel. In this instance, it appears that Councilman Jones was neither advised that there was a

conflict, nor was he ever provided any legal counsel or guidance with respect to the investigation and now—its resultant punishment. Again, to the extent that a conflict existed, Councilman Jones should have been advised by Council’s attorneys to seek representation. If it was determined that no conflict existed because an outside law firm was utilized to conduct the investigation, then Council attorneys should have represented Councilman Jones with respect to the investigation.

Council has determined that it is to be governed by its own rules and by fundamental principles of democratic decision-making—not by unilateral fiat of the Council leadership—regardless of how well-intentioned such pronouncements may be or what purpose they purport to serve. Therefore, with the exceptions noted above with regard to workplace behavior training and no-contact directives, Councilman Jones objects to the manner in which the investigation was performed, the conclusions reached in the Letter, the punitive actions intended to diminish Councilman Jones’ efficacy as the representative of Ward 1, and the unilateral, unlawful manner in which those punitive actions were determined and imposed.

The censure vote is tainted by secret deliberations

By inviting Councilmembers to “give feedback to either [the Council President or Council Clerk] or a member of the leadership team regarding the censure no later than September 12, 2025[,]” the Letter appears to openly solicit violations of Ohio’s Open Meetings Law, R.C. 121.22, which prohibits “serial” meetings—as well as the use of texts, phone calls, email correspondence, etc.—for straw votes or deliberation if such communications cumulatively involve a majority of the Council. *See, e.g., White v. King*, 2016-Ohio-2770 at ¶ 18. (“The distinction between serial in-person communications and serial electronic communications via e-mail for purposes of R.C. 121.22 is a distinction without a difference because discussions of public bodies are to be conducted in a public forum.”). *See also*, R.C. 121.22(G)(1) (“Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official’s official duties or for the elected official’s removal from office.”) Given the strength of the inference that a majority of Councilmembers have attempted to circumvent R.C. 121.22, it is accordingly likely that Council’s consideration of a censure of Councilmember Jones has been impermissibly tainted by violations of the Open Meetings Law; and therefore any such action would be rendered invalid. R.C. 121.22(H) (“A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section.”) Once again, the Council leadership’s attempts to punish Councilmember Jones denigrate and disregard the rules and process they purport to protect, and resort to unlawful means to accomplish their objective.

Conclusion

Councilman Jones sincerely regrets the distraction Incident 1 and Incident 2 have caused his fellow Councilmembers and Council staff, however he respectfully takes issue with (1) the lack of transparency and methodology of the investigation that led to the Report; (2) the conclusion reached in the Report and conveyed in the Letter; (3) the nature and scope of the penalties unilaterally levied

September 12, 2025

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in the Letter; and (4) the likely violations of the Ohio Open Meetings Law preceding the upcoming censure vote. As a result, while Councilman Jones has no objection to completing additional workplace trainings, he cannot acquiesce to those measures which have not been ratified by Council, do not advance any objectives related to workplace safety or conduct, and have the potential to limit his ability to serve and advocate for Ward 1.

Sincerely,

THRASHER, DINSMORE & DOLAN, LPA

Samuel T. O'Leary, Esq.

cc: All Council members (via email)
Ms. Rachel Nigro Scalish, Esq. (via email)
Ms. Jennifer Heinert O'Leary (via email)

Enc. Exhibit A – Public Record Requests

EXHIBIT A

1. All correspondence between or among any members of Council, with the exception Councilman Jones, relating to or referencing:
 - a. A censure of Councilman Jones
 - b. The Letter (as that term is defined in the attached correspondence)
 - c. The Report (as that term is defined in the attached correspondence)
 - d. Councilman Jones' committee assignments
2. All correspondence between or among any of the following officials/employees regarding Councilmember Jones, any investigation of Councilmember Jones or allegations against Councilmember Jones, or any legislation related to a censure, sent or received between May 15, 2025 and the present:
 - a. Council President Blaine Griffin
 - b. Council Majority Leader Kerry McCormack
 - c. Council Majority Whip Jasmin Santana
 - d. Council Clerk Patricia Britt
 - e. Deputy Council Clerk Allan Dreyer
 - f. Rachel Scalish, Esq.
 - g. Jennifer Heinert O'Leary, Esq.
 - h. Laveta Parker
 - i. Rochelle Long
 - j. Witness 1[†]
 - k. Witness 2[†]
3. All records referencing or relating to any investigation of Councilman Jones from May 15, 2025 to the present, including but not limited to correspondence, interview notes, phone records, text messages, memoranda, and invoices.
4. All email correspondence between or among any of the individuals listed in 2(a.)-(k.) above, on the one hand, and any email address containing the domain "@mcdonaldhopkins.com" on the other, sent or received between May 15, 2025 and the present.
5. All drafts of the Report—including associated metadata.
6. All complaints regarding Councilman Jones sent or received by any of the individuals listed in 2(a.)-(k.), including anonymous complaints.
7. Any invoices received from McDonald Hopkins, LLC or any of its attorneys, employees, or agents, from May 15, 2025 to present.

[†] Witness 1 and Witness 2 refer to certain Cleveland City Council employees, as referenced in the Letter, whose identities are obviously known to the records custodians. Therefore, requester's use of these pseudonyms should not cause any ambiguity as to whom requester is referring or what records are being requested.

8. All complaints or concerns regarding Witness 2 or Witness 2's work performance, whether such complaints were received via anonymous complaint, text message, email, etc.
9. Witness 2's personnel file.
10. All communication between Witness 1 and Witness 2 from May 15, 2025 to the present, including messages and emails sent or received on or through personal devices, personal numbers, personal email addresses, or other apps and messaging services, to the extent the content of the messages establishes such messages as public records pursuant to R.C. 149.43.