

Londonderry Town Council Minutes
Monday, January 22, 2024
7:00 PM
Moose Hill Council Chambers

Meeting Link: <http://173.166.17.35/CablecastPublicSite/show/12495?channel=4>

Attendance: Chairman John Farrell; Vice Chairman Chad Franz; Councilors Ted Combes, Jim Butler, and Ron Dunn; Town Manager Michael Malaguti; Assistant Town Manager Kellie Caron.

CALL TO ORDER

Chairman Farrell called the Town Council meeting to order at 7:00 PM. The Pledge was led by Chairman Farrell. This was followed by a moment of silence led by Chairman Farrell in honor of the poll workers for tomorrow during the primaries.

PUBLIC COMMENT

Chairman Farrell opened public comment.

Name: Tom Dolan

Address: 19 Isabella Dr

Dolan opened public comment thanking the Council for the service they provide to the town. Dolan expressed he has been thinking about the past meetings that came with outbursts not related to the agenda items. Dolan suggested to reconsider the decorum of public comment and have it more aligned with the State House. Dolan thanked the Council for their time and urged them to think about public comment.

Name: Ann Chiampa

Address: 28 Wedgewood Dr

Chiampa urged that this is an open forum for citizens to come and be involved in the process of Town Council. Chiampa also questioned the vacant position in the Planning department seeing as though the Planner position is now open. Farrell shared they will not discuss personnel issues. Chiampa thanked the Council for their time.

Name: Andrew

Address: 12 Mt Gary Dr

Andrew requested the Council to propose a resolution to change the state flag to his design. Andrew went into great detail of the new design sharing the Old Man on the Mountain is present with 9 stars representing NH as the 9th state in the Union. Andrew further discussed how “Live Free or Die” will be on the flag to honor the state’s motto. Councilor Dunn offered to sponsor an amendment to change the flag at the state house seeing as though the local Council is not fit to make such a change.

Name: Bo Butler

Address: Fire Chief

Chief Butler delivered a command update. Butler shared he is happy to report two LFD fire fighters have graduated from an accelerated course on paramedicine. This now brings the total count of paramedics to 24. The two new additions to title of paramedic are Liam Jerome and Christopher Schofield. Lastly, Butler thanked the Council for their support on Article XV on the warrant.

Public comment is closed.

Chairman Farrell addressed an outburst at the previous meeting as well as an increase in “keyboard chaos.” He also referenced “more half stories told in local publications.” Farrell held up a folder containing the investigation into the complaint made by the Town Manager and indicated it was released to Ms. Paul’s attorney, Kevin Coyle, three weeks ago. Farrell explained in the future all 91A requests will be public and put on the website and the report which was sent to Ms. Paul’s lawyer will be attached to the minutes. He stated the town has nothing to hide and people should make their own decisions.

PUBLIC HEARINGS

NEW BUSINESS

Ordinance #2024-01 – An Amendment to the Zoning Ordinance Relative to Rezoning Map 10, Lot 92 (First Reading)

Vice Chairman Franz moved to waive first reading of Ordinance 2024-01. Councilor Combes seconded the motion.

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

Motion passed 5-0-0.

Order #2024-02 – Withdrawal from the Cable Equipment Capital Reserve

Vice Chairman Franz moved to approve Order 2024-02. Councilor Combes seconded the motion.

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes

Ted Combes	Yes
Ron Dunn	Yes

Motion Passed 5-0-0.

Update of the Charge for Londonderry Arts Council

Larry Casey of the Arts Council is looking to amend the charge to add 3 more voting membership roles as well as a treasurer and finally possibly adding 1-3 alternate positions.

Vice Chairman Franz moved to approve the charge update for the Londonderry Arts Council. Councilor Combes seconded the motion.

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

Motion passed 5-0-0.

OLD BUSINESS

None

APPROVAL OF MINUTES

Vice Chairman Franz moved to approve the January 12, 2024, Town Council minutes. Councilor Dunn seconded the motion.

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

Motion passed 5-0-0

REAPPOINTMENTS

Reappointment of Larry Casey, Stephanie Miville, Karen Giguere, Stephen Lee, Dasha Bulatova, Greg Descoteaux, Jan McLaughlin, and Cit Waters to the Londonderry Arts Council.

Vice Chairman Franz moved to approve the reappointment of Todd Ellis to the Rec Commission. Councilor Combes seconded the motion.

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

Motion passed 5-0-0.

OTHER BUSINESS

N/A

Liaison Reports

None

Town Manager Report

Town Manager: Malaguti explained he hosted a coffee event for all state reps which the biggest discussion surrounding water. Malaguti also mentioned he attended an event at the Senior Center to educate and explain the warrant article regarding water.

Assistant Town Manager: None

MEETING SCHEDULE

- February 5, 2024: Moose Hill Council Chambers, 7:00 p.m.

ADJOURNMENT

Councilor Combes moved to adjourn. Councilor Dunn seconded the motion.

John Farrell	Yes
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Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

142

143 Motion passed 5-0-0.

144

145 Meeting adjourned at 7:30 p.m.

146

147 Minutes prepared by Cameron Maher



Office of Human Resources

Tara Koza

TO: Deb Paul Harassment Complaint File
FROM: Tara Koza
DATE: March 13, 2023
SUBJECT: Document Review

Notes from conversation with Liz Bailey the morning of 3/13/2023:

- Councilor Paul was handed a copy of the harassment complaint dated 2/14/23 just before the start of the 3/6/23 Town Council meeting. She was unable to review the document in its entirety, and she would like to come to Town Hall to review it.
- While she may review it, she won't be allowed to keep a copy.
- John allowed her to review it and took it back.
- She has asked through Kevin Coyle for a copy. That is not appropriate.
- Deb can come to Town Hall and I will provide her with a copy of the document and I will maintain.
- I can tell her that an investigation took place and the complaint was found to be without merit. This matter is closed.
- The document to be reviewed is the 2/14/23 document directed to John Farrell from Mike Malaguti (Just the attachment, not the email.)
- Deb should direct all questions to Chairman John Farrell. He is best to answer them. He had a conversation with her. He may have some additional information.
- Will she be bringing Kevin Coyle with her? This is an opportunity for her to come and inspect the document. He can wait in another area.

Update following Councilor Paul's document review:

- Councilor Paul stopped by my office mid-morning on 3/13/23 to review the document.
- I provided her with a copy for her review. She read through it and took some notes, but didn't ask any questions. I maintained the document and did not provide her with a copy to take with her.
- She snickered a few times while reading it and made a comment or two about it being ridiculous. She also mentioned that she's a very open and understanding person.

- After she finished the review, she stayed in my office for quite some time chit-chatting, and I did not get the impression that she was terribly concerned or upset by the information she read.

Tara Koza

From: Tara Koza
Sent: Monday, March 13, 2023 10:56 AM
To: Elizabeth A. Bailey; John W. Farrell
Subject: Councilor Paul - Document Review

Good morning Liz & John –

Councilor Paul stopped by my office this morning to review the document. I provided her with a copy for her review. She read through it and took some notes, but didn't ask any questions. I maintained the document and did not provide her with a copy to take with her.

She snickered a few times while reading it and made a comment or two about it being ridiculous. She also mentioned that she's a very open and understanding person.

After she finished the review, she stayed in my office for quite some time chit-chatting, and I did not get the impression that she was terribly concerned or upset by the information she read.

Regards,

Tara Koza

Tara Koza
Human Resources Manager
Town of Londonderry
tkoza@londonderrynh.org
603-432-1100 x127

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Office of the Town Manager
Michael J. Malaguti • Town Manager
268B Mammoth Road, Londonderry, NH 03053
mmalaguti@londonderrynh.org • (603) 432-1100 x151

John Farrell, Chairman
Londonderry Town Council
via email only to: JFarrell@londonderrynh.org

February 14, 2023

Chairman Farrell:

At the February 6, 2023 Town Council meeting, Councilor Debra Paul directed inappropriate and disparaging comments at one of my subordinates. After Vice Chairman Green had finished explaining to Councilor Paul a recent reorganization that moved the Assistant Town Manager position from the Town Manager / Human Resources Department to the Planning and Economic Development Department, the following exchange occurred:

COUNCILOR PAUL: "No, because I believe that's a conflict of interest with the Planner being in economic development. You have somebody seducing businesses to come here and then looking at their plans. That's not a conflict of interest? That's not a setup for a law firm [sic]? A lawsuit? No."

CHAIRMAN FARRELL: "Ok, we don't seduce anybody."

COUNCILOR PAUL: "Well, entice, intrigue, convince, use a word."

CHAIRMAN FARRELL: "We follow the guidelines and follow the laws of the state of New Hampshire."

COUNCILOR PAUL: "It's still a conflict for me."

The exchange begins around the 1:40:45 in the recording, which is available on the Town's website.

I have no doubt, based on the context,¹ that Councilor Paul was referring to Assistant Town Manager and Director of Planning and Economic Development, Kellie Caron, and whichever "word" you "use," her suggestion is clear. Councilor's Paul's use of words carrying sexual overtones, or, more accurately, referring directly to sexual encounters, is abhorrent, and I doubt Councilor Paul would have used these words to refer to a male or an older female.

In support of my belief, I direct your attention to comments Councilor Paul directed to me at the January 23, 2023 Town Council meeting. Her comments begin at 2:43 in in the recording, which is also available on the Town's website:

COUNCILOR PAUL: "I as one councilor, I am not pro economic development. I've said that, I feel it should be a natural ebb-flow. And I have said that publicly many times. Even when we did the tax incentive thing. So, this shouldn't surprise you. We are not here as a Town to cater to developers. I'm sorry they're not happy with our rules and regulations, but our rules and regulations are in place for a reason. They're in place because people in the Town wanted those rules, and wanted things to happen a certain way, this is how I feel personally. Now, these rules are all public, so when they come here or are looking here or are enticed here, to come here, they can read them, they know what they are. I personally want someone who is saying, 'I'm sorry, you can't do that there, this is the rule.' And so, that's my opinion. So, I just didn't like what you were just saying there, maybe I misinterpreted it, I don't know."

As you can see, while Councilor Paul expressed similar sentiments, she used different language when addressing her comments to me. She did not use words carrying sexual overtones, or referring to sexual encounters. It is also notable that she directed her comments *to me*. She did not refer to me as "somebody" while I was sitting in the room, as she did to the Assistant Town Manager on February 6.

I also take issue with Councilor Paul publicly disparaging one of my subordinates by suggesting she lacks integrity. While I am uncertain this is separately actionable, such comments are plainly unprofessional, inappropriate, and unbecoming the office Councilor Paul holds. This is an official complaint against Councilor Paul. I ask it to be considered under the Town's "Policy Against Harassment & Reporting Procedures" (the "Harassment Policy"), and/or the Town Charter, as applicable. See Harassment Policy, Section V(B) ("Mandatory Reporting Procedure") ("Employees must report any conduct that violates this policy using the 'Reporting Procedure for Discrimination, Harassment, and Retaliation'").

In closing, whatever the outcome of my complaint, Londonderry deserves better. While I have taken my own share of public and private criticism from Town Councilors, criticism I have sometimes felt was unfair, no Town Councilor has ever criticized me on the basis of my age or

¹ Councilor Paul appeared to be pointing at the Assistant Town Manager during some of her comments.

gender, nor has any Town Councilor ever referred, directly or indirectly, to my sexual activity. If Londonderry is the exceptional community we like to think we are, I hope we can agree that our employees, young and old, male and female, deserve not only equal and lawful treatment, but freedom from disparagement, innuendo, discrimination, and harassment.

I am a white male. But count me among those who have no interest in working for an employer that would tolerate such conduct.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Malaguti", with a stylized flourish at the end.

Michael Malaguti
Town Manager

cc: Tara Koza, HR Manager

Tara Koza

From: Elizabeth A. Bailey <ebailey@sheehan.com>
Sent: Monday, March 13, 2023 8:53 AM
To: Tara Koza
Cc: Elizabeth D. Foster
Subject: FW: Harassment Complaint - Councilor Paul
Attachments: paul.pdf

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From: John W. Farrell <jfarrell@londonderrynh.org>
Sent: Wednesday, March 8, 2023 9:15 AM
To: Elizabeth A. Bailey <ebailey@sheehan.com>
Subject: Fw: Harassment Complaint - Councilor Paul

From: Michael Malaguti
Sent: Tuesday, February 14, 2023 11:37 AM
To: John W. Farrell
Subject: Harassment Complaint - Councilor Paul

Chairman Farrell,

Attached please find a complaint I am making against Councilor Paul under the Town's Harassment Policy.

Sincerely,

Michael J. Malaguti
Town Manager
Town of Londonderry
603-432-1100 x 151

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Tara Koza

From: Tara Koza
Sent: Tuesday, February 21, 2023 2:37 PM
To: Tara Koza
Subject: FW: Reports in response to Harassment Complaints Caron/Paul

From: Michael D. Ramsdell <mramsdell@sheehan.com>
Sent: Tuesday, February 21, 2023 2:33 PM
To: Kellie Caron <kcaron@londonderrynh.org>
Cc: Michael Malaguti <mmalaguti@londonderrynh.org>; Tara Koza <tkoza@londonderrynh.org>
Subject: Reports in response to Harassment Complaints

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Kellie,

By this letter, I am advising you that I have completed the investigations into the two harassment complaints dated February 16, 2023 that you submitted to Human Resources Manager Tara Koza. The results of the separate investigations appear below.

[REDACTED]

[REDACTED]

The second investigation involved Town Councilor Deb Paul's use of the word "seducing" during a Town Council meeting and deliberation over a proposed plan for reorganization of the Planning and Economic Development Department. After viewing the entire discussion among the Town Council members about the reorganization proposal numerous times, I do not find that Councilor Paul's remark or the remark coupled with her physical conduct violated the Town's harassment policy or constituted discrimination.

During the deliberation over the reorganization plan, Councilor Paul engaged in an animated debate with other Town Councilors, most particularly Councilor Joe Green. Councilor Paul, who regularly gesticulates when she speaks, spoke vigorously in defense of her position on the reorganization plan in opposition to the position expressed by other Councilors. She grew more frustrated as the debate went on, particularly because other Town Councilors did not appear to understand their role in voting on the reorganization plan as stated in the Londonderry Town Charter and explained to them by the Town Attorney. Councilor Paul referenced opinions submitted by former Planning and Economic Development Department employees.

Having reviewed the entire, protracted deliberation numerous times, it is apparent that at all times during the debate, Councilor Paul, like the other Town Councilors, was discussing the Planning and Economic Development Department's planning functions and the positions necessary to fulfill those functions. None of Councilor Paul's remarks, including the reference to "seducing businesses," was directed at you or could reasonably have been considered directly or inferentially disparaging you. Given that "seduce" has meanings other than with a sexual connotation, and in particular in the context of the vigorous debate about the planning function, Councilor Paul's use of the word was not inappropriate. The video does not make clear that Councilor Paul, who waved her arms and hands virtually every time she expressed a view, was pointing at you when she used the phrase "seducing businesses." In fact, when she used the phrase she pulled her arms back toward her body, plainly not pointing at anyone. The only time that Councilor Paul appeared to point directly at you was later when she was questioning Town Manager Malaguti about the vacant planner position and seemingly could not recall your name.

Finally, I disagree with the statement that "nothing was done during the meeting or immediately after by other councilors to address the issue." After Councilor Paul spoke the phrase "seducing businesses," the Town Council Chair immediately and publicly stated that "we don't seduce anybody." Again, having watched the video numerous times, it appears that the laughter that followed Councilor Farrell's interjection was not directed at you, but was a normal reaction by a group of people who welcomed levity after witnessing a spirited debate over an intensely contested matter. It also bears noting that Councilor Paul's immediate reaction to Councilor Farrell's remark was to offer alternative words – "entice, intrigue, convince." It appears that Councilor Paul's reaction was genuine and not the product of guile designed to cover an intentional, harmful act.

For the foregoing reasons, I do not find that Councilor Paul's remarks on February 6, 2023 violated the Town's harassment policy or constituted discrimination.

Michael D. Ramsdell
Sheehan Phinney Bass & Green PA
1000 Elm Street, 17th Floor
Manchester, NH 03101
603.627-8117 (Direct)
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mramsdell@sheehan.com
www.sheehan.com

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Tara Koza

From: Tara Koza
Sent: Tuesday, February 21, 2023 2:38 PM
To: Tara Koza
Subject: FW: Reports following investigation of harassment complaints Caron/Paul (Malaguti Response)

From: Michael D. Ramsdell <mramsdell@sheehan.com>
Sent: Tuesday, February 21, 2023 2:35 PM
To: Michael Malaguti <mmalaguti@londonderrynh.org>
Cc: John W. Farrell <jfarrell@londonderrynh.org>; Tara Koza <tkoza@londonderrynh.org>
Subject: Reports following investigation of harassment complaints

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Mike,

By this letter, I am advising you that I have completed the investigations into the two harassment complaints dated February 14, 2023 that you submitted to Town Council Chair John Farrell. The results of the separate investigations appear below.

[REDACTED]

[REDACTED]

The second investigation involved Town Councilor Deb Paul's use of the word "seducing" during a Town Council meeting and deliberation over a proposed plan for reorganization of the Planning and Economic Development Department. After viewing the entire discussion among the Town Council members about the reorganization proposal, I do not find that Councilor Paul's remark or the remark coupled with her physical conduct violated the Town's harassment policy or constituted disparagement of ATM/Director Caron.

During the deliberation over the reorganization plan, Councilor Paul engaged in an animated debate with other Town Councilors, most particularly Councilor Joe Green. Councilor Paul, who regularly gesticulates when she speaks, spoke vigorously in defense of her position on the reorganization in opposition to the position expressed by other Councilors. She grew more frustrated as the debate went on, particularly because other Town Councilors did not appear to understand their role in voting on the reorganization plan as stated in the Londonderry Town Charter and explained

- to them by the Town Attorney. Councilor Paul referenced opinions submitted by former Planning and Economic Development Department employees.

Having reviewed the entire, protracted deliberation numerous times, it is apparent that at all times during the debate, Councilor Paul, like the other Town Councilors, was discussing the Planning and Economic Development Department's planning functions and the positions necessary to fulfill those functions. None of Councilor Paul's remarks, including the reference to "seducing businesses," was directed at ATM/Director Caron or could reasonably have been considered inferentially disparaging ATM/Director Caron. Given that "seduce" has meanings other than with a sexual connotation, and in particular in the context of the vigorous debate about the planning function, Councilor Paul's use of the word was not inappropriate. The video does not make clear that Councilor Paul, who waved her arms and hands virtually every time she expressed a view, was pointing at ATM/Director Caron when she used the phrase "seducing businesses." In fact, when she used the phrase she pulled her arms back toward her body, plainly not pointing at anyone. The only time that Councilor Paul appeared to point directly at ATM/Director Caron was later when she was questioning you about the vacant planner position and seemingly could not recall ATM/Director Caron's name.

It also bears noting that immediately following Councilor Paul's remark the Town Council Chair immediately and publicly stated that "we don't seduce anybody." Again, having watched the video numerous times, it appears that the laughter that followed Councilor Farrell's interjection was not directed at ATM/Director Caron or another individual, but was a normal reaction by a group of people who welcomed levity after witnessing a spirited debate over an intensely contested matter. Councilor Paul's immediate reaction to Councilor Farrell's remark was to offer alternative words – "entice, intrigue, convince." It appears that Councilor Paul's reaction was genuine and not the product of guile designed to cover an intentional, harmful act.

Having also reviewed the video of the January 23, 2023 Town Council meeting referenced in your complaint, it does not shed light on Councilor Paul's remarks on February 6, 2023. It is not surprising that Councilor Paul addressed you directly on January 23. You spoke immediately before Councilor Paul and she was responding to your comments about your plan. The interaction was much less vigorous than when she was heatedly debating the plan with other Councilors two weeks later. I also do not attach great significance to the difference between the single word choice "entice" versus "seduc[e]." Setting aside the reality that every online thesaurus I have consulted includes one word in a list of synonyms for the other, it remains plain that there was no sexual connotation to the phrase "seducing businesses" in the context of Councilor Paul's remarks about planning functions and the need for fulfilling those functions on February 6.

I recognize that you were required to report this complaint under the Town's reporting policies, which you did in the strongest possible language. Nonetheless, in addition to concluding that the February 6 incident does not demonstrate harassment or disparagement toward the ATM/Director, I find no basis to conclude that a single Town Councilor aspires differently than you regarding the lofty expectations for the Town's elected and appointed leaders as described in your complaint. It also bears noting that, despite the strong language in support of ATM/Director Caron, you did not include in your complaint that you believe otherwise.

Town Council Chair Farrell, the recipient of your complaints, is copied on this report of the investigations.

Michael D. Ramsdell

Sheehan Phinney Bass & Green PA

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MEMO

TO: Kellie Caron Deb Paul Complaint File

FROM: Tara Koza

SUBJECT: Interview with Kellie Caron

DATE: February 16, 2023

On the afternoon of February 16, 2023, Attorney Mike Ramsdell conducted an interview with Assistant Town Manager Kellie Caron via zoom regarding her claim of harassment by Town Councilor Deb Paul at the Town Council meeting on Monday, February 6, 2023. Below are the notes from that interview.

MR: You don't have to participate in this investigation. I can't promise that everything you tell us will be kept confidential. We do intend to keep things confidential, and it depends on the outcome of the investigation. Since both investigations involve your position and you personally, it may be difficult to maintain confidentiality.

MR: I have not watched the video yet. I've interview Mike Malaguti. Have you read the complaint since you submitted it? If not, please read it. Is there anything that is inaccurate or needs to be changed?

KC: No. I'm all set with the written complaint.

MR: It sounds like there is more you have to say. Is there something specific that you want to add?

KC: No. I think I put as much in writing that I can. I don't know what else I would add, if anything.

MR: Can you explain to me how it is that this conversation, these words, these things that were said by Ms. Paul...what in there constitutes harassment?

KC: Her comments about seducing businesses and developers in addition to her behavior literally pointing at me at times. Laughing after making that comment.

MR: There's a way of reading this (read Paul's statement). The word seduce is highly charged and may have a sexual connotation to it. It may also be used by a bakery baking breads and using the scent to seduce people to come into their bakery. Would you agree that it can be used without a sexual overtone?

KC: Yes, I agree.

MR: Why in this situation was that not the case? Why did it mean something more?

KC: Because of the history prior to this discussion. This reorganization plan that has been being discussed for some time is extremely controversial. Deb has vocalized her opposition to the plan. In addition to that, there have been rumors circulating about Mike and I essentially. I haven't heard them directly. My understanding is that they have been going around. We come to the meeting to discuss the reorganization plan that is controversial. The room was filled with people who were opposed to it. I think she tried to make me and Mike uncomfortable by using certain words toward me.

MR: What do you think her purpose in pointing at you was?

KC: At the beginning of the conversation, Joe Green was referencing positions not people. Deb started talking about positions. As soon as she started to get into the conflict of interest, she points at me. Now you've made it personal.

MR: When she says the seducing comment, she's pointing at you.

KC: Right. I'm the somebody she's referring to.

MR: She responds with entice, intrigue...pick a word. You could read that as someone making a bad word choice and clarifying. You don't believe that.

KC: No, I don't. Dating back to my 6 months in Londonderry and my experience, it seems that there are certain individuals who take issue with my age and my gender in my position. Because I'm a young female in a higher authority position, not everyone cares for that. I view Deb as one of those people. What happened on the 6th is the most recent example.

MR: Are there other examples involving Councilor Paul?

KC: Not specific examples. It's how I perceive her to be.

MR: Do you want to say anything about any others you perceive that with?

KC: I don't.

MR: It doesn't rise to this level? I'm trying to figure out if you want us to follow up on all of the issues you are referring to. I'm not trying to push you into that.

KC: It's really these two items right now.

MR: If at any time you feel differently, you can go to Tara and explain to her. I've represented the Town for 11 years. When allegations of a serious nature have been made, they've been followed up. Nobody wants you to feel like there is not point to telling anybody. The facts will be hard to dispute. I don't have any other questions. If there is anything you want to tell me, tell me.

KC: One more thing. This isn't the first time that we've discussed positions. Specifically, my position. I was put in the ATM position back in December. My recollection is that there was a discussion about Economic Development in December or January. The discussion was related to my position. Deb participated in that discussion. She didn't make any comments. She didn't make any comments anywhere near the comments she made on 2/6. She was able to talk about Economic Development and my position without talking about seducing people. It seems that something changed between the first time she talked about economic development and what happened on 2/6.

MR: I'm aware of a conversation that took place in January. If I substituted what she said on 2/6 instead of her saying *seducing* businesses, would you have had the same reaction if she said *enticing* businesses as she was pointing at you?

KC: I don't know.

MR: She used the word entice at the only other discussion. If she substituted the word entice would you have felt differently?

KC: I don't know if I would have felt differently.

MR: If you have anything else to add, please contact Tara.

KC: What's next?

MR: I've spoken with Mike. We'll take a look at Tara's notes. Tara and I will talk tomorrow. We'll figure out who next we are going to interview. I'm going to watch the video. We may interview Deb Paul next. We may interview John Farrell because he responded. I will make that decision after watching the video. My goal is by next Friday we'll have concluded this investigation.

KC: I would appreciate that. I'm supposed to run a Town Council meeting on 2/27 (a week from Monday).

MR: I intend to have this investigation done and a recommendation to the Town Council if not by Friday 2/24, then early in the morning of 2/27. Is there anyone else we should interview?

KC: No. There was a room full of people. You could pick any other Councilor and interview them if an interview is needed.

MR: Since John Farrell had a response, it makes sense to interview him. If we need to interview someone else, we will. If Deb Paul suggests someone else to interview, we'll extend the same courtesy as we have to you. If Deb Paul suggests that we interview everyone in the room to see what their reaction was, that's not going to happen. Anything else you want to tell us?

KC: No. I don't have anything else to add.



MEMO

TO: Kellie Caron Deb Paul Complaint File

FROM: Tara Koza

SUBJECT: Interview with Mike Malaguti

DATE: February 16, 2023

On the afternoon of February 16, 2023, Attorney Mike Ramsdell conducted an interview with Town Manager Mike Malaguti via zoom regarding Assistant Town Manager Kellie Caron's claim of harassment by Town Councilor Deb Paul at the Town Council Meeting on February 6, 2023. Below are the notes from that interview.

MR: This actually happens in a public hearing and it's on video. I haven't watched it yet. I want to interview people first. I've read the report, but I haven't watched the video. You made this complaint with the Town Council Chair. Have you reviewed it since that time?

MM: Yes. I reviewed it immediately before we began speaking and a few times between when I wrote it and today.

MR: Is there anything in the report that you believe is inaccurate or you would change?

MM: No.

MR: You were present when this discussion took place. Did you have an immediate reaction when it was said?

MM: I thought it was inappropriate.

MR: Why?

MM: The reaction I had was to the word "seduce".

MR: You gave an example in the report about a similar conversation and she had used the word enticed vs. seduced. It's your opinion...explain to me the difference between those words. Do you accept that the word seduce doesn't have to have a sexual connotation?

MM: I Googled the word and found examples of where somebody is seduced by an idea or by something else. Not another person. I acknowledge that there are those usages of that word. The primary understanding of that word is a romantic encounter.

MR: It's not uncommon for bakeries to have their doors open so you can smell fresh baked bread and have people characterize that as they are seducing people to come in.

MM: That's not the word I would use. I think "entice" would be more appropriate. When she used the word "entice" in the January 23rd meeting, it was by itself and the clear implication was that we were trying to attract developers. When she used it on the 6th, I believe that John had a reaction (he called her on it). She responded with entice, intrigue...Those words paint a different picture than the 23rd.

MR: She uses the word "seduce". (MR reads the quotes from the meeting). Does her response in tossing out these other words make it more likely...the word entice is a better word...the word used with some kind of a sexual undertone, doesn't that make it less likely that she meant it that way? Or that it should be taken that way? There are two issues...the word itself and the person who used it. If someone else had used that word, would you have had the same reaction? If I used it would you have had the same reaction?

MM: Councilor Paul is not somebody who is known for precise speech. There's that. If you had used that...I think there's a 3rd issue...it's who it's directed at. All of those things together are not going to move me off my concern.

MR: I'm not trying to move you. I'm trying to figure out what your reaction is.

MM: I'm not suggesting that. If you look objectively at the interaction on the 23rd and on the 6th, the tenor and the language was very different.

MR: What else can you tell me about this? I am going to watch the video. I will. Is there a difference between what the focus of the conversations was? One way to look at this description is that on the 23rd there was a more vague discussion about the Planning and Economic Development function completely whereas on 2/6...

MM: I agree that it was a similar but not identical discussion. I agree with you there. Councilor Paul makes inappropriate remarks all the time in public settings. I would just add that.

MR: She does. But your report says that she was disparaging the ATM. You aren't claiming that she's dumb and uses words inappropriately.

MM: I'm not suggesting that she so lacks control of her language that she can't use words with a purpose.

MR: Here's what I'm struggling with. I'm trying to figure out...on it's face, this doesn't look very bad to me. When I read you say it's disparaging and one of my subordinates lacks integrity, I'm having a hard time tying that to an individual.

MM: She makes a point of a conflict of interest with a position being situated in a department. Then she points at Kellie and uses the word "seduce".

MR: Where is she pointing at Kellie?

MM: She's physically pointing to her in the meeting.

MR: You don't mention that here.

MM: I do. Look at footnote 1.

MR: I get it.

MM: I'm not suggesting that this can be decided on the pleadings. I am suggesting that I do think that while she's talking about the wisdom of having the Planner position being in Economic Development...she's referring to Kellie as the Planner. She's talking about whether people can navigate the conflict of interest. She's suggesting that Kellie can't balance healthy economic development. This conversation goes beyond whether this position belongs in that department.

MR: Since 2/6 or after this exchange occurred, have you had any discussion about this with Chairman Farrell or Councilor Paul?

MM: It came up at breakfast with the TC before the Deliberative Session. I believe that John and Kellie mentioned it.

MR: Mentioned the word "seduced"?

MM: Yes. In a way that was not complimentary of Councilor Paul. I remember Kellie saying that she still hadn't decided whether to do anything about it (advance a formal complaint). I saw Councilor Paul at the ZBA meeting last night (she was yelling at Kellie across the room). Other than that I've had no interaction with her.

MR: Have you had any conversation with John Farrell about this?

MM: At breakfast.

MR: When the Council at breakfast discussed Paul's use of the word?

MM: Kellie was at breakfast. It was a passing reference here or there about how ridiculous it was that Paul said that. It wasn't a discussion.

MR: What else can you tell me?

MM: I don't know if I've talked to John Farrell. I did. John called me as I was driving home on the 6th and I believe it came up.

MR: I haven't spoken to him about this. Based on prior experience, it's at least possible that he called to recap the meeting and how he had handled the situation so effectively.

MM: You are exactly right. I give John credit for doing something. It didn't feel right to John and he pointed it out to the room that it wasn't the right word. Everybody in the audience laughed. I believe Kellie would tell you that she was not laughing.

MR: What else can you tell me about it?

MM: Kellie hasn't been popular with her department or with the Town Hall staff since she took over. There was a situation with her honeymoon and the time Lisa Drabik had extended her (attracting her here to Londonderry) that was spread all over Town Hall that she was benefiting from favoritism. Tara has been visited from people 91-A:5, IV. complaining that how could she be promoted to ATM after only 6 months, suggesting that she was promoted not on her merits, but for some other reasons.

MR: Anything else you want to tell us?

MM: The reason I advanced this complaint was because under the harassment policy and due to the 3 points I mentioned previously.

MR: If you think of something else, just let us know.

MM: I appreciate how seriously you are taking this. Where the chips fall, that's where they need to fall.

MR: That's what's going to happen.

Tara Koza

From: Tara Koza
Sent: Thursday, February 16, 2023 12:20 PM
To: Michael D. Ramsdell
Subject: Kellie Caron Complaint - Deb Paul
Attachments: Kellie Caron Complaint RE Deb Paul 2.6.23 (Received 2.16.23).pdf; List of 2.6.23 Town Council Meeting Attendees.pdf

Mike -

Please see the attached written complaint that I received today from Kellie Caron about an incident that took place with Town Councilor Deb Paul at the Town Council Meeting on February 6, 2023. I also attached a list of people who were in attendance at that meeting.

We have Zoom meetings set up with both Mike Malaguti and Kellie Caron in regards to this complaint this afternoon at 2:30 and 3:30 respectively. Please let me know if you did not receive the invitation from Kirby.

Thank you,

Tara Koza

Tara Koza
Human Resources Manager
Town of Londonderry
tkoza@londonderrynh.org
603-432-1100 x127

This email was scanned by Bitdefender

February 16, 2023

Dear Ms. Koza:

I hold the position of Assistant Town Manager/Director of Economic Development at the Town of Londonderry. This is a formal complaint for discrimination / harassment that I have been subjected to, and I request that you investigate the allegations and take appropriate action to stop it or remedy it. The harasser is Deb Paul (Town Councilor).

The following took place at a town council meeting February 6, 2023. The five town councilors, Town Manager, Police Chief, Police Captain (s), and many (+/- 30) people from the general public were present. This meeting was also streamed live and is recorded. The context of this meeting was primarily about a reorganization plan for the Planning and Economic Development department, which I think is important to note as this has been a controversial subject.

The following are the events that I believe constitute harassment / discrimination:

Discussion between Councilors Green, Paul, Farrell.

Green: "Give me reasons why this specific position (associate planner) is needed"

Paul: "No because I believe there's a conflict of interest with the planner being in economic development (pointed at me). You have somebody seducing businesses to come here and then looking at their plans, that's not a conflict of interest? That's not a setup for a law firm/lawsuit?"

Farrell: "ok we don't seduce anybody - " (members of the public and Paul smirked and laughed)

Paul: "entice, intrigue, convince, pick a word" (making hand motions and looking at me; she proceeded to laugh)

Farrell: "lets understand we follow all of the guidelines and all of the laws of the state of NH" (looked at me after)

Paul: "So it's still a conflict of interest" (smirked).

The meeting continued as if nothing happened.

Deb Paul's comments and behavior constitute harassment and discrimination.

I felt helpless, as if I could not say anything in response because of the nature of the meeting and because the council continued on as if the comments made were acceptable.

I felt uncomfortable. Specifically, when the comment about 'seducing' was made and when Paul and the audience proceeded to laugh. I felt it was expected (by the council) that I remain in this meeting and continue to fulfill my role as assistant town manager including interacting with Deb Paul after this took place.

I felt targeted as if this was intentionally stated because I am a relatively young female in a position of authority. Especially when she specifically pointed at me during the meeting.

I felt angry nothing was done during the meeting or immediately after by other councilors to address the issue.

Two days after this occurred, I had another public meeting with a different board Deb Paul sits on. I still felt uncomfortable, anxious, and angry at this meeting given the events that occurred on 2/6.

After about a week of considering the best path to address this, I concluded a formal complaint is warranted. I feel I cannot fulfill my job responsibilities to the fullest extent, given my required routine contact with the Town Council and other Boards Deb Paul sits on, until she is accountable for her actions.

I would appreciate the opportunity to meet with you so we could discuss this situation and how it can be addressed.

Thank you.

Kellie Caron

Kellie Caron



Office of Human Resources

Tara Koza

February 16, 2023

RE: Deb Paul Harassment Complaint Filed by Kellie Caron
February 6, 2023 Town Council Meeting Attendees

Attorney Ramsdell:

Below please find a list of attendees at the Town Council Meeting on February 6, 2023. This is a list of all Town employees, Town Council members, and employees who were present at the meeting. Please note that there were additional people present (mostly residents) in the audience of that meeting.

TOWN EMPLOYEES:

Mike Malaguti (Complainant)	Town Manager
Kellie Caron (Complainant)	Assistant Town Manager

TOWN COUNCIL:

John Farrell	Town Council Chairperson
Joe Green	Town Council Vice Chairperson
Jim Butler	Town Councilor
Chad Franz	Town Councilor
Deb Paul (Accused)	Town Councilor

EMPLOYEES IN THE AUDIENCE:

Kim Bernard	Police Chief
Jason Breen	Police Captain
Darren O'Brien?	Fire Chief
Christie Campbell	Clerk's Assistant
Beth Morrison	Land Use Assistant
Denise Manella	Department Assistant
Laura Gandia	Associate Planner

Regards,

Tara Koza

Tara Koza

Human Resources Manager

Town of Londonderry, NH * 268B Mammoth Rd. * 03053
(603) 432-1100 x127 * tkoza@londonderrynh.org



Office of the Town Manager
Michael J. Malaguti • Town Manager
268B Mammoth Road, Londonderry, NH 03053
mmalaguti@londonderrynh.org • (603) 432-1100 x151

John Farrell, Chairman
Londonderry Town Council
via email only to: JFarrell@londonderrynh.org

February 14, 2023

Chairman Farrell:

At the February 6, 2023 Town Council meeting, Councilor Debra Paul directed inappropriate and disparaging comments at one of my subordinates. After Vice Chairman Green had finished explaining to Councilor Paul a recent reorganization that moved the Assistant Town Manager position from the Town Manager / Human Resources Department to the Planning and Economic Development Department, the following exchange occurred:

COUNCILOR PAUL: "No, because I believe that's a conflict of interest with the Planner being in economic development. You have somebody seducing businesses to come here and then looking at their plans. That's not a conflict of interest? That's not a setup for a law firm [*sic*]? A lawsuit? No."

CHAIRMAN FARRELL: "Ok, we don't seduce anybody."

COUNCILOR PAUL: "Well, entice, intrigue, convince, use a word."

CHAIRMAN FARRELL: "We follow the guidelines and follow the laws of the state of New Hampshire."

COUNCILOR PAUL: "It's still a conflict for me."

The exchange begins around the 1:40:45 in the recording, which is available on the Town's website.

I have no doubt, based on the context,¹ that Councilor Paul was referring to Assistant Town Manager and Director of Planning and Economic Development, Kellie Caron, and whichever "word" you "use," her suggestion is clear. Councilor's Paul's use of words carrying sexual overtones, or, more accurately, referring directly to sexual encounters, is abhorrent, and I doubt Councilor Paul would have used these words to refer to a male or an older female.

In support of my belief, I direct your attention to comments Councilor Paul directed to me at the January 23, 2023 Town Council meeting. Her comments begin at 2:43 in the recording, which is also available on the Town's website:

COUNCILOR PAUL: "I as one councilor, I am not pro economic development. I've said that, I feel it should be a natural ebb-flow. And I have said that publicly many times. Even when we did the tax incentive thing. So, this shouldn't surprise you. We are not here as a Town to cater to developers. I'm sorry they're not happy with our rules and regulations, but our rules and regulations are in place for a reason. They're in place because people in the Town wanted those rules, and wanted things to happen a certain way, this is how I feel personally. Now, these rules are all public, so when they come here or are looking here or are enticed here, to come here, they can read them, they know what they are. I personally want someone who is saying, 'I'm sorry, you can't do that there, this is the rule.' And so, that's my opinion. So, I just didn't like what you were just saying there, maybe I misinterpreted it, I don't know."

As you can see, while Councilor Paul expressed similar sentiments, she used different language when addressing her comments to me. She did not use words carrying sexual overtones, or referring to sexual encounters. It is also notable that she directed her comments *to me*. She did not refer to me as "somebody" while I was sitting in the room, as she did to the Assistant Town Manager on February 6.

I also take issue with Councilor Paul publicly disparaging one of my subordinates by suggesting she lacks integrity. While I am uncertain this is separately actionable, such comments are plainly unprofessional, inappropriate, and unbecoming the office Councilor Paul holds. This is an official complaint against Councilor Paul. I ask it to be considered under the Town's "Policy Against Harassment & Reporting Procedures" (the "Harassment Policy"), and/or the Town Charter, as applicable. *See* Harassment Policy, Section V(B) ("Mandatory Reporting Procedure") ("Employees must report any conduct that violates this policy using the 'Reporting Procedure for Discrimination, Harassment, and Retaliation'").

In closing, whatever the outcome of my complaint, Londonderry deserves better. While I have taken my own share of public and private criticism from Town Councilors, criticism I have sometimes felt was unfair, no Town Councilor has ever criticized me on the basis of my age or

¹ Councilor Paul appeared to be pointing at the Assistant Town Manager during some of her comments.

gender, nor has any Town Councilor ever referred, directly or indirectly, to my sexual activity. If Londonderry is the exceptional community we like to think we are, I hope we can agree that our employees, young and old, male and female, deserve not only equal and lawful treatment, but freedom from disparagement, innuendo, discrimination, and harassment.

I am a white male. But count me among those who have no interest in working for an employer that would tolerate such conduct.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Malaguti", with a stylized flourish at the end.

Michael Malaguti
Town Manager

cc: Tara Koza, HR Manager

Chapter V - POLICY AGAINST HARASSMENT & REPORTING PROCEDURES

SECTION I PURPOSE

The Town of Londonderry is committed to providing a work environment that is free of harassment based on sex, race, color, national origin, religion, age, military or veteran status, physical or mental disability, marital status, pregnancy, sexual orientation, gender identity and any other characteristic protected by applicable law. The Town recognizes the harmful effects of harassment and will not tolerate it.

SECTION II STATEMENT OF POLICY

The Town of Londonderry requires all employees to report violations of this policy. The Town Manager (or designee) will respond promptly to reports of harassment, and will take corrective and/or disciplinary action, as appropriate, in an effort to ensure that the goals of this policy are met. The Town will not tolerate any form of retaliation against any employee who reports harassment, or who participates in an investigation of a report of harassment.

SECTION III EXAMPLES OF PROHIBITED HARASSMENT

This policy prohibits offensive, intimidating, threatening, or otherwise unwelcome comments or conduct based on sex, race, color, national origin, religion, age, military or veteran status, physical or mental disability, marital status, pregnancy, gender identity or sexual orientation. Examples of prohibited conduct include, but are not limited to:

- A. Written or spoken disrespectful or derogatory terms about sex, race, color, national origin, religion, age, military or veteran status, physical or mental disability, marital status, pregnancy, or sexual orientation;
- B. Slurs and epithets;
- C. Unwelcome jokes;
- D. Insults;
- E. Threats of physical violence or harm to a person's property;
- F. Display or circulation of materials, items, or images that are disrespectful, degrading or disparaging to individuals or groups based on the characteristics listed above;
- G. Any other unwelcome conduct or comments directed at a person or group because of a particular protected characteristic (i.e. sex, race, age, etc.).

It is important to note that the types of conduct explained in this policy are prohibited regardless of the intent of the person(s) engaging in the conduct (i.e. to be intentionally offensive, a misguided attempt at humor, attempts at establishing a romantic relationship, etc.). Prohibited conduct includes conduct that is direct as well as indirect (e.g. overheard conversations, e-mail messages sent or forwarded by accident, etc.).

**Chapter V – POLICY AGAINST HARASSMENT & REPORTING PROCEDURES
(Cont'd.)**

SECTION IV SPECIFIC INFORMATION ABOUT SEXUAL HARASSMENT

The formal definition of sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal, physical, and non-physical conduct of a sexual nature when:

- A. Submission to or rejection of such conduct is made explicitly or implicitly a term or condition of employment;
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, or for awarding or withholding favorable employment opportunity, evaluation or assistance; or
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance at work, or creating an intimidating, hostile, or offensive work environment.

Less formally, the types of conduct prohibited by this policy cover a wide range of inappropriate behaviors including, but not limited to, the actual coercion of sexual relations, unwelcome comments, jokes, innuendoes, sexually suggestive materials, and other unwelcome sexually oriented actions.

While it is not possible to list all of the types of conduct that might violate this policy, the following are some examples:

- Unwelcome sexual advances, whether they involve physical touching or not;
- Sexual epithets, jokes, vulgarity;
- Written or oral references to sexual conduct;
- Gossip or other comments regarding an individual's sex life;
- Comments regarding an individual's body;
- Comments about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons, electronic images;
- Leering, staring, whistling, grabbing, pinching;
- Sexual flirtation;
- Brushing against someone's body;
- Sexual gestures;
- Suggestive or insulting comments;
- Inquiries or comments about one's sexual experiences; and
- Discussion of one's sexual activities, ambitions or perceptions.

**Chapter V – POLICY AGAINST HARASSMENT & REPORTING PROCEDURES
(Cont'd.)**

SECTION V GENERAL PROVISIONS

A. Individuals Covered by this Policy: This policy applies to all employees of the Town of Londonderry at every level. This policy also prohibits harassment of or by non-employees (vendors, Board members, consultants, etc.) who come in contact with Town employees. This policy prohibits conduct whether it is directed at men by women, at women by men, at men by men, or at women by women, and regardless of whether the conduct occurs on or off the Town's premises or during or outside of working hours.

B. Mandatory Reporting Procedure: Employees must report any conduct that violates this policy using the "Reporting Procedure for Discrimination, Harassment, and Retaliation" below (referred to as the "Reporting Procedure"). Do not assume that the Town is aware of the problem. Each employee has a responsibility to report harassment. It is only through the active involvement of all employees that the Town can prevent and correct harassment in the workplace.

Using the Town's mandatory Reporting Procedure does not preclude an employee who has experienced conduct in violation of this policy from discussing the matter directly with the person(s) engaging in the offensive conduct. Employees who are offended by conduct are encouraged, but not required, to inform the person(s) engaging in the conduct of the unacceptable nature of the conduct in a professional, civil manner. This discussion may resolve the issue, but even if it is resolved the matter must still be reported through the Reporting Procedure.

C. Consequences for Violating the Policy: Violations of this policy, whether intended or not, will not be tolerated. Any employee who violates this policy will be subject to corrective and/or disciplinary action, up to and including termination of employment. Note that the Town may take corrective and/or disciplinary action to address inappropriate conduct even if it does not rise to the level of unlawful harassment.

D. Retaliation will not be Tolerated: The Town of Londonderry requires employees to report violations of this policy and will not tolerate any form of retaliation against an employee who makes a report or who participates in an investigation of a report under this policy. All incidents of retaliation must be immediately reported using the Reporting Procedure.

**Chapter V – POLICY AGAINST HARASSMENT & REPORTING PROCEDURES
(Cont'd.)**

SECTION VI REPORTING PROCEDURES

Any employee who has observed, been made aware of, or experienced conduct in violation of the Policy Against Harassment or any policy regarding diversity and equal employment opportunity (collectively referred to in this Reporting Procedure as the "Policies") must follow this reporting procedure to notify the Town as follows:

- Notify the Department Head (or, if in the Police or Fire Departments, a member of the Command Staff, to include PD Lieutenants and above and FD Battalion Chiefs and above), and/or the Town Manager (or the Town Manager's designee), and/or a member of the Human Resources Department of the conduct. An employee can report the matter to any (or more than one) of these individuals either orally or in writing.
 - In the event that the report is about conduct engaged in by the Town Manager, the employee may also choose to make the report directly to the Chair of Town Council, and may do so orally or in writing.
- A. Investigation: The Town will investigate reports made through this Reporting Procedure promptly and fairly. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation may be conducted internally or, in appropriate circumstances, an outside investigator may be retained.
- Investigations will typically include private interviews with the person filing the report, with witnesses, and with others as circumstances warrant. The person alleged to have violated the Policies will also typically be interviewed. Any employee asked to participate in an investigation is expected to cooperate fully and truthfully. When the investigation is complete, to the extent appropriate, the Town will inform the person filing the report and the person alleged to have violated the Policies of the results of that investigation.
- B. Corrective/Disciplinary Action: Any employee who has violated the Policies or otherwise acted inappropriately will be subject to corrective and/or disciplinary action, up to and including immediate termination of employment.
- C. Retaliation is Prohibited: Employees who make reports in good faith under this Reporting Procedure and/or participate in good faith in any investigation under this Reporting Procedure have the Town's assurance that it will not tolerate any form of retaliation against them for their participation in the process. Any concerns regarding retaliation must be reported using the Reporting Procedure.

*Town of Londonderry
Title VI - Town Policy*

*Adopted 6/30/97, later revised via
Resolution 2012-12 - Rev. 11/05/12,
Resolution 2022-14 - Rev. 09/12/22*

**Chapter V -SEXUAL HARASSMENT PREVENTION & REPORTING POLICY
(Cont'd.)**

ACKNOWLEDGMENT

I have received a copy of the Town of Londonderry's Policy Against Harassment and Reporting Procedure for Discrimination, Harassment, and Retaliation, and have read it or had it explained to me.

Employee's Printed Name

Employee's Signature

Date

~~End of Chapter~~
Chapter V Page 5 of 5

Tara Koza

From: Tara Koza
Sent: Friday, February 17, 2023 2:02 PM
To: Michael D. Ramsdell
Subject: RE: Notes & Video Link

Thanks Mike. Please call my cell: 91-A:5, IV (conf./priv.).

Tara Koza

Tara Koza
Human Resources Manager
Town of Londonderry
tkoza@londonderrynh.org
603-432-1100 x127

From: Michael D. Ramsdell <mramsdell@sheehan.com>
Sent: Friday, February 17, 2023 12:19 PM
To: Tara Koza <tkoza@londonderrynh.org>
Subject: RE: Notes & Video Link

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Tara,

I have reviewed your notes from the interviews of Mike Malaguti and Kellie Caron. I don't disagree with any of the content and I do not believe there are any material omissions in the notes.

Thank you also for providing the link to the video and identifying the approximate time to focus my attention. I watched from minutes before the focus of the complaint through minutes after at least eight times. I went back and watched the entire discussion of the matter from start to finish after that.

We need to talk about where we are going from here.

Thank you. I will call you at 2:00 p.m.

Michael D. Ramsdell
Sheehan Phinney Bass & Green PA
1000 Elm Street, 17th Floor
Manchester, NH 03101
603.627-8117 (Direct)
603.351-2373 (Cell)
mramsdell@sheehan.com
www.sheehan.com

SHEEHAN PHINNEY BASS & GREEN PRIVILEGED AND CONFIDENTIAL: This electronic mail transmission is privileged and confidential and is intended only for the review of the party to whom it is addressed. If you have received this transmission in error, please notify

From: Tara Koza <tkoza@londonderrynh.org>
Sent: Thursday, February 16, 2023 5:04 PM
To: Michael D. Ramsdell <mramsdell@sheehan.com>
Subject: Notes & Video Link

Attached are the notes (untouched up as promised) from today's interviews. Also, below is a link to the 2/6 Town Council Meeting.

https://link.zoexr.com/u/64640ed8/FGro_0Wu7RG7l1nkhns0Mg?u=https%3A%2F%2Fwww.youtube.com%2Flive%2Fw%2F1laWOPE%3Ffeature%3Dshare

Regards,

Tara Koza
Human Resources Manager
Town of Londonderry
tkoza@londonderrynh.org
603-432-1100 x127

Links contained in this email have been replaced by ZixProtect Link Protection. If you click on a link in the email above, the link will be analyzed for known threats. If a known threat is found, you will not be able to proceed to the destination. If suspicious content is detected, you will see a warning.

Tara Koza

From: Tara Koza
Sent: Wednesday, February 15, 2023 8:51 AM
To: Michael D. Ramsdell
Cc: John W. Farrell; Michael Malaguti
Subject: RE: Harassment policy investigations

Good morning Mike -

Thank you for reaching out. I am happy to lend assistance with both investigations. I'll wait to hear from you with a time for us to speak this afternoon.

I'll also make myself available tomorrow afternoon for the Zoom interview with the complainant. You are correct that I have spoken with her, but I feel as though it would be helpful for you to talk with her as well to ask some additional questions.

I'll work on the list of people who were present at each event. Since both incidents took place at public meetings, the lists may be lengthy. However, we can talk about who from each list should be interviewed.

I look forward to talking later today.

Regards,

Tara Koza

Tara Koza
Human Resources Manager
Town of Londonderry
tkoza@londonderrynh.org
603-432-1100 x127

-----Original Message-----

From: Michael D. Ramsdell <mramsdell@sheehan.com>
Sent: Wednesday, February 15, 2023 5:53 AM
To: Tara Koza <tkoza@londonderrynh.org>
Cc: John W. Farrell <jfarrell@londonderrynh.org>; Michael Malaguti <mmalaguti@londonderrynh.org>
Subject: Harassment policy investigations

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Tara,

I have been requested to investigate the two harassment complaints submitted to Town Council Chair Farrell yesterday by Town Manager Malaguti. I am requesting your assistance with the investigation.

I am tied up in court for a fair portion of the day, but would like to speak with you this afternoon via telephone. When I become aware of my availability I will send you an email inquiring whether, and is when, you have time to speak with me.

My initial thought is that we should commence the investigations, and they are separate investigations, by interviewing the complainant. If possible, I would like to schedule an interview via Zoom for tomorrow afternoon to commence somewhere between 3:00 and 4:00 p.m. However, my inclination could change based on a discussion with you since I believe you already have spoken to the complainant, and therefore possess more information than I have at this time. In the interim, please compile a list of people who you believe may have been present for each event so we may determine how many interviews may be necessary.

I look forward to speaking with you later today.

Michael D. Ramsdell
Sheehan Phinney
1000 Elm Street, 17th Floor
Manchester, NH 03101
(603) 627-8117 (office)
(603) 361-2373 (cell)
Mramsdaell@sheenan.com
Sent from my ipad

This email was scanned by Bitdefender

Tara Koza

From: Kirby Brown
Sent: Thursday, February 16, 2023 3:11 PM
To: Michael D. Ramsdell
Cc: Michael Malaguti; Tara Koza
Subject: RE: Today's Meeting

Join Zoom Meeting

<https://us05web.zoom.us/j/85965568508?pwd=ZGNVNUIEL3FFVDNRUHdIOHk5U3RXdz09>

From: Kirby Brown
Sent: Thursday, February 16, 2023 8:49 AM
To: Michael D. Ramsdell <mramsdell@sheehan.com>
Cc: Michael Malaguti <mmalaguti@londonderryh.org>; Tara Koza <tkoza@londonderryh.org>
Subject: Today's Meeting

Good Morning,

Below is the zoom link for your 2:30 PM meeting with Mike and Tara. Please let me know if you have any trouble.

Topic: Meeting w/ Ramsdell (Malaguti)
Time: Feb 16, 2023 02:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us05web.zoom.us/j/83931159338?pwd=bmwwMC8zWXhiUzBaZU1OVzFZc0dtUT09>

Meeting ID: 839 3115 9338
Passcode: 1karB1

Thank you,

Kirby E. Brown

Town of Londonderry
268B Mammoth Road
Londonderry, NH 03053
PHONE (603) 432-1100 x120
FAX (603) 432-1128

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Tara Koza

From: Kirby Brown
Sent: Thursday, February 16, 2023 3:54 PM
To: Michael D. Ramsdell
Cc: Tara Koza; Kellie Caron
Subject: RE: Today's Meeting

New link:

Topic: Meeting w/ Ramsdell (Caron)
Time: Feb 16, 2023 04:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us05web.zoom.us/j/88291893298?pwd=WVdaSkwxc040S2Qrc0Ercys4N0J3QT09>

Meeting ID: 882 9189 3298

Passcode: g02jBR

From: Kirby Brown
Sent: Thursday, February 16, 2023 8:50 AM
To: Michael D. Ramsdell <mramsdell@sheehan.com>
Cc: Tara Koza <tkoza@londonderrynh.org>; Kellie Caron <kcaron@londonderrynh.org>
Subject: Today's Meeting

Good Morning,

Below is the zoom link for your 2:30 PM meeting with Kellie and Tara. Please let me know if you have any trouble.

Topic: Meeting w/ Ramsdell (Caron)
Time: Feb 16, 2023 03:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us05web.zoom.us/j/82888808798?pwd=emV1L1hxMnllLd20zY3NWZWpDNGV6QT09>

Meeting ID: 828 8880 8798

Passcode: u92DhB

Thank you,

Kirby E. Brown

Town of Londonderry
268B Mammoth Road
Londonderry, NH 03053
PHONE (603) 432-1100 x120
FAX (603) 432-1128

Tara Koza

From: Kirby Brown
Sent: Thursday, February 16, 2023 8:49 AM
To: Michael D. Ramsdell
Cc: Michael Malaguti; Tara Koza
Subject: Today's Meeting

Good Morning,

Below is the zoom link for your 2:30 PM meeting with Mike and Tara. Please let me know if you have any trouble.

Topic: Meeting w/ Ramsdell (Malaguti)

Time: Feb 16, 2023 02:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us05web.zoom.us/j/83931159338?pwd=bmwwMC8zWXhiUzBaZU1OVzFZc0dtUT09>

Meeting ID: 839 3115 9338

Passcode: 1karB1

Thank you,

Kirby E. Brown

Town of Londonderry

268B Mammoth Road

Londonderry, NH 03053

PHONE (603) 432-1100 x120

FAX (603) 432-1128

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Tara Koza

From: Michael D. Ramsdell <mramsdell@sheehan.com>
Sent: Thursday, February 16, 2023 5:16 PM
To: Tara Koza
Subject: Re: Notes & Video Link

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Thanks, Tara.

Michael D. Ramsdell
Sheehan Phinney
1700 Elm Street, 17th Floor
Manchester, NH 03101
(603) 627-8117 (office)
(603) 361-2373 (cell)
Mramsdell@sheehan.com
Sent from my ipad

On Feb 16, 2023, at 5:05 PM, Tara Koza <tkoza@londonderrynh.org> wrote:

Mike –

Attached are the notes (untouched up as promised) from today's interviews. Also, below is a link to the 2/6 Town Council Meeting.

The comment by Councilor Paul was made at the 1:17:44 mark, so it may be helpful to begin watching a few minutes before that point for context:

https://link.zixcentral.com/u/64640ed8/FGro_0Wu7RG7I1nkhns0Mg?u=https%3A%2F%2Fwww.youtube.com%2Fvide%2FWfk21IaWOPE%3Ffeature%3Dshare

I look forward to speaking you tomorrow at 2:00 to discuss next steps.

Regards,

Tara Koza

Tara Koza
Human Resources Manager
Town of Londonderry
tkoza@londonderrynh.org
603-432-1100 x127

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<Mike Malaguti Interview RE Kellie Caron - [REDACTED] Complaint 2.16.23.pdf>

<Kellie Caron Interview RE [REDACTED] Complaint 2.16.23.pdf>

<Mike Malaguti Interview RE Kellie Caron - Deb Paul Complaint 2.16.23.pdf>

<Kellie Caron Interview RE Deb Paul Complaint 2.16.23.pdf>

This email was scanned by Bitdefender

Tara Koza

From: Michael D. Ramsdell <mramsdell@sheehan.com>
Sent: Friday, February 17, 2023 12:19 PM
To: Tara Koza
Subject: RE: Notes & Video Link

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Tara,

I have reviewed your notes from the interviews of Mike Malaguti and Kellie Caron. I don't disagree with any of the content and I do not believe there are any material omissions in the notes.

Thank you also for providing the link to the video and identifying the approximate time to focus my attention. I watched from minutes before the focus of the complaint through minutes after at least eight times. I went back and watched the entire discussion of the matter from start to finish after that.

We need to talk about where we are going from here.

Thank you. I will call you at 2:00 p.m.

Michael D. Ramsdell
Sheehan Phinney Bass & Green PA
1000 Elm Street, 17th Floor
Manchester, NH 03101
603.627-8117 (Direct)
603.361-2373 (Cell)
mramsdell@sheehan.com
www.sheehan.com

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From: Tara Koza <tkoza@londonderrynh.org>
Sent: Thursday, February 16, 2023 5:04 PM
To: Michael D. Ramsdell <mramsdell@sheehan.com>
Subject: Notes & Video Link

Mike –

Attached are the notes (untouched up as promised) from today's interviews. Also, below is a link to the 2/6 Town Council Meeting.

The comment by Councilor Paul was made at the 1:17:44 mark, so it may be helpful to begin watching a few minutes before that point for context;

https://link.zixcentral.com/u/64640ed8/FGro_0Wu7RG7I1nkhns0Mg?u=https%3A%2F%2Fwww.youtube.com%2Fvide%2Fwfk21laWOPE%3Ffeature%3Dshare

I look forward to speaking you tomorrow at 2:00 to discuss next steps.

Regards,

Tara Koza

Tara Koza
Human Resources Manager
Town of Londonderry
tkoza@londonderrynh.org
603-432-1100 x127

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This is a digital signature of the sender

Tara Koza

From: Tara Koza
Sent: Tuesday, February 21, 2023 8:47 AM
To: Michael D. Ramsdell
Subject: RE: Notes & Video Link

Good morning Mike –

I've read through the responses a couple of times, and only made two minor changes. One is to my title in the first sentence to Kellie (changing Director to Manager) and the second is to change "Council" to Councilor" in the third to last paragraph to Mike. Otherwise, I find your responses to be thorough, fair and clearly explained.

Please let me know when you plan on sending them to Kellie, Mike and John. Also, can you confirm that you will ask John to follow up with 91-A-5, IV (conf./priv.) to provide him with the suggested counselling?

Thank you for all of your help with these investigations. We were lucky to catch you in your last weeks of service to the Town!

Regards,

Tara Koza

Tara Koza
Human Resources Manager
Town of Londonderry
tkoza@londonderrynh.org
603-432-1100 x127

From: Michael D. Ramsdell <mramsdell@sheehan.com>
Sent: Monday, February 20, 2023 10:45 AM
To: Tara Koza <tkoza@londonderrynh.org>
Subject: RE: Notes & Video Link

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Tara,

Below are my proposed responses to Kellie Caron and Mike Malaguti regarding their recent harassment complaints. Please review and let me know on Tuesday if you recommend any revisions or additions.

Kellie,

By this letter, I am advising you that I have completed the investigations into the two harassment complaints dated February 16, 2023 that you submitted to Human Resources Director Manager Tara Koza. The results of the separate investigations appear below.

The first investigation involved 91-A:5, IV (conf./priv.) giving you a hug and a kiss on the cheek prior to the deliberative session on February 11, 2023. I have accepted as true your recitation of 91-A:5, IV (conf./priv.) conduct. I also have accepted as true your reaction to the conduct, including putting your hands up prior to the hug and kiss in response to his announcing that "[i]t's hug time," the discomfort the conduct caused you, and that the conduct was "unwelcome" but not "extreme" and did not make you "feel violated."

Based on the foregoing, 91-A:5, IV (conf./priv.) will receive counselling orally about needing to be aware that it is his responsibility to be absolutely certain that the person to whom he displays acts of affection is a willing recipient of such conduct. 91-A:5, IV (c) will be informed that, regardless of his well-meaning intentions, it is harassment if the affectionate conduct is unwanted. Lastly on this investigation, he will be advised that his conduct toward you at the deliberative session was unwanted and is not to be repeated.

The second investigation involved Town Councilor Deb Paul's use of the word "seducing" during a Town Council meeting and deliberation over a proposed plan for reorganization of the Planning and Economic Development Department. After viewing the entire discussion among the Town Council members about the reorganization proposal numerous times, I do not find that Councilor Paul's remark or the remark coupled with her physical conduct violated the Town's harassment policy or constituted discrimination.

During the deliberation over the reorganization plan, Councilor Paul engaged in an animated debate with other Town Councilors, most particularly Councilor Joe Green. Councilor Paul, who regularly gesticulates when she speaks, spoke vigorously in defense of her position on the reorganization plan in opposition to the position expressed by other Councilors. She grew more frustrated as the debate went on, particularly because other Town Councilors did not appear to understand their role in voting on the reorganization plan as stated in the Londonderry Town Charter and explained to them by the Town Attorney. Councilor Paul referenced opinions submitted by former Planning and Economic Development Department employees.

Having reviewed the entire, protracted deliberation numerous times, it is apparent that at all times during the debate, Councilor Paul, like the other Town Councilors, was discussing the Planning and Economic Development Department's planning functions and the positions necessary to fulfill those functions. None of Councilor Paul's remarks, including the reference to "seducing businesses," was directed at you or could reasonably have been considered directly or inferentially disparaging you. Given that "seduce" has meanings other than with a sexual connotation, and in particular in the context of the vigorous debate about the planning function, Councilor Paul's use of the word was not inappropriate. The video does not make clear that Councilor Paul, who waved her arms and hands virtually every time she expressed a view, was pointing at you when she used the phrase "seducing businesses." In fact, when she used the phrase she pulled her arms back toward her body, plainly not pointing at anyone. The only time that Councilor Paul appeared to point directly at you was later when she was questioning Town Manager Malaguti about the vacant planner position and seemingly could not recall your name.

Finally, I disagree with the statement that "nothing was done during the meeting or immediately after by other councilors to address the issue." After Councilor Paul spoke the phrase "seducing businesses," the Town Council Chair immediately and publicly stated that "we don't seduce anybody." Again, having watched the video numerous times, it appears that the laughter that followed Councilor Farrell's interjection was not directed at you, but was a normal reaction by a group of people who welcomed levity after witnessing a spirited debate over an intensely contested matter. It also bears noting that Councilor Paul's immediate reaction to Councilor Farrell's remark was to offer alternative words -- "entice, intrigue, convince." It appears that Councilor Paul's reaction was genuine and not the product of guile designed to cover an intentional, harmful act.

For the foregoing reasons, I do not find that Councilor Paul's remarks on February 6, 2023 violated the Town's harassment policy or constituted discrimination.

Mike,

By this letter, I am advising you that I have completed the investigations into the two harassment complaints dated February 14, 2023 that you submitted to Town Council Chair John Farrell. The results of the separate investigations appear below.

The first investigation involved 91-A:5, IV (conf./priv.) giving Assistant Town Manager/Director of Planning and Economic Development Department Kellie Caron a hug and a kiss on the cheek prior to the deliberative session on February 11, 2023. I have accepted as true ATM/Director Caron's recitation of 91-A:5, IV (conf./priv.) conduct. I also have accepted as true her reaction to the conduct, including putting her hands up prior to the hug and kiss in response to 91-A:5, IV (conf./priv.) announcing that "[i]t's hug time," the discomfort the conduct caused ATM/Director Caron, and that the conduct was "unwelcome" but not "extreme" and did not make her "feel violated."

Based on the foregoing, 91-A:5, IV (conf./priv.) will receive counselling orally about needing to be aware that it is his responsibility to be absolutely certain that the person to whom he displays acts of affection is a willing recipient of such conduct. 91-A:5, IV (conf./priv.) will be informed that, regardless of his well-meaning intentions, it is harassment if the affectionate conduct is unwanted. Lastly on this investigation, he will be advised that his conduct toward ATM/Director Caron prior to the deliberative session was unwanted and is not to be repeated.

The second investigation involved Town Councilor Deb Paul's use of the word "seducing" during a Town Council meeting and deliberation over a proposed plan for reorganization of the Planning and Economic Development Department. After viewing the entire discussion among the Town Council members about the reorganization proposal, I do not find that Councilor Paul's remark or the remark coupled with her physical conduct violated the Town's harassment policy or constituted disparagement of ATM/Director Caron.

During the deliberation over the reorganization plan, Councilor Paul engaged in an animated debate with other Town Councilors, most particularly Councilor Joe Green. Councilor Paul, who regularly gesticulates when she speaks, spoke vigorously in defense of her position on the reorganization in opposition to the position expressed by other Councilors. She grew more frustrated as the debate went on, particularly because other Town Councilors did not appear to understand their role in voting on the reorganization plan as stated in the Londonderry Town Charter and explained to them by the Town Attorney. Councilor Paul referenced opinions submitted by former Planning and Economic Development Department employees.

Having reviewed the entire, protracted deliberation numerous times, it is apparent that at all times during the debate, Councilor Paul, like the other Town Councilors, was discussing the Planning and Economic Development Department's planning functions and the positions necessary to fulfill those functions. None of Councilor Paul's remarks, including the reference to "seducing businesses," was directed at ATM/Director Caron or could reasonably have been considered inferentially disparaging ATM/Director Caron. Given that "seduce" has meanings other than with a sexual connotation, and in particular in the context of the vigorous debate about the planning function, Councilor Paul's use of the word was not inappropriate. The video does not make clear that Councilor Paul, who waved her arms and hands virtually every time she expressed a view, was pointing at ATM/Director Caron when she used the phrase "seducing businesses." In fact, when she used the phrase she pulled her arms back toward her body, plainly not pointing at anyone. The only time that Councilor Paul appeared to point directly at ATM/Director Caron was later when she was questioning you about the vacant planner position and seemingly could not recall ATM/Director Caron's name.

It also bears noting that immediately following Councilor Paul's remark the Town Council Chair immediately and publicly stated that "we don't seduce anybody." Again, having watched the video numerous times, it appears that the laughter that followed Councilor Farrell's interjection was not directed at ATM/Director Caron or another individual, but was a normal reaction by a group of people who welcomed levity after witnessing a spirited debate over an intensely contested matter. Councilor Paul's immediate reaction to Councilor Farrell's remark was to offer alternative words – "entice, intrigue, convince." It appears that Councilor Paul's reaction was genuine and not the product of guile designed to cover an intentional, harmful act.

Having also reviewed the video of the January 23, 2023 Town Council meeting referenced in your complaint, it does not shed light on Councilor Paul's remarks on February 6, 2023. It is not surprising that Councilor Paul addressed you directly on January 23. You spoke immediately before Councilor Paul and she was responding to your comments about your plan. The interaction was much less vigorous than when she was heatedly debating the plan with other Councilors two weeks later. I also do not attach great significance to the difference between the single word choice "entice" versus "seduc[e]." Setting aside the reality that every online thesaurus I have consulted includes one word in a list of synonyms for the other, it remains plain that there was no sexual connotation to the phrase "seducing businesses" in the context of Councilor Paul's remarks about planning functions and the need for fulfilling those functions on February 6.

I recognize that you were required to report this complaint under the Town's reporting policies, which you did in the strongest possible language. Nonetheless, in addition to concluding that the February 6 incident does not demonstrate harassment or disparagement toward the ATM/Director, I find no basis to conclude that a single Town Councilor aspires differently than you regarding the lofty expectations for the Town's elected and appointed leaders as described in your complaint. It also bears noting that, despite the strong language in support of ATM/Director Caron, you did not include in your complaint that you believe otherwise.

Town Council Chair Farrell, the recipient of your complaints, is copied on this report of the investigations.

Michael D. Ramsdell
Sheehan Phinney Bass & Green PA
1000 Elm Street, 17th Floor
Manchester, NH 03101
603.627-8117 (Direct)
603.361-2373 (Cell)
mramsdell@sheehan.com
www.sheehan.com

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From: Tara Kozak <tkozak@21andconderrcynh.org>
Sent: Thursday, February 16, 2023 5:04 PM
To: Michael D. Ramsdell <mramsdell@sheehan.com>
Subject: Notes & Video Link

Mike –

Attached are the notes (untouched up as promised) from today's interviews. Also, below is a link to the 2/6 Town Council Meeting.

The comment by Councilor Paul was made at the 1:17:44 mark, so it may be helpful to begin watching a few minutes before that point for context:

https://link.zixcentral.com/u/64640ed8/FGro_0Wu7RG711nkhns0Mg?u=https%3A%2F%2Fwww.youtube.com%2Flive%2FWfk211aWOPE%3Ffeature%3Dshare

I look forward to speaking you tomorrow at 2:00 to discuss next steps.

Regards,

Tara Koza

Tara Koza

Human Resources Manager

Town of Londonderry

tkoza@londonderrynh.org

603-432-1100 x127

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Michael Malaguti

From: Michael D. Ramsdell <mramsdell@sheehan.com>
Sent: Tuesday, February 21, 2023 2:33 PM
To: Kellie Caron
Cc: Michael Malaguti; Tara Koza
Subject: Reports in response to Harassment Complaints

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Kellie,

By this letter, I am advising you that I have completed the investigations into the two harassment complaints dated February 16, 2023 that you submitted to Human Resources Manager Tara Koza. The results of the separate investigations appear below.

The first investigation involved 91-A:5, IV (conf./priv.) giving you a hug and a kiss on the cheek prior to the deliberative session on February 11, 2023. I have accepted as true your recitation of 91-A:5, IV (conf./priv.) conduct. I also have accepted as true your reaction to the conduct, including putting your hands up prior to the hug and kiss in response to his announcing that "[i]t's hug time," the discomfort the conduct caused you, and that the conduct was "unwelcome" but not "extreme" and did not make you "feel violated."

Based on the foregoing, 91-A:5, IV (conf./priv.) will receive counselling orally about needing to be aware that it is his responsibility to be absolutely certain that the person to whom he displays acts of affection is a willing recipient of such conduct. 91-A:5, IV (conf./priv.) will be informed that, regardless of his well-meaning intentions, it is harassment if the affectionate conduct is unwanted. Lastly on this investigation, he will be advised that his conduct toward you at the deliberative session was unwanted and is not to be repeated.

The second investigation involved Town Councilor Deb Paul's use of the word "seducing" during a Town Council meeting and deliberation over a proposed plan for reorganization of the Planning and Economic Development Department. After viewing the entire discussion among the Town Council members about the reorganization proposal numerous times, I do not find that Councilor Paul's remark or the remark coupled with her physical conduct violated the Town's harassment policy or constituted discrimination.

During the deliberation over the reorganization plan, Councilor Paul engaged in an animated debate with other Town Councilors, most particularly Councilor Joe Green. Councilor Paul, who regularly gesticulates when she speaks, spoke vigorously in defense of her position on the reorganization plan in opposition to the position expressed by other Councilors. She grew more frustrated as the debate went on, particularly because other Town Councilors did not appear to understand their role in voting on the reorganization plan as stated in the Londonderry Town Charter and explained to them by the Town Attorney. Councilor Paul referenced opinions submitted by former Planning and Economic Development Department employees.

Having reviewed the entire, protracted deliberation numerous times, it is apparent that at all times during the debate, Councilor Paul, like the other Town Councilors, was discussing the Planning and Economic Development Department's planning functions and the positions necessary to fulfill those functions. None of Councilor Paul's remarks, including the reference to "seducing businesses," was directed at you or could reasonably have been considered directly or inferentially disparaging you. Given that "seduce" has meanings other than with a sexual connotation, and in particular in the context of the vigorous debate about the planning function, Councilor Paul's use of the word was not inappropriate. The video does not make clear that Councilor Paul, who waved her arms and hands virtually every time

she expressed a view, was pointing at you when she used the phrase "seducing businesses." In fact, when she used the phrase she pulled her arms back toward her body, plainly not pointing at anyone. The only time that Councilor Paul appeared to point directly at you was later when she was questioning Town Manager Malaguti about the vacant planner position and seemingly could not recall your name.

Finally, I disagree with the statement that "nothing was done during the meeting or immediately after by other councilors to address the issue." After Councilor Paul spoke the phrase "seducing businesses," the Town Council Chair immediately and publicly stated that "we don't seduce anybody." Again, having watched the video numerous times, it appears that the laughter that followed Councilor Farrell's interjection was not directed at you, but was a normal reaction by a group of people who welcomed levity after witnessing a spirited debate over an intensely contested matter. It also bears noting that Councilor Paul's immediate reaction to Councilor Farrell's remark was to offer alternative words – "entice, intrigue, convince." It appears that Councilor Paul's reaction was genuine and not the product of guile designed to cover an intentional, harmful act.

For the foregoing reasons, I do not find that Councilor Paul's remarks on February 6, 2023 violated the Town's harassment policy or constituted discrimination.

Michael D. Ramsdell

Sheehan Phinney Bass & Green PA

1000 Elm Street, 17th Floor

Manchester, NH 03101

603.627-8117 (Direct)

603.361-2373 (Cell)

mramsdell@sheehan.com

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Michael Malaguti

From: Michael D. Ramsdell <mramsdell@sheehan.com>
Sent: Tuesday, February 21, 2023 2:35 PM
To: Michael Malaguti
Cc: John W. Farrell; Tara Koza
Subject: Reports following investigation of harassment complaints

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Mike,

By this letter, I am advising you that I have completed the investigations into the two harassment complaints dated February 14, 2023 that you submitted to Town Council Chair John Farrell. The results of the separate investigations appear below.

The first investigation involved [REDACTED] 91-A:5, IV (conf./priv.) giving Assistant Town Manager/Director of Planning and Economic Development Department Kellie Caron a hug and a kiss on the cheek prior to the deliberative session on February 11, 2023. I have accepted as true ATM/Director Caron's recitation of [REDACTED] 91-A:5, IV (conf/priv) conduct. I also have accepted as true her reaction to the conduct, including putting her hands up prior to the hug and kiss in response to [REDACTED] 91-A:5, IV (conf) announcing that "[i]t's hug time," the discomfort the conduct caused ATM/Director Caron, and that the conduct was "unwelcome" but not "extreme" and did not make her "feel violated."

Based on the foregoing, [REDACTED] 91-A:5, IV (conf/priv) will receive counselling orally about needing to be aware that it is his responsibility to be absolutely certain that the person to whom he displays acts of affection is a willing recipient of such conduct. [REDACTED] 91-A:5, IV (conf) will be informed that, regardless of his well-meaning intentions, it is harassment if the affectionate conduct is unwanted. Lastly on this investigation, he will be advised that his conduct toward ATM/Director Caron prior to the deliberative session was unwanted and is not to be repeated.

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not inappropriate. The video does not make clear that Councilor Paul, who waved her arms and hands virtually every time she expressed a view, was pointing at ATM/Director Caron when she used the phrase "seducing businesses." In fact, when she used the phrase she pulled her arms back toward her body, plainly not pointing at anyone. The only time that Councilor Paul appeared to point directly at ATM/Director Caron was later when she was questioning you about the vacant planner position and seemingly could not recall ATM/Director Caron's name.

It also bears noting that immediately following Councilor Paul's remark the Town Council Chair immediately and publicly stated that "we don't seduce anybody." Again, having watched the video numerous times, it appears that the laughter that followed Councilor Farrell's interjection was not directed at ATM/Director Caron or another individual, but was a normal reaction by a group of people who welcomed levity after witnessing a spirited debate over an intensely contested matter. Councilor Paul's immediate reaction to Councilor Farrell's remark was to offer alternative words – "entice, intrigue, convince." It appears that Councilor Paul's reaction was genuine and not the product of guile designed to cover an intentional, harmful act.

Having also reviewed the video of the January 23, 2023 Town Council meeting referenced in your complaint, it does not shed light on Councilor Paul's remarks on February 6, 2023. It is not surprising that Councilor Paul addressed you directly on January 23. You spoke immediately before Councilor Paul and she was responding to your comments about your plan. The interaction was much less vigorous than when she was heatedly debating the plan with other Councilors two weeks later. I also do not attach great significance to the difference between the single word choice "entice" versus "seduc[e]." Setting aside the reality that every online thesaurus I have consulted includes one word in a list of synonyms for the other, it remains plain that there was no sexual connotation to the phrase "seducing businesses" in the context of Councilor Paul's remarks about planning functions and the need for fulfilling those functions on February 6.

I recognize that you were required to report this complaint under the Town's reporting policies, which you did in the strongest possible language. Nonetheless, in addition to concluding that the February 6 incident does not demonstrate harassment or disparagement toward the ATM/Director, I find no basis to conclude that a single Town Councilor aspires differently than you regarding the lofty expectations for the Town's elected and appointed leaders as described in your complaint. It also bears noting that, despite the strong language in support of ATM/Director Caron, you did not include in your complaint that you believe otherwise.

Town Council Chair Farrell, the recipient of your complaints, is copied on this report of the investigations.

Michael D. Ramsdell
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Manchester, NH 03101
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mramsdell@sheehan.com
www.sheehan.com

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From: John W. Farrell
Sent: Tuesday, February 14, 2023 11:42 AM
To: Michael D. Ramsdell
Subject: Fwd: Harassment Complaint - Councilor Paul

Begin forwarded message:

From: Michael Malaguti <mmalaguti@londonderrynh.org>
Date: Feb 14, 2023 at 11:37 AM
To: John W. Farrell <jfarrell@londonderrynh.org>
Subject: Harassment Complaint - Councilor Paul

Chairman Farrell,

Attached please find a complaint I am making against Councilor Paul under the Town's Harassment Policy.

Sincerely,

Michael J. Malaguti
Town Manager
Town of Londonderry
603-432-1100 x 151

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Office of the Town Manager
Michael J. Malaguti • Town Manager
268B Mammoth Road, Londonderry, NH 03053
mmalaguti@londonderrynh.org • (603) 432-1100 x151

John Farrell, Chairman
Londonderry Town Council
via email only to: JFarrell@londonderrynh.org

February 14, 2023

Chairman Farrell:

At the February 6, 2023 Town Council meeting, Councilor Debra Paul directed inappropriate and disparaging comments at one of my subordinates. After Vice Chairman Green had finished explaining to Councilor Paul a recent reorganization that moved the Assistant Town Manager position from the Town Manager / Human Resources Department to the Planning and Economic Development Department, the following exchange occurred:

COUNCILOR PAUL: “No, because I believe that’s a conflict of interest with the Planner being in economic development. You have somebody seducing businesses to come here and then looking at their plans. That’s not a conflict of interest? That’s not a setup for a law firm [*sic*]? A lawsuit? No.”

CHAIRMAN FARRELL: “Ok, we don’t seduce anybody.”

COUNCILOR PAUL: “Well, entice, intrigue, convince, use a word.”

CHAIRMAN FARRELL: “We follow the guidelines and follow the laws of the state of New Hampshire.”

COUNCILOR PAUL: “It’s still a conflict for me.”

The exchange begins around the 1:40:45 in the recording, which is available on the Town's website.

I have no doubt, based on the context,¹ that Councilor Paul was referring to Assistant Town Manager and Director of Planning and Economic Development, Kellie Caron, and whichever "word" you "use," her suggestion is clear. Councilor's Paul's use of words carrying sexual overtones, or, more accurately, referring directly to sexual encounters, is abhorrent, and I doubt Councilor Paul would have used these words to refer to a male or an older female.

In support of my belief, I direct your attention to comments Councilor Paul directed to me at the January 23, 2023 Town Council meeting. Her comments begin at 2:43 in in the recording, which is also available on the Town's website:

COUNCILOR PAUL: "I as one councilor, I am not pro economic development. I've said that, I feel it should be a natural ebb-flow. And I have said that publicly many times. Even when we did the tax incentive thing. So, this shouldn't surprise you. We are not here as a Town to cater to developers. I'm sorry they're not happy with our rules and regulations, but our rules and regulations are in place for a reason. They're in place because people in the Town wanted those rules, and wanted things to happen a certain way, this is how I feel personally. Now, these rules are all public, so when they come here or are looking here or are enticed here, to come here, they can read them, they know what they are. I personally want someone who is saying, 'I'm sorry, you can't do that there, this is the rule.' And so, that's my opinion. So, I just didn't like what you were just saying there, maybe I misinterpreted it, I don't know."

As you can see, while Councilor Paul expressed similar sentiments, she used different language when addressing her comments to me. She did not use words carrying sexual overtones, or referring to sexual encounters. It is also notable that she directed her comments *to me*. She did not refer to me as "somebody" while I was sitting in the room, as she did to the Assistant Town Manager on February 6.

I also take issue with Councilor Paul publicly disparaging one of my subordinates by suggesting she lacks integrity. While I am uncertain this is separately actionable, such comments are plainly unprofessional, inappropriate, and unbecoming the office Councilor Paul holds. This is an official complaint against Councilor Paul. I ask it to be considered under the Town's "Policy Against Harassment & Reporting Procedures" (the "Harassment Policy"), and/or the Town Charter, as applicable. *See* Harassment Policy, Section V(B) ("Mandatory Reporting Procedure") ("Employees must report any conduct that violates this policy using the 'Reporting Procedure for Discrimination, Harassment, and Retaliation'").

In closing, whatever the outcome of my complaint, Londonderry deserves better. While I have taken my own share of public and private criticism from Town Councilors, criticism I have sometimes felt was unfair, no Town Councilor has ever criticized me on the basis of my age or

¹ Councilor Paul appeared to be pointing at the Assistant Town Manager during some of her comments.

gender, nor has any Town Councilor ever referred, directly or indirectly, to my sexual activity. If Londonderry is the exceptional community we like to think we are, I hope we can agree that our employees, young and old, male and female, deserve not only equal and lawful treatment, but freedom from disparagement, inuendo, discrimination, and harassment.

I am a white male. But count me among those who have no interest in working for an employer that would tolerate such conduct.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Malaguti", with a stylized flourish at the end.

Michael Malaguti
Town Manager

cc: Tara Koza, HR Manager

From: John W. Farrell
Sent: Tuesday, February 14, 2023 12:38 PM
To: Tara Koza
Subject: Fwd: Harassment Complaint - Councilor Paul

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