

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI

ADAM PAUL, )  
 )  
 Plaintiff, )  
 )  
 v. ) Cause No. )  
 )  
 PAUL MARTIN, in his individual capacity ) Division No. )  
 only, )  
 Serve at: 130 S Bemiston Ave., # 200 )  
 St. Louis, MO 63105 )  
 )  
 and )  
 )  
 MATTHEW PIRRELLO, in his individual )  
 capacity only, )  
 Serve at: 1045 LeMar Dr. )  
 Ellisville, MO 63011 )  
 )  
 and )  
 )  
 KEVIN BOOKOUT, in his individual )  
 capacity only, )  
 Serve at: 1 Weis Avenue )  
 Ellisville, MO 63011 )  
 )  
 and )  
 )  
 KATHRYN L. JAMES )  
 Serve at: 329 Hunters Glen Ct. )  
 Ellisville, MO 63011 )  
 )  
 Defendants. )

**PETITION FOR DAMAGES**

COMES NOW, Plaintiff Adam Paul, and without waiver of his right to amend this petition to join additional parties and/or to add additional claims consistent with discovery, for his petition states as follows:

**FACTS COMMON TO ALL COUNTS**

1. Plaintiff, Adam Paul (hereinafter "Paul") is a resident of the City of Ellisville (hereinafter "City" or "Ellisville") in St. Louis County, Missouri. Paul was the elected mayor of the City until April 8, 2013, when he was removed from office as set forth in more detail below. Paul received 44% of the popular vote in the April 3, 2012 general election campaigning on an anti-Walmart and anti-Tax Increment Financing (hereinafter "TIF") for Walmart platform. He is a resident of the City of Ellisville in St. Louis County, Missouri.

2. Defendant Paul Martin (hereinafter "Martin") is an attorney licensed to practice law in the State of Missouri. He is currently and has been the City Attorney for the City of Ellisville since 2004. He has earned in excess of \$372,000.00 representing the City of Ellisville during the past five (5) years. In 2012 alone, he earned \$114,945.00 from the City, almost \$50,000.00 of which was from the Sansone Group as a result of the Walmart TIF approved by the Ellisville City Council (hereinafter "Council"). He is sued in his individual capacity only.

3. Defendant Matt Pirrello (hereinafter "Pirrello") is the former Mayor of the City and currently a member of the Council. He is sued in his individual capacity only.

4. Defendant Kevin Bookout (hereinafter "Bookout") is the City Manager of the City of Ellisville. He earns \$112,000.00 per year as the City Manager. He is sued in his individual capacity only.

5. Defendant Kathryn James (hereinafter "James") is a resident of the City of Ellisville in St. Louis County, Missouri. She was a member of the Ellisville TIF Commission discussed in more detail below, who supported both the Ellisville Walmart and TIF funding for it, even though Walmart is a multibillion dollar corporation. James has been identified in the *St. Louis Post Dispatch* as Pirrello's political ally.

6. Dawn Anglin (hereinafter "Anglin"), Linda Reel (hereinafter "Reel"), Troy Pieper

(hereinafter "Pieper"), RozeAcup (hereinafter "Acup"), and Michelle Murray (hereinafter "Murray") were the other members of the Council when the acts complained of herein occurred. While they are not named as Defendants, upon information and belief one or more of them were/are part of the conspiracy set forth in more detail below.

7. Venue is proper in the Circuit Court of St. Louis County, Missouri pursuant to § 508.010.4 R.S.Mo. because Paul was first injured by the wrongful acts alleged herein in St. Louis County, Missouri.

8. On March 5, 2012, prior to Paul's election, the Ellisville TIF Commission (consisting of representatives from St. Louis County, the City of Ellisville, and the Rockwood School District), which included James, was asked to consider whether tax incentives should be given to Walmart/the Sansone Group for a proposed Walmart in Ellisville. By a vote of 7-4, the Ellisville TIF Commission recommended against the Ellisville City Council granting Walmart/the Sansone Group a TIF. As a result of the Ellisville TIF Commission's recommendation, 5 votes of the Ellisville City Council and mayor were required to approve the Walmart TIF. Jim Sansone, a principal with the Sansone Group, was quoted at the time of the Ellisville TIF Commission meeting as stating that, without tax incentives, "this project will not happen."

9. On April 18, 2012, the day Paul assumed office as Mayor, Martin gave a PowerPoint presentation to the Council supporting TIF funding for the Walmart project. This PowerPoint presentation was paid for by the Sansone Group. As set forth above, Martin's fees as City Attorney increased by almost \$50,000 in 2012 alone as a result of the Walmart TIF.

10. Thereafter, on May 2, 2012 (Paul's second meeting as mayor), by a 5-2 vote, the Council approved the TIF for the Sansone Group's Walmart development, despite and against the recommendation of the Ellisville TIF Commission and contrary to the will of the vast

majority of the people of Ellisville. Paul voted against the Walmart TIF consistent with his campaign promise.

11. In June, 2012 Paul drew the ire of the Council by requesting that a bill be drafted for the recall of Anglin and Acup after a citizen recall initiative was begun pursuant to Article IX of the Ellisville City Charter due to their support for the Walmart TIF. Martin advised the City that Anglin and Acup could not be recalled. Specifically, Martin told Paul in an email dated June 20, 2012 that “this recall effort seems to be an exercise in futility. Rather, than permit this process to carry on, along with the ill-will it generates, you could take a public stance, that, based on legal advice about the impossibility of an election, you are recommending that the recall petitioner’s stand down. This would go along (sic) way toward starting to heal the rifts in the community and to build bridges with your council colleagues.”

12. The recall effort against Anglin and Acup did not proceed further but Paul’s request that an ordinance be drafted, which was never presented to the Council, later became one of the charges against Paul for his removal from office as part of the conspiracy discussed in more detail below.

13. A few months after Paul took office as mayor in April 2012, Martin and Pirrello, and upon information and belief other Councilmembers, began discussing Paul’s impeachment.

14. During this same timeframe, July or August, 2012, Martin began keeping notes on Paul as to actions that he considered impeachable offenses dating back to when Paul first took office. These notes later formed the basis for the impeachment charges filed against Paul by the Defendants and upon information and belief other Councilmembers and City employees, in furtherance of their conspiracy discussed in more detail below.

15. In August 2012, the citizens of Ellisville began an effort to recall Pirrello

from office pursuant to Article IX of the City Charter because of his support for the Walmart TIF. Martin represented the City in Pirrello's challenge to the constitutionality of Article IX of the City Charter, and therefore, had the duty to defend the Charter. Instead of defending Article IX of the City Charter, Martin admitted that it was unconstitutional, resulting in it being struck down by the Circuit Court of St. Louis County on September 7, 2012, thereby preventing Pirrello's recall. Martin has admitted that this "representation" of the City was also paid for by the Sansone Group.

16. In mid-August 2012, Martin and the Council learned that Paul did not intend to re-nominate Martin as the City Attorney when his contract expired in a few days. Thereafter, Martin issued a "legal opinion" supporting his own retention for which he billed the City. Ultimately, Paul's effort to remove Martin as the City Attorney became one of the reasons that the Defendants, and upon information and belief other Councilmembers and City employees, conspired to remove Paul from office.

17. On September 5, 2012, by a 5-2 vote, the Council approved a conditional use permit for the Walmart development. Paul and Reel voted against the conditional use permit, with the remainder of the Council voting in its favor. Paul opposed the conditional use permit because of the public's clear opposition to the Walmart project. The granting of this conditional use permit is the subject of separate litigation pending in the Circuit Court of St. Louis County.

18. Because Paul was elected to office on an anti-Walmart, and more specifically an anti-TIF for Walmart platform, the Council, which consists of Walmart and Walmart TIF supporters, have worked to undermine Paul and his authority as mayor, as well as to embarrass him. By way of example, but in no way exhaustive of this conduct, the petty and vindictive Pirrello has:

- a. Interrupted and acted towards Paul during public meetings in ways designed to embarrass him and show his disdain for Paul;
- b. Refused to support Paul's initiatives and ideas or recognize his input, particularly on issues on which Paul successfully campaigned;
- c. Chastised Paul for wanting to be called by his name, rather than mayor, inexplicably forwarding this chastisement to Martin;
- d. Referred to Paul as "Mayor Pyle," a reference to the fictional bungling television character Gomer Pyle; and
- e. Sent insulting emails to Paul, one with a link to a YouTube clip from the movie *Full Metal Jacket* stating "what is your major malfunction numb nuts" to which Pirrello added, "He may as well be asking you. Get it together man. You should read *How to Make Friends and Influence People* by Dale Carnegie." Ironically, Paul's email that preceded this response, asking that an email sent by Pirrello be posted as a public meeting, was used as a ground to impeach Paul, while disrespect for the office of mayor takes place with impunity.
- f. Directing an email to Paul that he did not need to "get [his] panties in a wad" when Paul discovered in February 2013 that Pirrello was still listed as the Mayor of Ellisville with the Missouri Municipal League and had only recently changed his email address from "mayor.pirrello." In this same February 2013 email, Pirrello falsely stated: "No need for paranoia. No one is out to get you unless you did something wrong," knowing that he and Martin had been looking for reasons to impeach Paul since shortly after Paul took office.

19. Martin is so personally biased and prejudiced against Paul that he would not even

meet with Paul to give him a legal orientation as the new mayor. The petty, vindictive, and childish Martin admitted that he took offense to a comment attributed to Paul after a TIF Commission meeting (before Paul was elected mayor) when Martin stumbled on the answer he gave to a question Paul asked. Paul was quoted after this meeting as saying, "I love to see the lawyer squirm." Because Martin was personally offended by this comment, he has done everything he could since Paul's election to make Paul squirm.

20. Despite the efforts of Pirrello and Martin, and upon information and belief other Councilmembers and City employees, to undermine and embarrass Paul, apparently because their feelings were hurt, Paul remains widely popular with the residents of the City because he represents their interests, not his own self-interests.

21. In essence the City's taxpayers have been forced to pay tens of thousands of dollars (if not in excess of one hundred thousand dollars) in attorneys' fees to remove Paul from office because the Defendants, and upon information and belief other Councilmembers and City employees, have a personal and petty vendetta against Paul.

22. In early December 2012 Martin and Pirrello's conspiracy to remove Paul from office progressed to the point that on December 6, 2012, Martin prepared a complaint for Pirrello to file against Paul for his impeachment. For reasons unknown, the complaint was never filed by Pirrello after Martin prepared it.

23. Thereafter, on or about February 6, 2013, Martin and Pirrello, and upon information and belief other Councilmembers and City employees, once again conspired to remove Paul from office. At this time, Pirrello advised Martin that the Council wanted to move forward with Paul's removal, showing that one or more members of the Council had already met and/or conferred with Pirrello about Paul's removal before any complaint was

filed against Paul.

24. Martin advised Pirrello that it would be better to find a citizen to initiate a complaint to remove Paul from office to avoid a citizen backlash against the Council due to Paul's popularity. As a result, Martin and Pirrello recruited James to file a Charter violation complaint against Paul as set forth in more detail below.

25. On or about February 8, 2013, Martin sent an email to Pirrello outlining the process by which the Defendants and the Council would remove Paul from office. See Exhibit 1 attached hereto and incorporated by reference herein.

26. Martin and Pirrello's plan to remove Paul from office included but was not limited to:

- a. "KJ"(Kathryn James) filing a complaint against Paul on February 11, 2013;
- b. The Charter Enforcement Commission (hereinafter "CEC") meeting on February 18, 2013 to recommend to the Council that it proceed on the charged violations against Paul;
- c. The Council meeting on February 20, 2013 to consider the CEC's recommendation and to bring additional charges against Paul pursuant to a second resolution under § 3.6 of the City Charter that would include a recommendation that Paul be suspended from office and that the removal resolution be taken up at a special meeting of the Council on February 27, 2013;
- d. The Council passing the removal resolution on February 27, 2013, which would suspend Paul from office;
- e. Paul's impeachment hearing being held on March 21 or 27, 2013, which



would be very involved and costly to the City. (The hearing originally was scheduled for March 20, 2013, but later continued to March 27, 2013 and then to April 1, 2013.);

f. The Council holding the CEC and § 3.6 hearings, after which the Council would issue a judgment removing Paul from office. See Exhibit 1.

27. It was necessary for the Defendants, and upon information and belief other co-conspirators on the Council and City staff, to follow this outline/timeline because if the complaint was filed or heard later, it would be heard by new Councilmembers elected in the April 2, 2013 municipal election, who were not part of the conspiracy against Paul and/or were not biased and prejudiced against Paul. After the April 2, 2013 election, Defendants knew that two members of the Council (Murray and Anglin) would be replaced due to term-limits. Additionally, Defendants knew that Pieper's seat was contested, and it was unlikely that he would win reelection due to his support for the Ellisville Walmart and Walmart TIF. Pieper was defeated in the April 2 election.

28. Upon information and belief, the Defendants (and others) acted on their conspiracy to remove Paul when they did in an effort to maintain their balance of power on the Council, and thereby thwart the will of the residents of Ellisville. By way of example, Bookout alleges that Paul telephoning a relocation specialist connected to the Walmart development to ask her a question in May 2012 (9 months before any effort was made to remove Paul from office) was both a Charter violation, requiring the forfeiture of Paul's office, and a crime under the Ellisville Charter. Bookout was personally aware of the telephone call at the time it was made because he received emails about it from both Paul and the relocation specialist. However, he never reported this "criminal" activity to the Ellisville Police Department, and he never filed a complaint against Paul or took any other action so that the Council could address this "serious

misconduct” until the conspirators agreed that the time was right.

29. On February 10, 2013, Martin recommended to Pirrello that Keith Cheung (hereinafter “Cheung”) be appointed as special counsel to prosecute the impeachment against Paul, even though at that time no complaint had been filed against Paul for his removal from office.

30. As planned, on February 11, 2013, James filed her complaint against Paul alleging violations of the City Charter. See Exhibit 2 attached hereto and incorporated by reference herein. This complaint was prepared by Martin and alleged that Paul violated the Charter when he requested police assistance in removing James from a Council meeting shortly after Paul was elected mayor in April 2012 (ten months before the complaint was filed) and in removing an unsuccessful candidate for mayor, who was being disruptive, during a Council meeting on February 6, 2013. James was not even present at the February 6 Council meeting. Ironically, Paul was impeached both because he allegedly failed to control Council meetings and because of his efforts to remove unruly persons from Council meetings, showing that Paul could do nothing right for the conspirators.

31. After James filed her complaint against Paul, Martin directed the Council and City employees to refuse to answer Paul’s questions about the complaint, to prevent Paul from defending himself against these allegations.

32. Anglin, Murray, and Reel were appointed to serve on the CEC. Anglin and Murray unsuccessfully ran against Paul for mayor in April 2012. Combined, they received less votes than Paul in the April 2012 election, and as a result, held animosity towards Paul.

33. In an email dated February 17, 2013, Martin scripted the February 18, 2013 CEC meeting for its members. He further advised the CEC not to address legal issues raised by Paul’s

counsel during the CEC meeting. When the meeting did not go as Martin scripted, Paul's counsel was removed from the meeting.

34. On February 18, 2013, the CEC met as planned to hear James' complaint. However, on a 3-0 vote, pursuant to Martin's suggestion, the CEC recommended that the Council not proceed against Paul on the James complaint. The reason that the CEC made this recommendation, contrary to the original plan, was because Paul instead of resigning his position, had retained C. John Pleban as his attorney "an experienced and formidable adversary." As a result, Martin was concerned that the frivolous allegations he had prepared for James to file against Paul would not withstand judicial review under the circumstances. See Exhibit 3 attached hereto and incorporated by reference herein.

35. In an email dated February 20, 2013 (before a Council meeting the same evening discussed below), Martin advised the Council as to how it could remove the mayor from office. Martin also informed the Council that if it proceeded to remove Paul from office, he would not be able to participate in the removal hearing because he would be a witness to the allegations against Paul. Martin told the Council that he would recommend two law firms as special counsel for the impeachment proceeding, even though the Council had not yet agreed to proceed with Paul's removal.

36. Thereafter, in furtherance of the conspiracy, at the Council meeting of February 20, 2013, Murray read the following motion:

I move that the city attorney prepare a preliminary resolution for the removal of the mayor under Section 3.6 of the city charter and that the city council and staff including the city attorney be authorized and be directed to cooperate in the preparation of the resolution, constraints of the Sunshine Law notwithstanding, and to waive any privileged attorney-client communications related to the contents of the preliminary resolution.

37. The motion was prepared by Martin, who as set forth above has a financial

interest in Paul's removal from office because Paul wanted to remove him as the City Attorney. Martin provided the motion to Pirrello, who provided it to Murray to make, instead of making it himself.

38. At the February 20, 2013 Council meeting, Murray could not explain what she claimed to be her motion or provide any reasons for Paul's removal from office. Nonetheless, five members of the Council voted to proceed with the process of removing Paul without discussion, any investigation, or any reasons for Paul's removal, supporting Paul's claim that other Councilmembers were already part of the plan to remove Paul from office.

39. As a result of Murray's February 20, 2013 motion, Martin began preparing charges for the removal of Paul from office, which were remarkably similar to the notes he had been compiling since July/August 2012, as well as the complaint Martin prepared for Pirrello on December 6, 2012 that was never filed.

40. The Council permitted Martin to prepare the Preliminary Resolution Concerning the Removal of Mayor Adam Paul (hereinafter "Preliminary Resolution") even though: he had a financial interest in Paul's removal; he and at least Pirrello knew that the resolution was being prepared in furtherance of their conspiracy to remove Paul from office; Martin's representation of James and Pirrello in Paul's removal had not been disclosed to the entire Council; and Martin knew that he was disqualified from the impeachment hearing, requiring the appointment of special counsel.

41. The Preliminary Resolution was prepared by Martin without any investigation into the allegations made against Paul, to include but not be limited to any interview of Paul. Upon information and belief, the conspirators did not have the time to conduct an investigation

into allegations that would result in Paul's removal because any investigation would prevent the biased and prejudiced Councilmembers, some of whom upon information and belief participated in the conspiracy against Paul, from removing Paul from office before the April 2, 2013 general election resulted in the seating of an unbiased Council to hear any charges against Paul.

42. The Preliminary Resolution was released to the media before it was even voted on or approved by the Council.

43. Consistent with the plan, the Preliminary Resolution was unanimously approved 5-0 by the Councilmembers present at the special meeting held on February 27, 2013, becoming Resolution No. 02-27-13. (Reel was absent from this meeting and did not vote on the resolution.) Resolution No. 02-27-13 was passed by the Council without discussion, knowing that no investigation into the allegations against Paul had been made and that he had never even been questioned about the allegations against him. See Exhibit 4 attached hereto and incorporated by reference herein. In fact, when Paul simply asked Martin to identify the witnesses to the allegations against him, Pirrello prevented this line of inquiry.

44. Attorneys recommended by Martin, Cheung and John Maupin (hereinafter "Maupin"), were selected as special counsel to prosecute the case against Paul and to serve as the hearing officer. As set forth above, Martin and Pirrello selected Cheung to prosecute the case before any removal complaint was even filed against Paul.

45. In addition to Maupin being selected as the hearing officer for Paul's impeachment hearing, he was retained to represent the interests of the individual Councilmembers, to include those who participated in the conspiracy against Paul, like Pirrello.

46. In selecting Cheung and Maupin as special counsel for the impeachment hearing against Paul, the Council violated § 115.170 of its Municipal Code because it failed and/or

refused to consider three individual names for evaluation before appointing special counsel. While the Defendants, and upon information and belief other co-conspirators, attempted to remove Paul from office for allegedly violating the City Code, other members of the Council can violate the Code with impunity.

47. The Preliminary Resolution (Resolution No. 02-27-13 when passed) included but was not limited to allegations that Paul was drinking alcoholic beverages while acting as mayor. Specifically, Martin, Pirrello, and Bookout alleged:

a. On a date unknown, but at a closed meeting in the City Hall conference room during the summer of 2012, City Manager Bookout was sitting next to Mayor Paul, who was drinking something. The Manager smelled alcohol on the Mayor's breath and asked the Mayor what he was drinking. The Mayor admitted to the City Manager that he was drinking vodka. See Exhibit 4, p. 8, ¶ 7.

b. On July 18, 2012, during an open meeting in the City Hall conference room with representatives from Allen Roofing and West County Honda, Mayor Paul arrived and sat next to the City Manager. The Mayor had two containers, a blue energy drink and a thermos-type container with a lid. He placed the thermos-type container on the floor between his feet. He then leaned forward and used the energy drink to top off the container that was on the floor and proceeded to drink from the container. See Exhibit 4, p. 8, ¶ 8.

c. On December 5, 2012, during a public meeting of the City Council and while he was chairing the meeting, Mayor Paul mixed and drank the contents of bottles labeled as water, at least one of which contained alcohol. See Exhibit 4, p. 8, ¶ 11.

48. The allegations that Paul was drinking while performing his duties as mayor were

widely reported in the St. Louis print and electronic media from the time this allegation was first made on February 27, 2013 until the date of the filing of this lawsuit. This false and malicious claim has been repeated at least twenty-five times on or in FOX 2, KMOV, KSDK, the *St. Louis Post Dispatch*, the *Suburban Journals of Greater St. Louis*, *NewsmagazineNetwork.com*, and the *ballwin-ellisville.patch.com*. See Group Exhibit 5 attached hereto and incorporated by reference herein for a sampling of these news reports.

49. Paul was suspended as mayor effective February 27, 2012 as a result of the conspiracy set forth herein under Resolution No. 02-27-13.

50. After Resolution No. 02-27-13 was passed by the Council on February 27, 2013, the Defendants, and upon information and belief other co-conspirators on the Council and in the City's employment, continued to attempt to find reasons to support Paul's removal from office, which were included in an amended resolution prepared by Martin. However, these new charges were not pursued by the Council out of concern that if the resolution was amended to include new charges, Paul would be entitled to additional time for the hearing on those charges, meaning that the allegations against Paul could be heard by the new Councilmembers elected in April 2013, instead of by the biased and prejudiced Councilmembers then on the Council.

51. On March 6, 2013, the Council amended the charges against Paul, only to drop charges, to include but not be limited to the allegations that Paul was drinking while performing his duties as mayor. As a result, Paul was prevented from defending these slanderous allegations at the public hearing

52. Ultimately, the hearing on the charges to remove Paul from office was scheduled For April 1, 2013 after Paul requested a continuance of the original March 20 hearing date planned by Martin and Pirrello and selected by the Council. The hearing was completed on

April 8, 2013.

53. Prior to the hearing of this matter, on March 4, 2013, Martin, who by then had disqualified himself from the Paul impeachment hearing, directed an email to Maupin and Cheung that included findings of fact/conclusions of law and a "final resolution for removal." The grounds for Paul's removal were set forth by Martin before any evidence was heard despite his disqualification.

54. Martin's "final resolution for removal" admitted that the Council had prejudged the case against Paul, and therefore, could not fairly and impartially judge it. It is unclear how many Councilmembers, other than Pirrello, prejudged the case as part of the conspiracy to remove Paul from office because the Council's personal attorney, Maupin, who was also the appointed hearing officer, prohibited Paul from making this inquiry of the Councilmembers before the hearing began.

55. On March 20, 21, and 27, 2013, Martin's deposition was taken, uncovering the conspiracy between at least Martin, Pirrello, Bookout, and James set forth herein. Paul should have been permitted to inquire as to whether other Councilmembers were participants in the conspiracy against him before the hearing began.

56. Several hours after the deposition of Martin was completed on March 27, 2013, the City disclosed the location for the impeachment hearing, only 4 days before the scheduled hearing date. It was only at this time that Paul could prepare and serve subpoenas on the witnesses necessary to his defense in his impeachment hearing.

57. Even though Martin had stated on more than one occasion that he could not represent the City/Council in Paul's removal hearing because he was one of the City's witnesses against Paul, by the time the location of the hearing was disclosed to Paul so that he



could subpoena witnesses, Martin had disappeared.

58. By way of example, but in no way exhaustive of the acts Martin claimed to have “witnessed,” Martin claimed to be a witness to a series of allegations that Paul disclosed confidential City information. However Martin’s deposition showed these allegations were frivolous, with even Martin admitting that falsely accusing Paul of disclosing confidential City information in at least one instance was a “mistake.” That Martin remains the City Attorney after engaging in such irresponsible conduct as accusing Paul of offenses that could result in his removal from office without any investigation and then disappear before the hearing after repeatedly claiming to be a necessary witness in these proceedings is further evidence that the conspiracy to remove Paul from office extends beyond Martin and Pirrello to other members, who were on the Council before the April 2, 2013 election.

59. Prior to the beginning of this hearing on April 1, 2013, James directed a mailing to the residents of the City of Ellisville supporting the impeachment of Paul. See Exhibit 6 attached hereto and incorporated by reference herein.

60. Even though James was supposedly a witness to two of the allegations against Paul, she was not called at the impeachment hearing. Upon information and belief, James was not called as a witness for the City at Paul’s impeachment hearing to prevent Paul from presenting evidence of the conspiracy, much like the hearing officer prohibited Paul from calling Pirrello and Murray as witnesses in his defense during the hearing.

61. Maupin, who as set forth above, represented the individual Councilmembers while serving as the “fair and impartial” hearing officer, refused to permit his clients to testify during Paul’s impeachment hearing, even though Martin had previously advised the members of the Council in an email dated February 26, 2013 that they should avoid commenting to the media

because they were likely to be “witnesses to or a judge in the proceedings, or both.” See Exhibit 7 attached hereto and incorporated by reference herein. As a result, Paul was prevented from presenting his defense to the charges against him in furtherance of the conspiracy set forth above.

62. On April 3, 2012, the Council passed another resolution, Resolution No. 04-03-13, authorizing Cheung and Maupin to serve as special counsel for the Council in “any and all litigation challenging whatever decision the Council makes as to the charges now pending with regard to Mayor Adam Paul.” The Council had no reason to pass Resolution No. 04-03-13 unless they already knew that they intended to remove Paul from office consistent with the plan outlined by Martin.

63. On April 8, 2013, the Council on a 5-1 vote (with Reel voting against Paul’s removal) removed Paul from office as planned in Martin’s February 8, 2013 email. See Exhibit 1.

64. Prior to his removal, Paul was paid \$8,700.00 per year for his services to the City as its mayor. As a direct and proximate result of the conduct alleged herein, Paul has been injured and damaged through this lost compensation.

65. As a direct and proximate result of the conduct alleged herein, Paul has incurred attorneys’ fees to defend his professional and personal reputation, has additionally incurred the fee of a lie detector test to counteract the negative publicity generated by the false accusations made by the Defendants, and incurred costs and expenses in the impeachment hearing.

66. As a direct and proximate result of the acts of the Defendants alleged herein, Paul has suffered and will continue to suffer emotional pain, inconvenience, mental anguish, loss of enjoyment of life, humiliation and stress, and loss of personal and professional reputation.

**COUNT I**  
**DEFAMATION OF CHARACTER**

As to Count I against Defendants Paul Martin, Matt Pirrello, and Kevin Bookout, Plaintiff states as follows:

67. Plaintiff incorporates by reference as if fully set forth herein, paragraphs 1 through 66 of his petition.

68. Defendants caused to be published false statements about Paul as set forth in paragraph 47 above.

69. The statements these Defendants caused to be published were false.

70. At the time Defendants caused the publication of the statements set forth above, they knew that such statements were false, or acted with a reckless disregard for whether the statements were true or false at a time when these Defendants had serious doubt as to the truth of the statements at issue.

71. The statements these Defendants caused to be published about Paul were made willfully and maliciously in an effort to discredit Paul and destroy his personal and professional reputation in the community.

72. The statements of Defendants exposed Paul to embarrassment, ridicule and contempt and/or deprived Paul of the benefit of public confidence and social associations, and as a result, have injured his personal and professional reputation. As a result of the statements these Defendants caused to be published, Paul has suffered public ridicule, personal humiliation, and loss of reputation, public confidence, respect, and professional standing within the community.

73. The statements published by these Defendants were widely read by the public on the internet and/or in print format in the *St. Louis Post Dispatch*, the *Suburban Journal of Greater St. Louis*, the *ballwin-ellisville.patch.com*, *NewsmagazineNetwork.com*, and the webpages of the television stations listed herein, as well as widely viewed by the public on FOX

2, KPLR 11, KSDK, and KMOV television. The statements that Paul was drinking while performing his duties as mayor continued to be published even after these charges were withdrawn by the Council, to include up until the time of the filing of this petition.

74. As a direct and proximate result of the conduct of the Defendants alleged herein, Paul has been forced to incur attorneys' fees to defend his professional and personal reputation and additionally has incurred the fee of a lie detector test to counteract the negative publicity generated by the Defendants false allegations that Paul was drinking alcohol while acting in his capacity as mayor.

75. As a direct and proximate result of the acts of the Defendants alleged herein, Paul has suffered and will continue to suffer emotional pain, inconvenience, mental anguish, loss of enjoyment of life, humiliation and stress, and loss of personal and professional reputation.

76. Punitive damages are appropriate in this case to punish these Defendants and deter them and others from like conduct in the future.

WHEREFORE, Plaintiff Adam Paul prays for the entry of judgment against Defendants Paul Martin, Matt Pirrello, and Kevin Bookout for a sum that is fair and reasonable, in an amount that exceeds \$ 25,000.00, the jurisdictional minimum of this court, for punitive damages, for his costs herein expended, including but not limited to reasonable attorneys' fees, costs and expenses, and for such other and further relief as may be appropriate under the circumstances.

**COUNT II**  
**TORTIOUS INTERFERENCE WITH BUSINESS EXPECTANCY**

As for Count II against all Defendants, Plaintiff states as follows:

77. Plaintiff incorporates by reference as if fully set forth herein, paragraphs 1 through 76 of his petition.

78. Paul had and has a valid business expectancy in his elected position as mayor because he could only be removed for cause after a fair and impartial due process hearing.

79. Defendants were aware of Paul's valid business expectancy in his position as mayor.

80. A breach of this business expectancy was caused by the Defendants intentional interference.

81. There was an absence of justification for the Defendants interference with Paul's valid business expectancy in the position of mayor.

82. Defendants used one or more improper means in interfering with Paul's valid business expectancy to include but not necessarily be limited to engaging in acts of defamation and other false representations, engaging in the conspiracy set forth below, and/or ensuring that Paul's due process rights would be violated by ensuring that the hearing of this matter took place before a new and unbiased Council was seated as a result of the April 2, 2013 election.

83. The acts of the Defendants were done to further their own interests, not in the interests of the City and/or the Defendants interfered with Paul's business expectancy for personal reasons as a result of their personal animus towards Paul instead of to serve any public interest.

84. Paul has been damaged as a result of Defendants' conduct.

85. As a direct and proximate result of the acts of the Defendants alleged herein, Paul has lost the \$8,700.00 per year he earned as the Ellisville mayor.

86. As a direct and proximate result of the conduct of the Defendants alleged herein, Paul has been forced to incur attorneys' fees to defend his professional and personal reputation, has incurred the fee of a lie detector test to counteract the negative publicity generated by the

Defendants false accusations, and has incurred other costs and expenses as a result of the impeachment hearing.

87. As a direct and proximate result of the acts of the Defendants alleged herein, Paul has suffered and will continue to suffer emotional pain, inconvenience, mental anguish, loss of enjoyment of life, humiliation and stress, and loss of personal and professional reputation.

88. The conduct of Defendants was outrageous because of their evil motive and reckless indifference to Paul's rights, making an award of punitive damages appropriate under the circumstances to punish these Defendants and to deter others from similar conduct in the future.

WHEREFORE, Plaintiff Adam Paul prays for the entry of judgment against all Defendants for a sum that is fair and reasonable, in an amount that exceeds \$ 25,000.00, the jurisdictional minimum of this court, for punitive damages, for his costs herein expended, including but not limited to reasonable attorneys' fees, costs and expenses, and for such other and further relief as may be appropriate under the circumstances.

**COUNT III**  
**PRIMA FACIE TORT**

In the alternative to but without waiver of Counts I and II, for Count III against all Defendants, Plaintiff states as follows:

89. Plaintiff incorporates by reference as if fully set forth herein, paragraphs 1 through 66 above.

90. The Defendants, due to their personal animosity towards Paul and/or to ensure Paul's removal from office engaged in the following intentional lawful acts that included but were not limited to:

- a. Filing a Charter violation complaint against Paul on February 11, 2013;

b. Causing the motion that led to Paul's impeachment to be presented at the February 20, 2013 Council meeting;

c. Causing the Preliminary Resolution (Resolution No. 02-27-13 and now Resolution No. 02-27-13A) to be presented to and approved by the Council;

d. Sending numerous emails mapping out Paul's removal from office;

e. Causing Martin to disappear before the hearing of this matter to ensure that there would be no direct evidence of the conspiracy set forth herein to be presented at the Paul's impeachment hearing;

f. Ensuring that Councilmembers would not testify at Paul's impeachment hearing, even though Martin had previously identified the Councilmembers as necessary witnesses;

g. Ensuring that the hearing against Paul was nothing but a sham pursuant to false and trumped up charges that either violated Paul's constitutional rights and/or would not support an elected official's removal from office;

h. Ensuring that Paul's impeachment hearing took place before those elected in the April 2, 2013 general election were seated so that Paul would be removed from office by the Council that was biased and prejudiced against him and had already prejudged his case;

i. Sending a letter to the residents of Ellisville supporting Paul's removal from office; and

j. Causing the removal of Paul from office.

91. In engaging in the intentional lawful acts set forth in paragraph 90 above, the Defendants acted with the intent to injure Paul.

92. As a direct and proximate result of the acts of the Defendants alleged herein, Paul was removed from the elected position of mayor and has lost the \$8,700.00 per year he earned as Ellisville's mayor, resulting in damage to him.

93. As a direct and proximate result of the conduct of the Defendants alleged herein, Paul has incurred attorneys' fees to defend his professional and personal reputation, has incurred the fee of a lie detector test to counteract the negative publicity generated by the Defendants, and had incurred additional costs and expenses as a result of the impeachment hearing.

94. As a direct and proximate result of the acts of the Defendants alleged herein, Paul has suffered and will continue to suffer emotional pain, inconvenience, mental anguish, loss of enjoyment of life, humiliation and stress, and loss of personal and professional reputation.

95. There was an absence of or insufficient justification for the Defendants to engage in the acts alleged herein.

96. The conduct of these Defendants as described above was outrageous because of their evil motive and reckless indifference to Paul's rights, making an award of punitive damages appropriate under the circumstances to punish these defendants and to deter others from the same or similar conduct in the future.

WHEREFORE, Plaintiff Adam Paul prays for the entry of judgment against all Defendants for a sum that is fair and reasonable, in an amount that exceeds \$ 25,000.00, the jurisdictional minimum of this court, for punitive damages, for his costs herein expended, including but not limited to reasonable attorneys' fees, costs and expenses, and for such other and further relief as may be appropriate under the circumstances.

**COUNT IV**  
**CIVIL CONSPIRACY**

As to Count IV against all Defendants, Plaintiff states as follows:



97. Plaintiff incorporates by reference as if fully set forth herein, paragraphs 1 through 96 of his petition.

98. The Defendants, and upon information and belief other Councilmembers and City employees, or two or more of them, entered into an agreement or understanding amongst and between themselves to do an unlawful act, to wit, to defame Paul, to tortiously interfere with his business expectancy in the elected position of Mayor of the City of Ellisville, and/or to commit a prima facie tort against Paul.

99. Defendants and/or other unnamed co-conspirators (constituting two or more people) had an unlawful objective to commit the unlawful acts set forth in paragraph 98 above.

100. The Defendants and/or other unnamed co-conspirators had a unity of purpose, common design and understanding, and/or meeting of the minds to defame Paul, to tortiously interfere with Paul's business expectancy, or alternatively, to commit a prima facie tort against Paul.

101. In furtherance of the conspiracy alleged herein, Defendants took overt acts that included but were not necessarily limited to:

- a. Filing a Charter violation complaint against Paul on February 11, 2013;
- b. Causing the motion that led to Paul's impeachment to be presented at the February 20, 2013 Council meeting;
- c. Causing the Preliminary Resolution (Resolution No. 02-27-13 and now Resolution No. 02-27-13A) to be presented to and approved by the Council;
- d. Sending numerous emails mapping out Paul's removal from office;
- e. Causing Martin to disappear before the hearing of this matter to ensure that there would be no direct evidence of the conspiracy set forth herein to be presented at

the Paul's impeachment hearing;

f. Ensuring that Councilmembers would not testify at Paul's impeachment hearing, even though Martin had previously identified the Councilmembers as necessary witnesses;

g. Ensuring that the hearing against Paul was nothing but a sham pursuant to false and trumped up charges that either violated Paul's constitutional rights and/or would not support an elected official's removal from office;

h. Ensuring that Paul's impeachment hearing took place before those elected in the April 2, 2013 general election were seated so that Paul would be removed from office by the Council that was biased and prejudiced against him and had already prejudged his case;

i. Sending a letter to the residents of Ellisville supporting Paul's removal from office; and

j. Causing the removal of Paul from office.

102. As a direct and proximate result of the conspiracy alleged herein, Paul was removed from the elected position of mayor and has lost the \$8,700.00 per year he earned as Ellisville's mayor.

103. As a direct and proximate result of the conspiracy alleged herein, Paul has incurred attorneys' fees to defend his professional and personal reputation, has incurred the fee of a lie detector test to counteract the negative publicity generated by the Defendants, and has incurred the costs and expenses of the impeachment hearing.

104. As a direct and proximate result of the acts of the Defendants alleged herein, Paul has suffered and will continue to suffer emotional pain, inconvenience, mental anguish, loss

of enjoyment of life, humiliation and stress, and loss of personal and professional reputation.

105. Defendants' conduct was outrageous because of their evil motive and reckless indifference to the rights of Paul making an award of punitive damages proper in this case to punish them and deter others from the same or similar conduct in the future.

WHEREFORE, Plaintiff Adam Paul prays for the entry of judgment against all Defendants for a sum that is fair and reasonable, in an amount that exceeds \$ 25,000.00, the jurisdictional minimum of this court, for punitive damages, for his costs herein expended, including but not limited to reasonable attorneys' fees, costs and expenses, and for such other and further relief as may be appropriate under the circumstances.

Respectfully submitted,

**PLEBAN & PETRUSKA LAW, L.L.C.**

by: 

C. John Pleban, # 24190  
Lynette M. Petruska, #41212  
Michael A. Owens, #61990  
2010 South Big Bend Blvd.  
St. Louis, Missouri 63117  
(314) 645-6666 – Telephone  
(314) 645-7376 – Facsimile

Attorneys for Plaintiff

3/19/13

Paul Martin, P.C. Mail - Re: Attached



Paul Martin <paul@paulmartinpc.com>



Re: Attached

Paul Martin <paul@paulmartinpc.com>  
To: Matt Pirrello <pirrello@charter.net>

Sun, Feb 10, 2013 at 6:18 PM

I'd like Dan again--this would be more his element, and I think he would do a good job. But, his association with you is probably against him. What do you think about that possibility?

I'm also thinking maybe Keith Cheung from my old firm. Very competent, lots of municipal background, good depth at the firm. But, they may not want to be associated with going after a mayor.

I have another guy who I trust to do a good job, if we can't use either of the other two. I don't want to think about him until we've eliminated the other options. I'm also open to suggestions if you have any.

On your recent text question, one of the reasons we're going to schedule a hearing is to cut down on his opportunities to bail. If he resigns, I don't know if a hearing and a judgment by the council would have any effect. I'm also not sure that it makes sense to pursue.

On Sat, Feb 9, 2013 at 2:48 PM, Matt Pirrello <pirrello@charter.net> wrote:

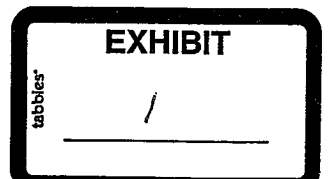
Who is our special prosecutor?

---

**From:** Paul Martin [mailto:paul@paulmartinpc.com]  
**Sent:** Friday, February 08, 2013 5:14 PM  
**To:** Matt Pirrello  
**Subject:** Attached

Process:

1. KJ files complaint on Monday, 2/11, at opening of business.
2. Kate immediately delivers complaint to AP and CEC members, by e-mail (or other method noting the time of delivery), and schedules "initial" meeting of CEC for the evening of 2/18.
3. AP would have 7 days after (not business) to file answer with Kate, i.e., Monday, 2/18.
4. If AP files answer, Kate immediately forwards same to CEC members.



5. CEC holds its meeting the night of 2/18 and considers whether probable cause exists to forward complaint to the Council. "Probable cause" means a reasonable ground for believing that the charged violation is well-founded. CEC adopts its recommendation that the council consider the charged violations. (CEC could have additional meetings, but the two charges are so straightforward and easily proven, there really would be no need.) *Recommendation would include a statement that the "unbecoming conduct" charges in the complaint letter are not charter violations.*

6. On 2/19, CEC tells Kate to put the matter on the 2/20 agenda.

7. Council considers the complaint, answer, and CEC rec on 2/20 ("shall move expeditiously to judge the sufficiency of the charged violations"). Council directs that a resolution be prepared setting forth the charges and the factual specifications supporting the charges. Resolution must also set a hearing date and hire special prosecutor.

8. Also on 2/20, Council may also address the unbecoming conduct charges and ask if these can be considered. They can, through the review proceeding found in Section 3.6 of the Charter. Council should direct that a second resolution be prepared for these other matters. That resolution will identify charges and specifications, hire a special prosecutor (can be same as CEC prosecutor), suspend AP for 45 days pending resolution of the charges, and schedule a public hearing. (Note that Section 3.6 leaves it to AP to request a public hearing, but recent case law suggests that the City must hold a hearing to move on a final resolution of removal, to make absolutely sure that AP receives his constitutional due process. I'd rather be safe than sorry. If AP resigns before the public hearing, then there's no need to hold it).

9. At the 2/20 meeting, Council calls for a special meeting on 2/27 to consider the resolutions. Council passes resolutions on 2/27. Again, these must include dates for hearings.

10. Special prosecutor will investigate the all charges and will present the charges and the evidence at the hearings. Special prosecutor will need some time. CEC hearing can be scheduled earlier because of its simplicity. Sec. 3.6 hearing should be scheduled no sooner than Thursday, 3/21, but 3/27 (5th Wednesday) would probably be more reasonable. (Note, this will be very involved and costly to the city.)

11. Council holds CEC hearing and Sec. 3.6 hearing at prescribed dates and times. Both could potentially be held on the same day but must be held separately. Hearings must follow due process requirements: respondent may be represented by an attorney, introduce evidence, cross-examine witnesses, etc. After the hearing, Council adopts final resolutions of removal, which will include findings of fact, conclusions of any laws violated, and a judgment of removal.

3/19/13

Paul Martin, P.C. Mail - Re: Attached

12. AP has 30 days under the CEC process to challenge that removal motion. Per state law, he has a "reasonable time" under the Section 3.6 process to challenge that resolution.

Call if you want to discuss.

THIS IS A CONFIDENTIAL COMMUNICATION FROM THE LAW FIRM OF:

Paul Martin, P.C.  
9322 Manchester Road  
St. Louis, Missouri 63119  
(314) 961-0097 x. 12 (Office)  
(314) 805-8800 (Direct)  
(314) 961-0667 (Fax)

We are required to obtain client consent to communication by E-mail. Please note that there is a risk that such communications may be intercepted as they travel through the Internet or any network to which you are connected or from your own computer. Communications could be randomly intercepted by a disinterested person or intentionally intercepted by an interested person. We understand that you consent to communication by E-mail. If this is incorrect, please let us know immediately.

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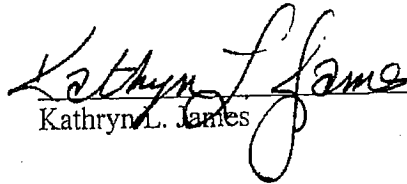
Dear Ms. Demeter:

Mayor Adam Paul has violated the Ellisville City Charter and has also committed other acts calling into question his qualifications to serve as the Mayor of the City of Ellisville.

1. After meeting of the City Council occurring in early May, 2012 at the Ellisville Elementary auditorium, Mayor Paul ordered Ellisville Police Officer Kelly Murray to remove me from the Ellisville Elementary auditorium, even though the meeting was over. This can be verified by Officer Murray.
2. On February 6, 2013 Mayor Paul, during a public meeting of the City Council, ordered Chief Tom Felgate to remove a member of the public from the meeting. This can be verified by Chief Felgate, everyone present at the meeting, and the recording of the meeting.

Both of these orders violated Section 3.5(c) of the City Charter: "Neither the Mayor nor Council Members shall give any orders to any such officer or employee, either publicly or privately."

Mayor Paul has conducted meetings in violation of Council rules. He has favored his political supporters, intimidated and verbally attacked his opponents, attacked the integrity of council members and city staff, lost his temper during meetings and lost control of meetings. Mayor Paul's conduct during and outside of meetings is unbecoming to the office of Mayor. He should be impeached, and I request that you invoke the Charter Enforcement Commission.

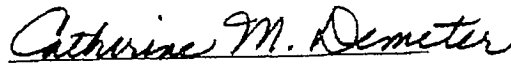
  
Kathryn L. James

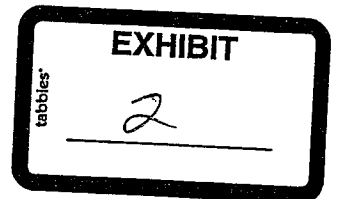
STATE OF MISSOURI )  
                                  ) SS  
ST. LOUIS COUNTY )

On this 11 day of February, 2013, before me personally appeared Kathryn James, and being first duly sworn, stated that the information contained in the foregoing is true and correct according to the best of her information, knowledge, and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

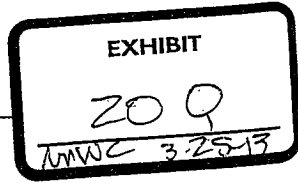


  
Notary Public



3/19/13

Paul Martin, P.C. Mail - CEC Hearing



Paul Martin <paul@paulmartinpc.com>

**CEC Hearing**

Message

Paul Martin <paul@paulmartinpc.com>

Sun, Feb 17, 2013 at 5:18 PM

To: Dawn Anglin <anglinz@charter.net>, Linda Reel <reelones@yahoo.com>, Shelly Murray <Shellymurray@sbcglobal.net>

Cc: Kate Demeter <kate@ellisville.mo.us>, Kevin Bookout <kbookout@ellisville.mo.us>

Bcc: Paul Martin <Paul@paulmartinpc.com>

**Privileged Attorney-Client Communication**

CEC Members:

In that the mayor is now represented by Chet Pleban, an experienced and formidable adversary, we have to assume that he will challenge any possible impeachment by the Council in court. While the evidence substantiates that the mayor ordered the POs to remove the residents, the real question—for me, at least—is whether these two isolated instances—one at the very beginning of his term and one very recent—are enough for a court to uphold an impeachment decision by the Council.

I have two concerns. First, courts interpret laws, including charters, by trying to determine the intent of the people who adopted them. In this case, the question is the intent of the voters of Ellisville in adopting Section 3.4(c) of the Charter. That intent may be best described by the title to the section, "Interference With Administration". A plain reading of the section indicates that the intent of the voters was to prohibit a council member from interfering in the day-to-day administration of city business, but was this prohibition intended to extend to prohibiting the chairperson of a meeting from removing an unruly meeting attendant? One can argue this both ways, which makes it very unclear to me what a judge would decide.

Second, the charged incidents may be too few and far between to justify removal. Put in a different context, if these were the only transgressions by the mayor since his election, would a judge find them sufficient to remove him from office? I am doubtful about that conclusion.

For both these reasons, the Commission should strongly consider recommending that the Council dismiss the complaint. If the Council desires to pursue impeachment based on these and other reasons, I think Section 3.6 of the Charter provides an avenue appropriate for further discussion. (In other words, I don't think the Council is limited in its removal powers to the CEC process.)

Tomorrow I will be providing you with two very simple alternative recommendations. One will recommend complaint dismissal and one will recommend Council consideration of the complaint. I'd recommend following the agenda, with the chair person asking at the appropriate time:

"Has everyone read the complaint and Mayor Paul's responses?"

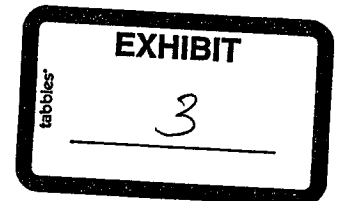
"Does anyone need any additional information?"

"Does anyone have a motion?"

Presumably the answers will be yes, no, and move to recommend that the Council dismiss/consider the complaint.

If everyone follows the script, this could be a very brief meeting.

Please note that the agenda does not permit public comment, nor is it required, nor do I recommend that you allow it. This extends to the mayor and Mr. Pleban as well. Remember that the function of the commission is only to provide a recommendation. If the matter goes to a council hearing, then the mayor will have the right to be heard.





As to Mr. Pleban's motions:

1. The request for a "discovery continuance" is not well-taken, because (a) there are no facts in dispute as to whether the orders were made by the mayor, (b) the CEC ordinance process does not allow for discovery, and (c) the mayor will have time to conduct his discovery if these charges are pursued by the council.

2. The motion to disqualify is a very complicated issue that requires a lengthy explanation, but it will hopefully suffice to say that the CEC, acting as the CEC, is not making a determination that will deprive Mayor Paul of any right or interest. All the CEC is doing is recommending to the Council whether to dismiss or consider the complaint. The disqualification motion is therefore premature. It will be considered if the matter moves forward to the Council.

I'd prefer not to address these legal issues at the CEC hearing tomorrow, so please do not raise them. If the Commission recommends to dismiss the complaint, there really is no need to address them at all.

Please call if you have any questions.

Paul

THIS IS A CONFIDENTIAL COMMUNICATION FROM THE LAW FIRM OF:

Paul Martin, P.C.  
9322 Manchester Road  
St. Louis, Missouri 63119  
(314) 961-0097 x. 12 (Office)  
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SPONSORED BY COUNCIL MEMBER Murray  
INTRODUCED BY COUNCIL MEMBER Murray

RESOLUTION NO. 02-27-13

**PRELIMINARY RESOLUTION CONCERNING THE  
REMOVAL OF MAYOR ADAM PAUL**

**WHEREAS**, in an effort to curb past abuses of authority and City resources by the elected officials of the City of Ellisville, the voters of the City adopted in 1993 their Home Rule Charter to install a professionally-managed, "weak mayor/strong council" form of government; and

**WHEREAS**, the Charter accordingly: (a) vests all municipal powers with the City Council, unless otherwise provided by the Charter, (b) limits the authority of the Mayor in favor of the collective responsibility of the City Council in the exercise of those powers, (c) provides for the City Council's collective oversight and supervision of the City's appointed officers, specifically the City Manager, City Clerk, and City Attorney, and (d) prescribes the authority and responsibilities of the City Manager and City staff in administering the daily operations of the City and prohibits interference by the City Council, including the Mayor, with the City Manager's authority; and

**WHEREAS**, Adam Paul was elected to the office of Mayor of the City of Ellisville on April 3, 2012; and

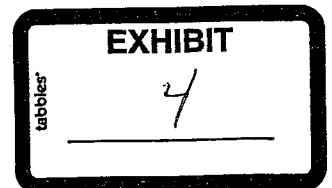
**WHEREAS**, since his election, and continuing to date, Mayor Paul has committed certain acts in apparent violation of the germane provisions of the City's Charter, the City Code, and the Council's established rules and practices; and

**WHEREAS**, the Council of the City of Ellisville desires to consider such acts and determine, consistent with Section 3.6 of the Ellisville City Charter and the laws of the State of Missouri, whether they constitute misfeasance, malfeasance, or nonfeasance in the administration of his office and whether Mayor Paul should thereby be deemed to have forfeited his office; and

**WHEREAS**, the Council accordingly desires to adopt this preliminary resolution to suspend Mayor Paul from office for a period of not more than 45 days to consider and determine whether the charges noted herein merit a finding that Adam Paul shall be deemed to have forfeited the office of Mayor of the City of Ellisville; and

**WHEREAS**, a copy of the proposed resolution has been made available for public inspection prior to consideration by the Council.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ELLISVILLE AS FOLLOWS:**



1. Mayor Adam Paul is hereby charged with the following acts of misfeasance, malfeasance, and nonfeasance in the administration of his office:

A. Mayor Paul has unlawfully disclosed the confidences of the City, without the knowledge or permission of the City Council, to unauthorized persons in violation of Section 125.050.D.2 of the City Code:

(1) Section 125.050.D.2 of the City Code provides:

Elected and appointed officials are also expected to maintain the same strict standards of confidentiality required of employees. Breach of the confidentiality standards established by this Chapter and required of employees in this Section may be grounds for removal from office or other sanctions as may be deemed appropriate by the body of which such official is a member or by the City Council.

(2) On a date unknown, but prior to May 2, 2012, Mayor Paul disclosed a confidential legal opinion from the City Attorney concerning the legality of a citizen-initiated referendum on the Wal-Mart TIF ordinance.

(3) On a date unknown, but prior to October 30, 2012, Mayor Paul disclosed the contents of a closed-session personnel discussion of the City Council concerning the extension of the City Manager's severance package.

(4) On a date unknown, but prior to December 15, 2012, Mayor Paul disclosed the contents of one or more closed-session real estate discussion of the City Council concerning the possible re-use of the Tri-Star Mercedes dealership property.

(5) On February 13, 2013, Mayor Paul disclosed the City Attorney's legal advice regarding the operations and procedure of the City's Charter Enforcement Commission.

As a result of his actions, the City Council is unable to have frank discussions concerning topics that are protected from public disclosure by Missouri's Sunshine Law, and the City Attorney is unable to fully advise the City Council on such matters, thus compromising the Council's abilities to be fully-informed on matters of City policy.

B. Mayor Paul has attempted to effect the replacement of the City Attorney, without the Council's knowledge or approval, and as such he has exceeded his authority under Article IV of the City Charter, has attempted to usurp the authority of the Council over the City Attorney under Section 3.8(a) of the Charter, and has violated Section 12.3(d)(2) of the Charter.

(1) Article IV of the Charter does not authorize the Mayor to remove the City Attorney from office.

(2) Section 3.8(a) of the Charter provides: "The Council shall appoint an officer who shall have the title of City Attorney and who shall serve at the pleasure of the Council."

(3) Section 12.3(d)(2) of the Charter provides, in pertinent part:

If any Council member, including the Mayor, . . . shall be approached by any person . . . concerning an application or petition that said person . . . may file with the City Council . . . , such member shall direct the person . . . to request the City Clerk schedule a public meeting as provided above.

Section 12.3(e) of the Charter further provides that “any person who violates any of the aforementioned provisions shall forfeit his or her office or employment with the City.”

(4) The Council appointed Paul Martin as City Attorney in 2004, and Martin and the City entered into a one-year, automatically renewing contract subject to termination by either party at any time.

(5) On August 10, 2012, Mayor Paul informed the City Clerk that Martin’s contract was about to “expire” and that he had decided not to renew the contract. He noted that he had discussed the position with “[a]t least 4 experienced municipal attorneys” who had “contacted [him] about interviewing for the role”. He indicated that he wanted the Council’s cooperation to replace Martin, and that if that cooperation was not forthcoming, he would call a town hall meeting on the issue, give the public “the opportunity to ask questions to 3 invited guest attorneys that I prescreened”, then poll the audience and publish the results on the City’s website. “If need be, I will announce the meeting details in the Trailblazer on the Mayor’s Corner due on August 15<sup>th</sup> to reach the entire pubic (sic) audience.”

(6) On August 14, 2012, Mayor Paul again informed the City Clerk that his interpretation, and that of his personal attorney, of the Charter and the contract was that (a) the contract was about to expire, (b) he was the only person who could appoint the City Attorney, and (c) he would not re-nominate Martin when the contract purportedly expired.

Mayor Paul’s attempts to remove and replace the City Attorney, which were unknown to the City Council prior to his communications with the City Clerk, and his threats to force this change on the Council through public intimidation, exceeded the scope of his authority and invaded the province of the Council with regard to the appointment and removal of the City Attorney. His willing participation in discussions with would-be city attorney applicants, discussions not known to the Council or to the public, violated Section 12.3(d)(2) of the City Charter. His actions further diverted the City Clerk’s attention away from other City business and required a legal opinion from the City Attorney, leading to additional legal bills for the City. As a result of his actions, the working relationships between the Mayor and the other members of the City Council, the City Attorney and the City Clerk have become dysfunctional.

C. Mayor Paul has attempted to circumvent the relocation policy adopted by the City Council with regard to the Wal-Mart development by contacting a representative of the developer without Council knowledge or authorization and outside of the public meeting context required by Section 12.3(d)(1) of the Charter. The Mayor accordingly exceeded his authority under Article IV of the Charter, usurped the authority of the Council under Section 3.1 of the Charter, and violated Charter Section 12.3(d)(1).

(1) Article IV of the Charter does not authorize the Mayor to contact third-parties, without the Council's knowledge and approval, regarding the policies of the City as adopted by the City Council, or any expansion thereof.

(2) Section 3.1 of the Charter provides: "All powers of the City shall be vested in the Council unless specifically provided otherwise in this Charter. The Council shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the City by law." No ordinance of the City authorizes the Mayor to contact third-parties, without the Council's knowledge and approval, regarding the policies of the City as adopted by the City Council, or any expansion thereof.

(3) Section 12.3(d)(1) of the Charter provides, in pertinent part:

The Mayor . . . shall not meet or confer with any person, business entity, or any agent of either, regarding any application or petition which such person, business entity, or agent has filed with the Council . . . , except by way of a lawful public meeting requested by such person, business entity or agent.

Section 12.3(e) of the Charter further provides that "any person who violates any of the aforementioned provisions shall forfeit his or her office or employment with the City."

(4) At a public meeting on May 16, 2012, Mayor Paul, based on his misunderstanding of the City-approved and State-required Wal-Mart relocation policy, unsuccessfully urged the City Council to expand on the benefits to be made available to Clarkchester Apartment residents. Despite this unsuccessful effort, Mayor Paul contacted the City Manager on May 24, asking whether he could contact Jennifer Kaniecki, relocation specialist for Sansone Development Company, the Wal-Mart developer. Manager Bookout responded: "There is no reason to contact her. She will follow the Relocation laws as specified by the Missouri State Statute."

(5) Mayor Paul persisted, acknowledging the risk of forfeiting his office because of a possible Charter violation if he contacted Kaniecki. The City Attorney was asked to respond, and he did so: "You attempted at the last council meeting to persuade the council to attempt an expansion of the [relocation] policy, and you did not receive any support for that notion. You should conduct yourself accordingly."

(6) Despite knowing of the meaning and effect of Section 12.3(d)(1), and despite specific contrary advice from both the City Manager and the City Attorney regarding the relocation policy adopted by the City Council, the Mayor contacted Ms. Kaniecki, without Council knowledge or authorization and outside of the public meeting context required by Section 12.3(d)(1) of the Charter, to discuss the relocation policy in a misplaced effort to expand the scope of that policy.

As a result of his actions, Mayor Paul exceeded the scope of his authority, invaded the province of the Council over the City's policy matters and violated Section 12.3(d)(1) of the Ellisville City Charter.

D. Mayor Paul has directed the City Clerk to perform actions contrary to law and the rules and practices of the Council, and as such he has exceeded his authority under Article IV of the City Charter and has attempted to usurp the authority of the Council by directing the activity of the City Clerk in violation of Section 3.7 of the City Charter:

(1) Article IV of the Charter does not authorize the Mayor to direct, supervise, or reprimand the City Clerk.

(2) Section 3.7 of the Charter provides in pertinent part: "The "Council shall appoint [the] City Clerk" and the City Clerk "shall maintain the journal of Council proceedings [and] perform such other duties as may be required by law, by this Charter, or by the Council. The City Clerk shall be responsible to the Council." . . . .

(3) On June 13, 2012, Mayor Paul directed City Clerk Demeter to prepare an ordinance for the June 20, 2012 meeting of the City Council calling for the scheduling of recall elections for Council Members Anglin and Pieper on October 2, 2012, even though the recall petitions had not yet been circulated, the requisite recall signatures had not been obtained, nor had said signatures been certified, all as required by Article IX of the City Charter.

(4) On August 14, 2012 Mayor Paul instructed the City Clerk to advise him as to the scope of his Charter authority to (a) appoint members to the Planning and Zoning Commission and (b) refuse to nominate the City Attorney for reappointment, thus directing the Clerk to provide legal advise exceeding the scope of her authority under the City Charter.

(5) On August 14, and again on August 15, 2012, Mayor Paul directed City Clerk to remove an item from the regular meeting agenda of August 15 based on his erroneous interpretation of Council procedure.

(6) On November 9, 2012, Mayor Paul directed the City Clerk to revise the draft minutes of the November 7 meeting by adding his comments objecting to the City Manager employment contract legislation, even though the revision of meeting minutes can only be accomplished by Council motion.

(7) After responding to the Mayor that the appropriate way to amend the draft minutes was by motion and vote of the City Council, the City Clerk asked the Mayor if he wanted her to forward his proposed revisions to the Council for that purpose, and he responded yes. On November 12, 2012 the City Clerk did so, by forwarding the e-mail string that included the Mayor's revisions. Mayor Paul then reprimanded the City Clerk for doing exactly what he had requested:

"Kate, please don't forward our email conversations in the future to the rest of the council. That is unprofessional and inappropriate. I ask you to do something, please do it. I don't need you telling me to take a high road or demonstrating to the council that you asked me to take the 'high road'. Why is this 9 people vs the mayor? Do your job and I will do mine."

(8) On November 12, 2012, Mayor Paul directed the City Clerk to post an e-mail from Council Member Pirrello on the City's website, erroneously claiming that Pirrello had violated the Sunshine Law by sending the e-mail without first posting a notice.

As a result of the Mayor's actions, the City Clerk has been required to unnecessarily seek the advice of the City Attorney, leading to additional legal bills for the City, and the working relationship between the City Clerk and the Mayor, and the City Attorney and the Mayor, has become dysfunctional.

E. Mayor Paul has attempted to direct and supervise the City Manager and has interfered with the administration of, and has directed, employees under the City Manager's authority. The Mayor has thus exceeded his authority under Article IV of the City Charter, has usurped the authority of the Council under Article V of the Charter, and has violated Section 3.4(c) of the City Charter.

(1) Article IV of the Charter does not authorize the Mayor to direct or supervise the City Manager or to have any role in determining, assigning, or suggesting the work duties of those City employees who are subject to the City Manager's administration.

(2) Article V of the Charter provides that the City Council appoints the City Manager, establishes the duties of the City Manager, and has the authority to remove the City Manager. Section 5.4 of the Charter provides that "[t]he City Manager shall be responsible to the Council for the administration of all operations placed in [his] charge", including the appointment, direction, supervision, and discipline of all non-appointive employees.

(3) Section 3.4(c) of the City Charter Provides:

Except for the purpose of inquiry, information or investigation as established by Article III, Section 3.11 of this Charter, the Mayor or Council Members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Neither the Mayor nor Council Members shall give any orders to any such officer or employee, either publicly or privately.

(4) On May 2, 2012, after a public meeting at the Ellisville Elementary Auditorium, Mayor Paul ordered Lieutenant Kelly Murray of the Ellisville Police Department to remove Ms. Katie James from the premises, without provocation, cause, or excuse.

(5) On May 7 and May 8, 2012, Mayor Paul contacted Chief Felgate and Sgt. Walker of the Ellisville Police Department, requesting that (a) as mayor, he be issued a gun and a badge, and (b) that the City's message boards be used to advertise for a private event to be held at a business owned by a political supporter.

(6) On May 18, 2012, Mayor Paul e-mailed City Manager Bookout, without the Council's knowledge or approval, suggesting that Bookout use the city's message boards to advertise certain private events, one of which was being held at a private business owned by one of his political supporters.

(7) On June 12, 2012, Mayor Paul contacted Ellisville administrative assistant Donna Bragdon and directed her to provide him with a personalized City of Ellisville letterhead, in a writable electronic format.

(8) On June 21, 2012, Mayor Paul reprimanded the City Manager for forwarding to the council a citizen e-mail expressing the sentiment that the Mayor should stop the recall election over the Wal-Mart approval. He also ordered the City Manager to provide the Manager's personal e-mail address to him.

(9) On June 13, 2012, Mayor Paul reprimanded City Manager for asking the Council if they were available for a special meeting, wrongfully claiming that it was his exclusive prerogative under the City Charter to call for special meetings. Mayor Paul further instructed the Manager in the future to "reach out to me first regarding administrative city issues so that I, as Mayor, can issue the special meeting request" and admonished "[i]f you are unsure please ask me".

As a result of the Mayor's actions, the City Manager has been required to seek the advice of the City Attorney, leading to additional legal bills for the City; he has had to divert his time and attention away from city business to address the Mayor's baseless concerns; and the working relationship between the City Manager and the Mayor, and the City Attorney and the Mayor, has become dysfunctional.

F. Mayor Paul has failed to competently and fairly preside over meetings of the City Council in violation of Sections 4.1(b) of the City Charter, Robert's Rules of Order, and the Council's rules.

(1) Section 4.1(b)(1) of the Charter requires that the Mayor preside as chairman of meetings of the Council.

(2) Through the enactment of Section 110.050 of the City Code, the Council has adopted Robert's Rules of Order, which requires the chair of any meeting to adhere to the body's rules and to control disruptive behavior.

(3) The Council's rules further impose time limits on public speakers and require that decorum be maintained in a meeting.

(4) Since his election, and at public meetings over which he is required by law to preside, Mayor Paul has repeatedly failed to enforce the Council's time limits for public comments and has repeatedly failed to control outbursts from the public, both during public comments and the non-public business portions of Council meetings.

(5) During a closed session of the City Council immediately preceding the May 2, 2012 meeting, Mayor Paul addressed the Council by the use of profanity, specifically accusing the Council of creating a "shit show" relative to the filing of recall petitions.



(6) After the May 2, 2012 meeting, Mayor Paul, without cause or provocation, verbally confronted resident Katie James, stating in a loud voice "Do not tell me how to run my f'ing meeting. This is my f'ing seat".

(7) On a date unknown, but at a closed meeting in the City Hall conference room during the summer of 2012, City Manager Bookout was sitting next to Mayor Paul, who was drinking something. The Manager smelled alcohol on the Mayor's breath and asked the Mayor what he was drinking. The Mayor admitted to the City Manager that he was drinking vodka.

(8) On July 18, 2012, during an open meeting in the City Hall conference room with representatives from Allen Roofing and West County Honda, Mayor Paul arrived and sat next to the City Manager. The Mayor had two containers, a blue energy drink and a thermos-type container with a lid. He placed the thermos-type container on the floor between his feet. He then leaned forward and used the energy drink to top off the container that was on the floor and proceeded to drink from the container.

(9) During a closed session immediately preceding the November 7, 2012 council meeting, Mayor Paul again used profanity ("shitty") in discussing possible legislation relative to nuisances.

(10) On December 5, 2012, during a public meeting of the City Council, Mayor Paul criticized legislation amending the zoning code and the City Manager's employment contract, and in so doing attacked staff and council members for alleged incompetence and cronyism.

(11) On December 5, 2012, while he was chairing the meeting, Mayor Paul mixed and drank the contents of bottles labeled as water, at least one of which contained alcohol.

(12) At the same meeting, Mayor Paul personally attacked his fellow council members and again used profanity during the public meeting, saying "shit" in the course of objecting to legislation.

Mayor Paul's actions have demonstrated a lack of respect for his office, the public, the City Council, and City staff, resulting in a complete lack of trust and confidence in, and respect for, the Mayor among Council members and City staff, to the point that the working relationships of the Mayor, Council members, and staff have become dysfunctional.

G. Mayor Paul has committed conduct unbecoming and demeaning to the office of Mayor of the City of Ellisville in one or more of the following respects:

(1) On February 12, 2013 Mayor Paul filed a false answer in response to a Charter violation complaint.

(a) On February 11, 2013 Katie James filed a complaint against Mayor Paul pursuant to Section 12.10 of the City Charter and Chapter 145 of the City Code. James alleged that on February 6, 2013 the Mayor issued a direct order to the City's Police Chief to

remove a resident from the public meeting and that such action violated Section 3.4(c) of the City Charter.

(b) As permitted by Section 145.020.B of the City Code, Mayor Paul filed an answer with the City Clerk on February 12. His response stated, for the first time, that the resident had made "a gesture with his hands and pants pockets of what appeared to me as the shape of a firearm aimed at me" and that at the time of the incident the Mayor felt his life "potentially threatened".

(c) The Mayor did not disclose any such concern to the police at the time of the alleged incident on February 6. He took no action at the time suggesting that he feared any kind of firearms assault. He did not ask for police protection when he exited the meeting, nor did he make, nor has he ever made, any complaint to the police department concerning the resident's actions on the night in question or at any other time. No other person on the Council dais or in the immediate proximity of the resident has verified any "gesture" or "shape" of an object suggesting that the resident was armed or was threatening the Mayor with a weapon or with any kind of physical violence.

(d) In that a Charter violation complaint had been filed and the Mayor responded as permitted by the governing city ordinance, the Mayor had a duty to be truthful in his response to the charged Charter violation. That response also included a gratuitous reference to the tragic Kirkwood shootings of 2008. The Mayor's official answer to the charged violation thus demonstrates a callous and calculated effort to fabricate an emotionally-charged excuse for the Mayor's order to remove the resident, and he was not truthful in asserting the possibility of a weapon or his fear of that possibility.

(2) In an attempt to gather "evidence" to "defend himself" at the February 18, 2013 meeting of the City's Charter Enforcement Commission, Mayor Paul surreptitiously recorded telephone conversations with the Chief of Police and the City Clerk, and in a transparent attempt at intimidation, told each of them at the end of the discussion that the conversation had been recorded.

(3) On February 18, 2013 Mayor Paul permitted his attorney to continuously and repeatedly interrupt and obstruct the meeting of the Charter Enforcement Commission.

(a) The meeting of the Charter Enforcement Commission was a meeting to determine whether probable cause existed to recommend to the City Council that a hearing be held to determine Mayor Paul's right to continue to occupy the office of Mayor. It was not a "hearing" under Missouri's Administrative Procedures Act, and while Mayor had the right to attend and observe the proceedings, neither he nor his attorney had any right to speak at the meeting, to produce evidence (other than his written answer to the charges), or to make any objections to the proceedings.

(b) Only seconds after the meeting was called to order, Mayor Paul's attorney interrupted the proceedings and demanded action on her previously filed requests for a continuance and for disqualification of two of the commission members and the City Attorney. She was informed (1) that the role of the Charter Enforcement Commission was only a

preliminary one—to make a recommendation on the existence of probable cause to believe that a violation occurred, (2) that her requests and complaints were a part of the public record of the meeting, and (3) that the Mayor would be afforded all due process rights, including a determination of his requests, if the matter proceeded to a hearing. She was repeatedly asked to sit down and to let the Commission conduct its business, yet at every attempt of the Commission to do so, she again interjected, repeating her earlier claims, arguing with the City Attorney, and refusing to be silent. When informed that the police would be requested to escort her from the meeting place if she did not cease her outbursts, she continued her disruptive behavior, leading to a delay of the meeting, obstruction of the process, and her ultimate removal by the Chief of Police at the direction of the City Manager.

(c) The Mayor's attorney is his agent, and the Mayor is the "principal" in the agency relationship. As such the Mayor has the responsibility and authority to control the actions of the "agent", his attorney, during a meeting of a public governmental body. The Mayor failed to do so. His attorney's unreasonable, obstructive behavior was not intended to preserve any legal defenses or positions but only to force her removal from the proceedings for the purposes of publicity and political impact. As the principal in the relationship, the Mayor is responsible for the attorney's disruptive behavior.

Mayor Paul's actions again have demonstrated a lack of respect for his office, the public, the City Council, and City staff, resulting in a complete lack of trust and confidence in, and respect for, the Mayor among Council members and City staff, to the point that the working relationships of the Mayor, Council members, and staff have become dysfunctional.

2. Mayor Adam Paul is hereby and immediately suspended from the duty of his office for a period not to exceed 45 days, during which time the Council shall consider and determine whether Mayor Paul has forfeited his office for one or more of the noted charges.

3. Unless a different date is required by operation of Section 3.6 of the Ellisville City Charter, the Council shall hold a public hearing on March ~~20~~, 2013 at ~~7:00 PM~~ at \_\_\_\_\_ to consider the charges and determine whether Adam Paul has forfeited the office of Mayor of the City of Ellisville.

4. Mayor Paul may be represented by counsel at the hearing and shall be entitled to present evidence and to cross-examine witnesses in his defense. The City Council shall consider the evidence presented and shall make written findings of fact and conclusions of law in its determination of the evidence presented at the hearing.

5. The City Manager is authorized and directed to enter into a letter agreement, attached as Exhibit A, with Keith Cheung and the law firm of Curtis, Heinz, Garrett and O'Keefe to serve as special counsel for the purpose of presenting the noted charges.

6. The City Manager is authorized and directed to enter into a letter agreement, attached as Exhibit B, with John Maupin and the law firm of Eckenrode and Maupin to serve as hearing officer and special counsel to the City Council with regard to these removal proceedings.

THIS RESOLUTION ADOPTED BY THE COUNCIL OF THE CITY OF ELLISVILLE, ST. LOUIS COUNTY, MISSOURI, ON THIS 27 DAY OF February 2013.

AYE NAY ABSTAIN

ANGLIN	<u>✓</u>
PIRRELLO	<u>✓</u>
REEL	<u>ABSENT</u>
PIEPER	<u>        </u>
MURRAY	<u>✓</u>
ACUP	<u>✓</u>
<del>PAUL</del>	<u>        </u>

ATTEST:

CITY OF ELLISVILLE

Catherine Demetri

Matt Ruedels



# City of Ellisville

*Exhibit A*

Keith K. Cheung  
Curtis, Heinz, Garret & O'Keefe  
130 S. Bemiston Avenue, Suite 200  
Clayton, MO 63015  
kcheung@lawfirmemail.com

Re. Removal of Mayor Adam Paul

Dear Mr. Cheung:

The Council of the City of Ellisville has adopted the attached preliminary resolution for the removal of Adam Paul from the office of Mayor of the City of Ellisville. This action was taken pursuant to Section 3.6 of the Ellisville City Charter, which further permits a hearing on the specified charges and the possible adoption of a final resolution of removal.

The Council desires to retain you and your firm to act as special prosecutor for the purposes of investigating, preparing, and presenting the case in favor of removal of Mr. Paul at a public hearing, date to be determined. The City will compensate you for these services at a rate of \$200 per hour, plus necessary expenses. The City will remit payment within 30 days of receipt of your detailed invoices.

If you agree to this representation, please sign and date this letter and return it to me at your earliest convenience. On receipt, I will deliver a packet of information concerning the specified charges. Of course, please call if you have any questions.

Sincerely,

Kevin Bookout  
Ellisville City Manager

---

Keith K. Cheung  
Curtis, Heinz, Garrett & O'Keefe



# City of Ellisville

*Exhibit B*

John W. Maupin  
Eckenrode and Maupin  
8000 Maryland Avenue, Suite 1300  
Clayton, MO 63105  
[jwm@eckenrode-law.com](mailto:jwm@eckenrode-law.com)

Re. Removal of Mayor Adam Paul

Dear Mr. Maupin:

The Council of the City of Ellisville has adopted the attached preliminary resolution for the removal of Adam Paul from the office of Mayor of the City of Ellisville. This action was taken pursuant to Section 3.6 of the Ellisville City Charter, which further permits a hearing on the specified charges and the possible adoption of a final resolution of removal.

Due to the disqualification of the City Attorney, the Council desires to retain you and your firm to advise the Council and to serve as hearing officer in these proceedings. The City will compensate you for these services at a rate of \$200 per hour, plus necessary expenses. The City will remit payment within 30 days of receipt of your detailed invoices.

If you agree to this representation, please sign and date this letter and return it to me at your earliest convenience. On receipt, I will deliver a packet of information concerning the specified charges. Of course, please call if you have any questions.

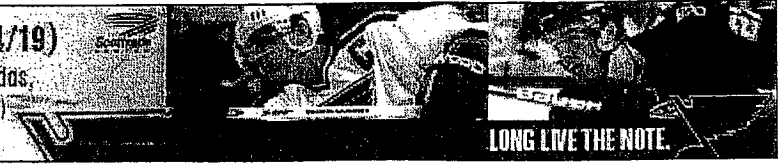
Sincerely,

Kevin Bookout  
Ellisville City Manager

---

John W. Maupin  
Eckenrode and Maupin

**BLUES FAMILY PACKS (4/5, 4/14, and 4/19)**  
**FRIDAY & SUNDAY GAMES** 4 tickets, hot dogs, sodas,  
& 2 boxes of popcorn Starting at \$119 (Additional Fees apply)  
stlouisblues.com // ticketmaster.com



LONG LIVE THE NOTE.

# Ellisville Mayor Impeachment: Adam Paul, Accused of Drinking Vodka At Work, Fights Back

By Sam Levin

Published Mon., Apr. 1 2013 at 1:30 PM

When Ellisville Mayor Adam Paul's kids google his name, he is hoping that they don't see that "dad got impeached as a mayor."

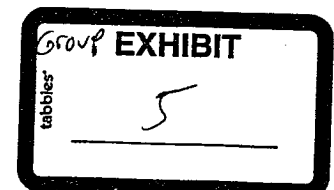
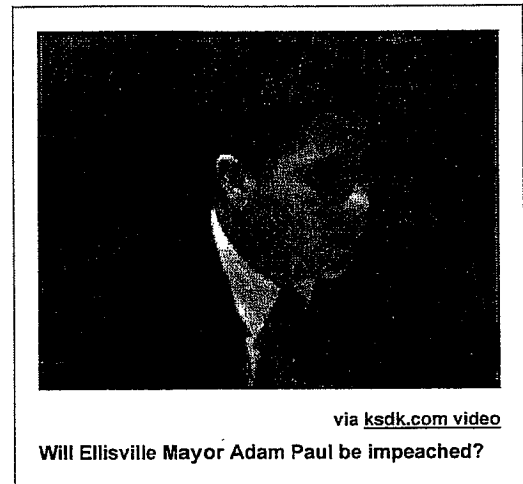
And while it may be a little tough to erase all the negative Google hits -- Paul was accused of drinking vodka on the job and cursing a lot -- the mayor and his attorneys are hoping to fight back against an effort to impeach him. A hearing on the matter will take place tonight.

After taking a lie detector test to prove that he didn't get drunk while at work, those specific charges were dropped, though the city has continued its efforts to oust him as mayor, with a wide range of allegations from disclosing confidential information to improperly requesting a gun to removing people from meetings and more. What drama can we expect tonight?

Paul's attorney defended the mayor against all accusations, outlined in our earlier coverage of the Ellisville fight. Since then, his legal team has filed a suit to block the impeachment, on view below.

That motion was denied last week, which means that the impeachment hearing is going forward tonight.

But the suit offers a glimpse at the continued fight Paul and his attorneys will bring against the various city officials going after him. And if he is successfully impeached, it's likely his attorney will file another lawsuit.

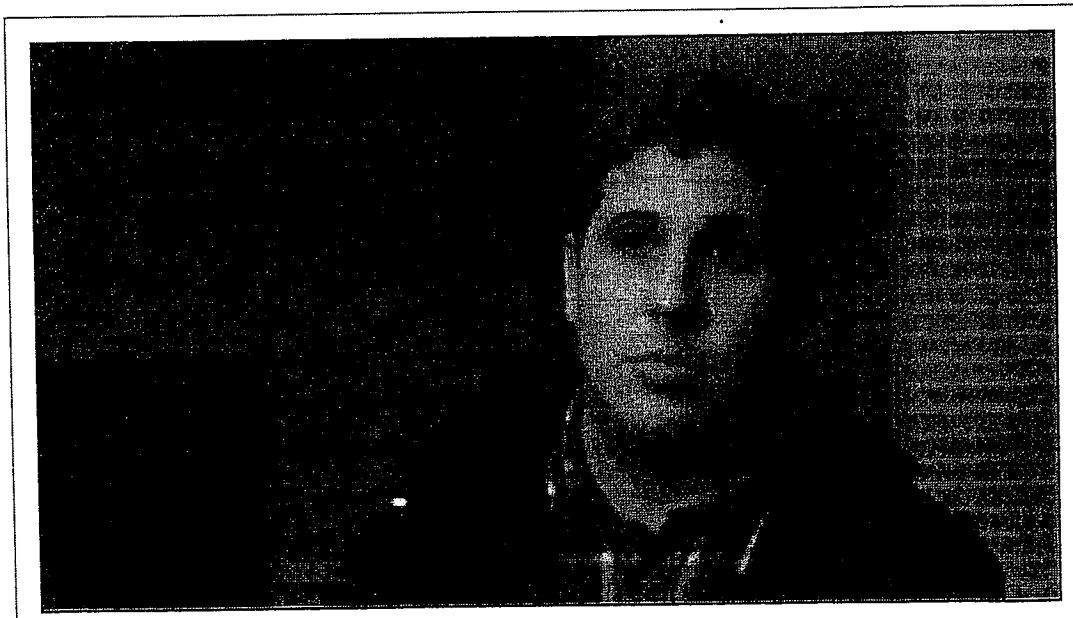


The original suit includes all sorts of accusations against his opponents -- that they purposefully intimidated him, embarrassed him, sent him mean e-mails, lied to the public about his intentions and more.

First, here's a [KSDK](#) interview with Paul in which he discusses his desire to not have his kids Google his name and see that he was impeached.

**Continue for details on Adam Paul's lawsuit to block his impeachment.**

Part of Paul's defense is that he is facing this opposition in large part because of his stance against Walmart tax credits. There's an election tomorrow for City Council positions and Paul has argued that they are trying to get rid of him before there are new faces on the council. (The mayor is not up for re-election and will continue on -- if he's not impeached).





via

In the suit to block the impeachment hearing altogether, his attorneys argued that he faced "unbridled hostility:"

The current members of the Council have demonstrated open bias and prejudice against and unbridled hostility towards Paul since he was first elected as mayor of the City to include but not be limited to:

- a. Repeatedly and purposefully interrupting Paul during public meetings to embarrass him and show disdain for him;
- b. Attempting to intimidate Paul...
- c. Refusing to support Paul's initiatives and ideas or recognize his input, particularly on issues on which Paul successfully campaigned;
- d. Telling Paul that he is not qualified to serve as mayor;
- e. Telling City employees that Paul intends to "clean house" (meaning fire City employees)....
- f. Referring to Paul as "Mayor Pyle," a reference to the fictional bumbling television character Gomer Pyle....

And on and on. The suit says that he has been sent insulting e-mails, including one with a clip that says "what is your major malfunction numb nuts." He alleges that one opponent revved her engine at him when he was passing by as a scare tactic.

Here's the full suit with lots more colorful details, followed by and the original City Council document that outlined the impeachment charges.

[Petition for Writ of Prohibition](#)

ELLISVILLE, MO. (KTVI) – There were a lot of 'fireworks' at a meeting Wednesday night, to begin the process of removing Ellisville Mayor, Adam Paul from office.

A Fox 2 News crew fought to get into the meeting but was denied.

The city council suspended Paul and set a hearing for his removal.

Police and the city manager cited the fire code, saying the meeting was too crowded.

People inside said there was room and the Fox 2 crew was at the 6:00 meeting 30 minutes early ... before crowd ... but was not allowed to enter after a 6 o'clock live report just outside of the building.

There was repeated applause, as more than 15 residents spoke in support of the mayor.

More than a dozen residents, most if not all of whom were there in support of the mayor, had to wait to see him after the meeting. The city manager and police did not 'rotate them into' the meeting, so they could have their say, too.

Waited to see him afterward, but were not 'rotated in' to have their say.

'I've never ever seen or been a part of something so ridiculous,' Mayor Paul said after the meeting.

The council approved a resolution accusing him of abusing his office: releasing confidential information from closed meetings; using profanity and even drinking vodka at city hall.

Paul emphatically denied ever using alcohol.

'Absolutely not; absolutely not. That's just absurd. Some of the other allegations are chasing butterflies... I've never brought alcohol or drink or mixed. It's funny my wife gave me a little thermos with ice because it's more professional to carry. They twisted that into I'm bringing in booze and I'm a terrible monster,' he said.

His attorney, Lynette Petruska, who was booted from a meeting of a special panel of 3 council members last week, said political sour grapes was at the root of everything.

She said Paul was elected in a landslide last April amid the furor over tax breaks for a new Walmart. He was against it.

One of his opponents in that race, Councilwoman Michelle Murray, was on that panel last week, that voted to throw out an impeachment action against the mayor, brought by a resident. She said then, it did not meet the criteria for removal from office.

'I think there is a certain standard it has to meet,' she said then.

The issue then centered on the Mayor Paul allegedly ordering police to remove a resident from a meeting.

Murray, supported the resolution for removal Wednesday night.

She would not say why.

'I'm not going to comment any further. Thanks very much for your time,' she said.

When asked if it was 'sour grapes' about losing the election to Mayor Paul, Murray walked away.

City Attorney Paul Martin said this was about more than politics.

I would say that throughout their support, one of the things they didn't talk about was whether the allegations were true... what I think about that isn't important. The question is whether the charges that have been alleged are true. That's what needs to be answered.'

Petruska said Paul's opponents on the council were in a hurry to remove him before the upcoming April elections, when they would likely be term-limited or voted out of office.

'They need the kangaroo court to convict him. If they don't have the kangaroo court then this all goes away,' Petruska said.

Petruska asked a St. Louis county judge to stop Wednesday night's meeting from taking place, citing 'due process' concerns among others. The judge refused.

She and Paul expected the council to remove him from office after a hearing next month.

They plan to then take the City of Ellisville to court, where they expect a judge to reinstate him; all the while the City of Ellisville racking up six-figure legal fees.

Suspended Ellisville Mayor Speaks Out About Charges | FOX2now.com

ELLISVILLE, MO (KTVI)— The suspended Ellisville mayor put his integrity on the line and took a lie detector test to prove he wasn't lying.

Mayor Adam Paul had been accused of using profanity, drinking on the job and releasing confidential information from closed meetings.

The city council suspended him for 45 days last week.

Paul held a news conference with his attorney Chet Pleban Thursday and released the results of a polygraph that he says shows he was truthful when he answered "no" to the question, "Did you ever consume any alcoholic beverages at city hall or during council meetings?" Last week the council voted to suspend him for 45 days and hold an impeachment hearing on a long list of charges. But the drinking charge and a charge of using profanities were dropped by the council because they are not impeachable offenses.

Still, Paul says his reputation has been seriously damaged.

An impeachment hearing is set for March 27th on other charges which Paul denies. The suspended mayor is challenging Ellisville city council members who voted against him, to take lie detector tests and he will pay for them.

His attorney says opponents on the council want him out before April, when they'll be leaving office because of term limits or voted out.



## Ellisville mayor facing possible impeachment



Credit: Salvatore Vuono

### Ellisville mayor facing possible impeachment

by AP

KMOV.com

Posted on February 28, 2013 at 12:01 PM

Updated Thursday, Feb 28 at 12:01 PM

ELLISVILLE, Mo. (AP) -- The mayor of the St. Louis County town of Ellisville has been suspended and a hearing is scheduled for March 20 to consider his impeachment.

The Ellisville City Council voted Tuesday to suspend Mayor Adam Paul for up to 45 days pending a permanent decision on his future. The vote came despite the fact that nearly two dozen people spoke on his behalf at the meeting.

City Attorney Paul Martin wrote an 11-page resolution that accuses the mayor of among other things giving illegal orders to employees, secretly recording

ELLISVILLE, Mo. (KSDK) - A local mayor facing impeachment is fighting back by releasing the results of a polygraph test.

The polygraph administrator says no deception was indicated when Ellisville Mayor Adam Paul took the test.

Paul has been accused of everything from overreaching his authority to drinking and swearing on the job. However, the accusations of drinking and swearing were dropped Wednesday night.

The city attorney told the council that he had been advised that drinking and swearing aren't impeachable offenses.

The mayor's supporters believe this is really about a long contested fight over a new Walmart. They think council members want to kick Mayor Adam Paul out of office before they are up for re-election in a few weeks.

Mayor Paul denied any wrong doing and took the polygraph to prove it. He challenged members of the Ellisville City Council to each take a polygraph test.

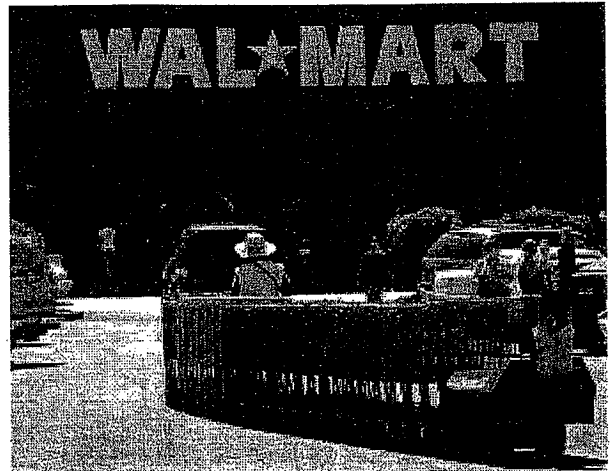
At present, Paul is serving a 45-day suspension and is facing a trial on March 27.

NewsChannel 5 reached out to the city attorney's office, but our calls were not returned.

Members of the Ellisville City Council either did not return our phone calls or refused comment.



## Council to consider impeachment charges against Ellisville mayor



FEBRUARY 26, 2013 12:15 AM • BY  
STEPHEN DEERE SDEERE@POST-  
DISPATCH.COM 314-340-8116

**ELLISVILLE** • What started as a clash over a Walmart project has turned into an all-out war between the City Council and Mayor Adam Paul.

So much so that at a special meeting Wednesday, the council will consider levying a slew of charges against Paul, including disclosing confidential personnel information and drinking on the job.

The charges are part of a resolution that calls for removing Paul from office.

“These things have been ongoing since he’s been elected,” City Attorney Paul Martin said.

But Paul’s attorney, Chet Pleban, said the accusations represent a “classic small-town witch hunt,” and that Martin, who drafted an 11-page resolution calling for Paul’s removal, is only lashing out because Paul threatened Martin’s job.

If the council adopts the resolution, Paul will be suspended from office for 45 days, pending the outcome of an investigation.

Paul has been at odds with most council members from his first day in office last April. He won the mayor’s race after campaigning against a controversial Walmart, financed with a special taxing district. The project was supported by the majority of the council and is now tied up in court.

Since then, Paul has battled the council on other issues, such as the city manager’s compensation.

The resolution, released Monday, accuses Paul of:

- Unlawfully disclosing the confidences of the city by, among other things, revealing the details of a closed-session council discussion on personnel.



- Trying to replace the city attorney without the council's approval.
- Giving orders to city employees despite a prohibition in the city's charter that prevents him from doing so.
- Attempting to use the city's message boards to advertise a private event at a business owned by one of Paul's political supporters.
- Repeatedly drinking and using profanity on the job.

Paul declined to comment on the charges and referred questions to Pleban.

An odd series of events led to the resolution, formally titled, "Preliminary Resolution Concerning the Removal of Mayor Adam Paul."

More than a week ago, resident Katie James filed a complaint against the mayor claiming he violated the city's charter by ordering a police officer to remove her from a meeting last spring. A few days later, a Charter Enforcement Commission made up of council members Linda Reel, Michelle Murray and Dawn Anglin voted unanimously to dismiss James' complaint.

Then, at a council meeting last Wednesday, Murray seemingly did an about-face and asked

Martin to prepare a resolution to impeach Paul. Murray refused to disclose specific charges when Paul asked for them.

Nonetheless, the council voted 5-2 in favor of having Martin prepare the resolution. Paul and Reel voted against the measure.

The resolution briefly touches the issue raised by James, but mostly deals with a litany of other offenses that allegedly began around Paul's first day in office.

Pleban said he couldn't comment on the specific allegations without doing his own investigation. But, he said, if the accusations are true, then the council had allowed Paul to continually violate the city charter for nearly a year without acting.

"He's drunk (at city meetings) and they don't do anything?" Pleban said. "Come on! ... They are trying to smear him."

Three of the council's six seats are up for election in April, which could substantially change the balance of power in the city — but only if Paul, who has a vote on the council, remains in office. Paul said in a recent email that efforts to remove him were political and aimed at getting tax support for another development before the election in April.

The city sent letters to attorneys Keith Cheung and John W. Maupin. The city is asking Cheung to serve as a special prosecutor and Maupin to advise the City Council during the impeachment process.

The council's move comes on the heels of an effort by some residents to get council members recalled from office.

Last year, a group called the Ellisville Article 9 Alliance threatened to recall five council members who voted for the Walmart project. Councilman Matt Pirrello sued the leaders of that effort, prompting a St. Louis County Circuit Court judge to rule that a provision of the city charter that allows recall elections was unconstitutional.

The special council meeting on Wednesday starts at 6 p.m.



ELLISVILLE

## Ellisville Council votes to suspend Mayor Adam Paul



MARCH 01, 2013 12:15 AM • MARY SHAPIRO  
MSHAPIRO@YOURJOURNAL.COM

Mayor Adam Paul said Thursday he will fight an effort by the Ellisville City Council to suspend him.

"I will take any legal action necessary to prevent the City Council from making erroneous decisions on a seat the majority of Ellisville residents elected me to," Paul said, adding that he's

consulting with his attorneys on how to proceed.

The council voted 5-0 to approve a resolution suspending Paul for up to 45 days. Paul was not allowed to vote and council member Linda Reel was absent.

A public hearing has been scheduled for March 20 to decide whether Paul, 32, should be permanently removed from office. The hearing will be held two weeks before the municipal elections that could change the makeup of the council.

The resolution authorizes the hiring of attorney Keith Cheung as special prosecutor, as well as hiring attorney John Maupin to advise the council through the proceedings and serve as hearing officer. City Attorney Paul Martin is recusing himself because he will act as one of the witnesses against Paul.

The 11-page resolution passed Wednesday charges Paul with violating the city's charter, the city code and the city council's rules in the 10 months since he took office last April.

The resolution was drawn up by Martin and contains a host of allegations against Paul.

Among other things, Paul allegedly gave illegal orders to city employees, secretly recorded phone conversations with the

police chief and city clerk, tried to fire Martin, disclosed city confidences without permission and drank alcohol during closed sessions of the city council.

Some of the allegations seem trivial. Paul is accused of failing to competently preside over city council meetings by not enforcing time limits for public comments or controlling public outbursts.

Others have a political bent to them, such as an allegation that Paul disclosed a confidential legal opinion from Martin. The opinion concerned the legality of a citizen-initiated referendum on the Walmart tax increment financing law that had been approved by the council. The Walmart TIF was opposed by Paul and many residents.

Of all the allegations, Paul seemed most upset by the accusation that he drank during meetings.

"You better have some evidence if you're going to call me a belligerent alcoholic," he said.

"I've done nothing but bust my tail for the city and the residents of this city."

He called the charges against him lies, "ridiculous," and "an imaginary rap sheet against me."

"And there's no denying the coincidence of this happening

right before the April 2 election," Paul said.

That election could change the makeup of half the City Council, including members who approved the controversial Walmart proposal that Paul opposed.

Council members were advised by Martin not to comment on the issue.

Paul's supporters accused the council of manufacturing the charges in retaliation for Paul's opposition to the Walmart project.

"Fundamentally, none of the charges being made is true, it's a terrible thing the city is doing, and this is 11 pages of nothing but fabrication," said former Mayor Ed O'Reilly, one of 18 supporters who spoke.

He called the council's action "a Walmart issue," adding that Paul had come into office on a platform opposed to the Walmart project on Clarkson Road west of Kiefer Creek Road.

"I voted for Mayor Paul and I will again," O'Reilly said. "There has been no wrongdoing on his part."

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## ELLISVILLE

### Ellisville mayor at odds with council from day one



MARCH 04, 2013 12:15 AM • BY STEPHEN DEERE SDEERE@POST-DISPATCH.COM  
314-340-8116

**ELLISVILLE** • He needed only one vote, and to Mayor Adam Paul, so much was riding on it. Not just the homes of about 200 residents, or millions in public money. But also whether his city would take a stand.

Last May, Paul clasped a microphone with both hands, leaned forward and readied himself for a debate with the City Council that never came.

Paul, 32, who had never before held an elected office, had just won a four-way race, beating out two council members to become one of the youngest mayors in St. Louis County. He did it by campaigning against a city plan

to give tax incentives to attract a Walmart store.

Paul was just a few weeks into his three-year term, and the crowd — which numbered more than 100 — erupted in cheers as he spoke.

“This is bigger than Ellisville,” he said. “This is a regional problem.”

But that one vote Paul needed on the City Council never materialized.

He lost the battle he had just been elected to fight.

Ten months later, what may have been Paul’s last meeting as mayor differed little from that meeting back in May.

On Wednesday, a room full of supporters pleaded with the council to not oust Paul from office. Then, with virtually no debate, the council voted unanimously to suspend him for up to 45 days, pending the outcome of an investigation that may result in his permanent removal.

For the past year, Paul has repeatedly clashed with the council over a variety of issues, including the city manager’s compensation, a relocation policy for residents displaced by Walmart and whether an effort by residents to recall council

members supporting the Walmart could move forward.

“They hated him from the day he walked in the door,” said Gary Voss, owner of the West County Lanes bowling alley and a candidate for a council seat in the April election.

### **SHOE LEATHER CAMPAIGN**

Paul grew up in Springfield, Ill., the youngest of 11 children. He graduated from Illinois State University in 2004, and then moved to Chicago, where he met his wife Dominique, a world-class hurdler who twice qualified for the Olympic trials.

It was also where he developed an interest in politics after witnessing a host of public officials exposed for corruption.

In 2009, Paul’s company, Apex Systems, an information technology staffing and services firm, told him he could move to any of its offices around the country. Paul and his wife settled on the St. Louis area, in part because Paul’s father was from St. Louis’ Hill neighborhood, and Paul still had family here.

The couple decided to move to Ellisville after the city was ranked as a top place to live by Money Magazine. The Pauls have two children, Isaac, 4, and Olivia, 3.

The event that prompted him to run occurred in late 2011 when Gordmans, a department store, closed its location on Manchester Road in Ellisville and moved to Chesterfield. He was concerned about more businesses leaving the city and he thought that giving Walmart incentives was unfair.

His campaign rankled some of Ellisville's longtime public officials.

"The thought of Adam Paul as mayor of Ellisville frightens me. In the extreme," wrote Charles Pavlack in a letter endorsing one of Paul's opponents, Michelle "Shelly" Murray.

Pavlack, a former councilman who sits on the city's planning and zoning commission, acknowledged Paul had "oodles and oodles of youthful enthusiasm."

But Pavlack said Paul could give no concrete examples for what he would do as mayor.

"He can only talk in vague generalities and hope to scare the residents into supporting him," Pavlack wrote.

Paul ran his campaign on a shoestring budget — with less than \$500 of his own money, he said. He knocked on more than 1,000 doors. The message on his

yard signs was simple: "No Walmart."

Ellisville's, former mayor, Ed O'Reilly spotted one of those signs and soon threw his support behind Paul.

Paul's other prominent ally was Voss, a well-known businessman, who sent out more than 1,500 letters on Paul's behalf.

"He's not afraid to stick up for what people think is right," Voss said. "He represents the people."

The anti-TIF message appeared to register with voters. In the four-way race, Paul won 44 percent of the vote. Murray, the other candidate opposed to the TIF, got 28 percent.

To Paul, the result was a clear mandate: 72 percent of voters opposed the Walmart project.

But Paul's election caught former Mayor Matt Pirrello — now a city councilman — somewhat by surprise.

"He campaigned in flip-flops and wore a sandwich board on election day," Pirrello said last spring.

Pirrello had worked on the city's redevelopment plan for six years, and was prevented from running for mayor again because of term limits.

For a decade, Pirrello watched businesses die off along Manchester Road — the sales tax revenue lifeline for his and several other communities. To him, Ellisville's coffers were dwindling and the city needed to make drastic changes.

The new Walmart is estimated to bring in about \$600,000 in sales tax revenue per year.

Critics point out the retailer frequently switches location, and tends to hold buildings vacant for years after they close, leaving behind eyesores. But one provision in the city's contract stipulates that if Walmart leaves and its building remains unoccupied for more than 12 months, the retailer will pay to have the structure razed.

Critics of the Walmart project also argued that tax-increment financing or TIF, the tool Ellisville used to lure Walmart — pits communities against one another. TIF's — which use some new tax money from a development to pay for public improvements within that project — do little to create wealth or jobs for the region, say TIF critics.

### **IMPEACHMENT**

Pirrello has tried to distance the effort to impeach Paul from the Walmart debate, writing in an

email that linking the two is “utterly ridiculous.”

No other council member would comment or return phone calls for this article.

Talk of Paul’s possible impeachment began three weeks ago when resident Katie James filed a complaint against the mayor claiming he violated the city’s charter by ordering a police officer to remove her from a meeting last spring.

James said she was fed up with the way Paul ran city meetings, allowing his supporters to “rant and rave” while silencing his critics.

“People are afraid to go to meetings,” James said.

But James’ complaint was soon dismissed by a Charter Enforcement Commission made up of council members Murray, Linda Reel and Dawn Anglin.

Then, at a council meeting that same week in February, Murray seemingly did an about-face and asked City Attorney Paul Martin to prepare a resolution to impeach Paul. Murray refused to disclose specific charges when Paul asked for them.

Nonetheless, the council voted 5-2 in favor of having Martin prepare the resolution. Paul and Reel voted against the measure.

Three days later, Martin had drafted an 11-page document accusing Paul of giving illegal orders to employees, drinking on the job, swearing at city meetings, failing to control meetings, trying illegally to have the city attorney fired and a variety of other offenses.

Under Ellisville's charter, the council can remove elected officials with relative ease.

To supporters, Paul was a youthful underdog who had just been mauled by penny-ante politics.

"It's cruel what they are doing to Adam," Voss said.

Paul has denied all of the charges, except for occasionally swearing. He said the council and Pirrello in particular have disrespected him from the day he took office. Pirrello, he said, has referred to him in emails as "Mayor Pyle," a reference to a hapless Marine in a 1960's sitcom.

"They made me into some monster," Paul said.

Paul has hired lawyer Chet Pleban to represent him. He said he has no doubt that he'll be impeached at a hearing on March 20 and plans to sue to be reinstated. In the meantime, he says he will still attend city meetings and speak out as a



member of the public. He pledged to keep fighting the Walmart project. "The Walmart is not a done deal until the day the doors open," he said.

In his brief time in office, Paul said he tried to build consensus on the council, regularly offering a friendly handshake that was often rejected.

"At the end of the day, you have got to be able to shake hands," he said. "That wasn't even a possibility."

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## Ellisville drops some impeachment charges against mayor



MARCH 07, 2013 4:30 AM • BY STEPHEN DEERE SDEERE@POST-DISPATCH.COM  
314-340-8116

**ELLISVILLE** • If Mayor Adam Paul is going to be impeached, at least it won't be for swearing and drinking.

On Wednesday night, the Ellisville City Council agreed to drop those two charges from the long list of offenses with which Paul is charged based on the advice of City Attorney Paul Martin.

Martin, who drafted the 11-page document charging Paul with violating the city's charter, told the council he has since been advised that uttering profanities and consuming alcohol aren't impeachable offenses — even if

the mayor committed the two acts while on the job.

Martin still insisted that the city had evidence Paul drank while acting as mayor, but he acknowledged that there was no indication that his job performance suffered.

“There was no evidence that he was intoxicated,” Martin said.

Also on Wednesday, the council voted to hire a new public relations firm — Casey Communications — to occasionally represent the city.

But City Manager Kevin Bookout said the move had nothing to do with criticism the city has received over Paul’s possible impeachment. Bookout said the city had retained a public relations firm in the past and was only switching companies.

Nonetheless, a handful of residents had harsh words for city leaders about the expense of paying for public relations.

“No PR firm that you hire is going to dig you out of the hole you have already dug for yourselves,” said resident Elizabeth Schmidt.

Last year, Paul was elected as mayor after campaigning heavily against tax incentives for a proposed Walmart that most of the council supported.

His relationship with the council has been rocky for the past year and reached a boiling point last week, when the council voted to charge him with a host of offenses including secretly taping city employees, disclosing confidential information and giving illegal orders to city employees.

Paul has denied all the allegations with the exception of occasionally swearing.

For the second week in a row on Wednesday, residents blasted the council over the charges, calling the allegations frivolous and unfounded.

Resident Dan Duffy urged the council to stop the impeachment process, arguing that it was harming the community.

"The damage and bad publicity might not go away for years," he said.

The impeachment hearing has been moved back a week to March 27.

Mick Cahill, a resident who is seeking a board seat in the April election, said he was ashamed to live in Ellisville and that the council had shown Paul disrespect from the moment he stepped into office.

"You made sure in every meeting that he had no say in anything," Cahill said. Ellisville has a weak

mayor form of government, but the mayor has a vote on the council.

Council Member Matt Pirrello, who is presiding over meetings in Paul's absence, said residents who spoke in Paul's favor at recent meetings don't represent the entire city. "We have an obligation to the city charter," Pirrello said.

After the meeting, Paul's lawyer, Chet Pleban, accosted Martin and pointedly asked why he had publicly accused Paul of drinking. "Did you ask him if he was drinking?" Pleban said.

Martin never directly answered the question, instead maintaining he had evidence to support the charge. "I'm not going to argue this with you," he said, before turning to walk away.

Pleban said Martin had only included the drinking charge to publicly humiliate Paul.

"This community is becoming a laughingstock," he said.

## Ellisville Moves to Drop Some Charges in Impeachment Case

Among the removed allegations were charges that Mayor Adam Paul had drunk vodka while on the job.

By Frank Johnson

[Email the author](#)

March 7, 2013

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Mayor Adam Paul addresses the council from the audience at Wednesday's meeting. CreditFrank

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In the latest twist of the fast-moving political drama taking place in Ellisville, a resolution calling for Mayor Adam Paul's removal from office has been amended to drop several charges.

The council voted at a meeting Wednesday to remove allegations that Paul used profanity and consumed alcohol during public meetings while dropping the addition of charges that Paul recorded two closed meetings.

The changes were presented by City Attorney Paul Martin in light of recommendations from special prosecutor Keith Cheung and attorney John Maupin during a council meeting

Wednesday. The city hired the pair of lawyers to investigate and preside over a hearing later this month that will decide Paul's fate.

Read more of Patch's coverage of the impeachment here.

Martin emphasized that the recommendations were not based on a lack of evidence. Instead, they were not "impeachable offenses" under the city's charter or in one case would delay the proceedings.

In the first case, Cheung and Maupin advised that Paul's use of profanity during a meeting was not, by itself, impeachable, because it did not alone indicate an inability on his part to control the meeting.

Concerning the alcohol, Martin said they had reached a similar conclusion.

"While it might be offensive, but it is not something that necessarily equates with inability to do the job," Martin said. "There is no evidence in the charges that the mayor was intoxicated when he was running the meeting."

Finally, the allegation that he had recorded two closed sessions of the council was actually on the agenda to be added to the resolution at Wednesday's meeting. The lawyers said the addition of the charges would create "timing issues" by requiring a continuance that would force back the March 27th hearing date.

The move came at the end of a public meeting during which a number of citizens spoke in support of Paul and the mayor himself address the council about several items on the agenda. It sent a wave of shock through the room, prompting an outburst of questions from residents and a surprised Paul.

Along with removing the allegations, the council also voted to push back the hearing that will present the evidence behind them to March 27, by request of Paul's lawyer.

The two actions, however, do nothing to change the overall trajectory of the political crisis that has dominated the city for the last month.

The resolution calling for his impeachment cites other issues, alleging he disclosed confidential information, attempted to unilaterally end the city's contract with Martin and exceeded the scope of his authority as outlined in the city's charter.

After the meeting, Paul said the removal of the drinking charges, which he has vehemently denied, offered him little vindication. His attorney, Chet Pleban, said the damage had been done. "They put it out to the public under the pretense that it was an impeachable offense, but it's not and it never was," he said. "So now, you can't put the smoke back in the bag."

Pleban said they would be considering a "variety of issues," including defamation, to see if legal action would be necessary prior to the hearing.

The council themselves have been quiet on the issue, removing the items by unanimous vote and with no discussion. Absent for the evening was Councilmember Linda Reel, who also missed the meeting last week that suspended Paul for 45 days.

Related Topics: Drinking, Impeachment, adam paul, and ellisville

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## Ellisville Mayor Suspended From Office

The city council voted 5-0 to adopt a resolution suspending Mayor Adam Paul for 45 days so a hearing can be convened presenting allegations that he violated the city charter and should be removed from office.

By Frank Johnson

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February 27, 2013

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new

In front of a council chamber filled to capacity, the Ellisville Council voted 5-0 to suspend Mayor Adam Paul from office for 45 days while an investigation is launched into allegations that he should be removed from the post permanently.

The vote followed emotional comments from more than a dozen residents, all of whom spoke in support of Paul and accused the council's actions of being politically motivated.

The complaint against Paul took the form of a resolution drafted by the City Attorney Paul Martin and included charges that he violated sunshine laws by disclosing confidential details and drank on the job.

(View the attached PDF for a complete list of the charges)

The council also used the special meeting to set a hearing date for March 20 in which two attorneys selected by the city will present the allegations contained in the complaint. The council will then make a decision on whether or not they merit Paul's removal from office and that decision will be forwarded to the St. Louis Circuit Court for review.

Council Member Linda Reel was absent from the meeting. Reel had previously been the sole dissenting vote when the council moved to draft the resolution approved Wednesday.

Paul vowed to fight the allegations and strenuously denied the accusation that he had drunk vodka on several occasions while at City Hall. Elected as an opponent to public financing for a Walmart project, Paul said he had been targeting "from day one."

"Ultimately, I will have my fair shot in the circuit courts, but not with the kangaroo court that the council got me," he said.

During the meeting, Paul contented that the accusations contained in the resolution were vague and that the council was being asked to vote on something without him having a chance to refute the charges or understand where they were coming from.



"You better have some damn evidence if you are going to call me a belligerent alcoholic," he said. "You make me look like a monster, sir."

Interviewed by media after the meeting, Martin said the evidence supporting the allegations contained in the resolution will come out at the March 20 hearing and Paul will have a chance to refute them. He also addressed concerns raised by citizens that action taken against the mayor was personal and political.

"I have nothing against the mayor," he said. "The question is whether or not the charges are true."

#### A Flurry of Legal Manuvers

On Wednesday, Paul's lawyer filed a motion in St. Louis County Circuit Court that would have prevented the council from removing him from office. According to a story in the St. Louis Post-Dispatch, Paul's lawyer, Chet Pleban, said the effort is politically driven and based on Paul's opposition to public financing for the construction of a Walmart.

Reached Wednesday afternoon, Martin did not comment on any of the specific allegations from the filing, but said a judge refused to grant the order at a 3 p.m. hearing held that day. The ruling cleared the way for the vote to suspend Paul.

Council member Michelle Murray initiated the process to have the city council review whether Paul should be removed from office in the wake of unrelated complaints that he overstepped his authority and violated the city charter.

The complaint against Paul was filed two weeks ago, claiming that the mayor violated the city charter by ordering police to remove a member of the public from meeting premises on two separate occasions, most recently at a Feb. 6 council meeting.

The charter enforcement commission, consisting of Murray and council members Dawn Anglin and Linda Reel, unanimously voted to recommend to the council to dismiss the claim on Monday night.

However, at a council meeting the following Wednesday, Murray then requested Martin draft a resolution based on a provision of the city charter that allows the council to review the qualifications of any of its members, including the mayor.

Related Topics: Suspension, adam paul, and ellisville

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## Ellisville Council to consider removing mayor from office

By: Diane E. Samson

Posted 02/26/13 2:22 pm /

The Ellisville City Council will meet at 6 p.m. on Wednesday, Feb. 27 in a special meeting to vote on the preliminary resolution for the removal of Mayor Adam Paul.

If the resolution passes, Paul will be suspended from office for not more than 45 days while the Council considers whether the charges against the mayor are worthy to remove him from office.

The resolution, drafted by City Attorney Paul Martin, charges that Paul has committed various acts in violation of the city's charter and the Council's established rules and practices.

Among others, charges include Paul of:

- Unlawfully disclosing confidences of the city, including a legal opinion from Martin concerning the legality of a citizen-initiated referendum on the Walmart tax increment financing (TIF) ordinance, other legal opinions from Martin, as well as confidential personnel discussions of the City Council.
- Attempting to replace the city attorney without the Council's knowledge or approval
- Giving direction to the city manager and city clerk in violation of the city charter
- Asking the city manager to use the city's message boards to advertise certain private events.
- Using profanity and drinking alcohol while at public and private meetings.
- Causing a disturbance via his attorney at the Charter Enforcement Commission, in which his attorney had to be removed from the proceedings by a police officer.

The resolution mentions the complaint by Ellisville resident Katie James in which she alleged that Paul issued a direct order to a police officer to have her removed from a public meeting, as well as another incident on Feb. 6, in which Paul asked for a citizen to be removed from a Council meeting. In the complaint, James alleged that giving direct orders to police officers violates the city charter.

While the Council previously voted to dismiss James' complaint, the resolution to remove Paul calls his actions, "conduct unbecoming and demeaning to the office of the mayor of the City of Ellisville."

In addition, the resolution mentions in several references that the working relationships of the mayor, councilmembers, city clerk, city attorney and staff have become dysfunctional due to Paul's actions.

If the process moves forward on Feb. 27, the Council will hold a public hearing sometime in March to consider the charges and determine whether Paul has forfeited his office.

Also on Feb. 27, the Council will propose hiring attorney Keith Cheung to be special prosecutor in the case and is asking the law firm of Curtis, Heinz, Garrett and O'Keefe to serve as special counsel since Martin would have a conflict of interest in the case.

In addition, the Council will also propose retaining the law firm of Eckenrode and Maupin to advise the Council during the proceedings. John Maupin will serve as hearing officer during the removal proceedings.

If retained, the city will pay both firms \$200 per hour, plus necessary expenses for their services.

## Ellisville City Council suspends mayor while charges of misconduct are investigated

By: Diane E. Samson

Posted 02/28/13 2:42 pm /

The Ellisville City Council on Feb. 27 unanimously voted to approve the preliminary resolution concerning the removal of Mayor Adam Paul for up to 45 days while charges against Paul are being investigated.

Councilmember Linda Reel (District 2) was absent and City Manager Kevin Bookout watched the proceedings from the hallway.

During the meeting, Paul expressed the desire to discuss the 10 pages of charges against him, but City Attorney Paul Martin said there would be time for that at the hearing if the resolution passes, which it did.

Prior to the resolution passing, Paul was allowed to speak to the charges that he was drinking alcohol during Council functions and that he suggested Bookout use the city's message boards to advertise certain private events, one of which was being held at a private business owned by a political supporter.

The resolution, which was made available to the public prior to the Feb. 27 meeting, references three occasions on which Paul is accused of drinking. The first alleges that "on a date unknown, but at a closed meeting in the city hall conference room during the summer of 2012 ... the (city) manager smelled alcohol on the mayor's breath and asked the mayor what he was drinking." According to the resolution, "the mayor admitted to the city manager that he was drinking vodka."

The other two occasions included one "on July 18, 2012, during an open meeting in the city hall conference room" where Paul is accused of mixing the contents of two containers – "a blue energy drink and a Thermos-type container with a lid." The resolution states that Paul kept the Thermos container "on the floor between his feet" and that the mayor "used the energy drink to top off the container that was on the floor and proceeded to drink from that container."

During the Feb. 27 meeting, Paul said he was pouring his energy drink over ice in his Thermos. He further explained that the message board issue was for the Ronald McDonald House and BackStoppers and was not an order, but a request of a resident. He added that these charges were vague and defaming to his character.

"To say something as ridiculous as I am mixing a mini bar of drinks in a closed session of 60 people that come to these meetings every single week," said Paul. "It's the most ridiculous thing in the world."

The city hall was packed with Ellisville residents supporting Paul, some wearing "AP" stickers, which stood for Adam Paul.

During public comments, Ellisville resident John Ellebrecht said he was appalled at the end of the last meeting when Councilmember Michelle Murray (District 3) made the motion at the last minute for the resolution to be drafted. He said if the Council is going to remove the mayor, it should be done openly, not in backdoor meetings.

"What I saw was a political move ... with the public having no clue it was coming," Ellebrecht said. "If you have valid reasons, then bring it up in a coherent way so the people can see it and not at the last minute at a meeting."

Ellebrecht said if people in the city really want to remove their mayor, then the Council needs to explain that there's been this overwhelming cry that the people don't like the mayor.

Just the opposite has happened.

"I don't agree with everything Adam has done," Ellebrecht said. "That's fine. But he's my mayor. He represents me. He's been elected by the people to fulfill that role – and call me crazy, but I'd like him to finish out his term. If people don't like him at the end of his term, they can vote him out."

Many in the crowd applauded Ellebrecht's remarks and others as well.

Paul's attorney Lynette Petruska, pointed out that "out of 9,000 Ellisville residents, it's amazing that not one resident came to speak out against Paul."

Councilmember Matt Pirrello (District 1) said the Council is following the process that is very clearly spelled out in the City charter, which means they are doing the people's business because the charter was written by and for the people of Ellisville.

"Mayor Paul will get an opportunity to be heard," Pirrello said.

The next step is a public hearing in which Petruska said they will be able to raise issues of bias and prejudice in the process.

"This is just the beginning, not the end," Petruska said. "A court will review these actions and the court will get to weigh in at the last moment to determine whether any of these people have behaved appropriately, and my guess is that the court will say they have not."

Martin said, though he respects the passion of the supporters of the mayor, that evidence in support of the allegations will come out.

"The question is whether the charges are true," Martin said.

A public hearing is tentatively scheduled for 7 p.m on March 20 at city hall.

To the citizens of Ellisville:

Much has been made in the press about the impeachment of Mayor Adam Paul and I write this letter to share facts for your consideration. While Mayor Paul continues to use the media to advance his point of view, it is important to know the facts that have lead to the mayor's impeachment.

Mayor Paul's contention that City Attorney Paul Martin is driving the pending impeachment is incorrect. Mr. Martin works at the will of the city council. The city council directs Mr. Martin's work. He can't act without the authority of the city council. The city council and only the city council authorized the pending impeachment.

The sole reason for the pending impeachment of Mayor Paul is to enforce the city charter adopted by the citizens of Ellisville in 1993. The Charter acts as the city's constitution today. The citizens of Ellisville adopted the new charter to prevent the kinds of abuses of mayoral authority that had taken place in the past – abuses that Mr. Paul is charged with today. Long time residents will recall those days when a former mayor, a supporter of Mr. Paul, ruled as an autocrat, even attempting to silence his critics using the same attorney that Mr. Paul is using today to attempt to silence the city charter. Enclosed are a couple of *St. Louis Post-Dispatch* articles for those who don't remember the days of past Ellisville mayoral abuse of authority.

As a result, Ellisville citizens intentionally established a "weak-mayor" form of government by redefining the mayor's responsibilities in the new charter in two important ways:

1. The mayor was confined to running council meetings and representing the city for ceremonial and legal purposes.
2. The mayor was prohibited from taking an active, unilateral role in conducting city business or in directing city officers or staff. The charter reserves these powers exclusively to the city council as a whole, unless the city council delegates this authority to the Mayor.

This rule of law, established by the citizens of Ellisville, holds accountable both the mayor and the city council. The city council acted to enforce the law by voting to impeach Mayor Paul for violations of the city charter for several reasons:

- Mayor Paul has attempted to remove and replace the city attorney. The city charter does not permit this.
- Mayor Paul has talked to people about potential city appointments and pending policies. The city charter does not permit this.
- Mayor Paul has directed and interfered with the jobs and authority of the city clerk and the city manager, all without the city council's knowledge or approval. The city charter does not permit this.

These are abuses of mayoral power that the citizens of Ellisville were determined to prevent when they adopted the city charter in 1993. After many attempts to work with the mayor in complying with the city charter, the city council determined that impeachment was the only recourse to enforce the rule of law adopted by the citizens of Ellisville.

Sincerely,

*Katie James*



Mayor Edward M. O'Reilly of Ellisville agrees with his critics that "enough is enough." He says he expects his attorney to deliver a report soon to the Ellisville Board of Aldermen on an inquiry into the motives of O'Reilly's political opponents.

Two of O'Reilly's supporters called for an end to the inquiry at the Board of Aldermen meeting on Wednesday. O'Reilly replied by reading his fourth prepared statement in a month. An earlier one had been composed in 52 rhyming lines of verse.

O'Reilly said after the meeting Wednesday that he expected that his attorney, C. John Pleban, "is almost to the point where he can give his findings to the board."

O'Reilly hired Pleban in August to find out whether three residents who frequently have questioned officials at board meetings were "acting in good faith or as politically obstructionists." O'Reilly and Pleban said a group of supporters was paying Pleban's fee.

Alderman Terry C. Bryant opened the discussion with a written statement criticizing Orpha Reagan, Barbara Irwin and Dennis Connor for refusing to meet with O'Reilly and Pleban. Bryant also defended their right to question the way Ellisville is run.

"I can see no worthwhile purpose in having the mayor's attorney proceed with this investigation," he concluded. "The fruits of that investigation will tell us no more than we already know."

Alderman Vernon H. Jaycox then said he agreed, although he too defended the mayor.

"I want it to stop," Jaycox said. "It's coming down to a witch hunt."

Aldermen Clark C. Compton, Harry T. Anderson and Ted A. Norwood have previously criticized O'Reilly's conduct. Only Alderman Sharon Schneider has declined to comment publicly.

In his remarks Wednesday, O'Reilly said he had decided that "this terrible hostility" must be directed at him personally, rather than at his record of accomplishment as mayor.

"Personal feelings must be overlooked for the sake of the city," he said. "We are now entering the holiday season - a time for peace, giving and forgiving. We cannot dwell on hostility."

The mayor also was supported by several people in the audience, some of whom he had invited to attend the meeting. O'Reilly denied that he had known what they or the two aldermen would say.

But Margie Jacob, who recently wrote the mayor suggesting he "consider stepping down," defended his critics.

"Whether they are right or wrong, you've got to give them credit for speaking up," Jacob told the board. "The town belongs to all of us."

**Caption:** PHOTO HEADSHOT ... Edward M. O'Reilly ... Ellisville Mayor  
**Correction:**

## PETTY POLITICS IN ELLISVILLE

St. Louis Post-Dispatch - Tuesday, December 19, 1989

Ellisville Mayor Edward O'Reilly just doesn't seem to get it. Mr. O'Reilly continues to labor under the mistaken impression that citizens' interest in good government deserves to be punished. In a show of sour grapes, Mr. O'Reilly is still insisting that the citizens who called for a state audit of Ellisville's municipal government should bear the cost of the audit - despite provisions in state law mandating that the city pick up the tab.

This latest brouhaha over the audit is not the first run-in Mayor O'Reilly has had with Barbara Irwin, the woman who led the petition drive for an audit. Ms. Irwin and two other opponents of the mayor have been the subjects of an investigation conducted by an attorney, John C. Pleban, on behalf of the mayor, who wanted to check up on their motives. Someone had apparently neglected to tell Mayor O'Reilly that he wasn't living in Romania.

The results of the state audit were generally favorable, although a few expenditures were deemed "questionable." The overall positive report should be sufficient reason for Mayor O'Reilly to call off the dogs, pay for the audit and remember that political opposition is a treasured hallmark of a democratic system. It's way past time for glasnost to come to Ellisville.

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Paul Martin <paul@paulmartinpc.com>

**Adam Paul Matter**

1 message

**Paul Martin** <paul@paulmartinpc.com> Tue, Feb 26, 2013 at 9:26 AM  
To: Dawn Anglin <anglinz@charter.net>, Linda Reel <reelones@yahoo.com>, Matt Pirrello <pirrello@charter.net>, Roze Acup <racup@sbcglobal.net>, Shelly Murray <Shellymurray@sbcglobal.net>, Troy Pieper <troy.pieper.lo1m@statefarm.com>, Kevin Bookout <kbookout@ellisville.mo.us>, Kate Demeter <kate@ellisville.mo.us>

All:

In light of the Post-Dispatch article this morning, I thought it appropriate to remind everyone that if this effort moves forward, you will likely be a witness to or a judge of the proceedings, or both. Moreover, there are rules governing the manner in which the parties may conduct "discovery" or investigations concerning the charges. I urge everyone to avoid commenting on the matter for the time being, to the public, the press, or Mayor Paul's legal representatives. If the matter moves forward, Mr. Maupin will provide further guidance on these communications.

In the meantime, you can easily decline press comments due to the pending nature of the proceedings, and for council members, due to the fact that the Council will be the judge of the charges at the hearing.

Paul

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