

Official

**TOWN COUNCIL MINUTES
Special Meeting / Public Hearing
Hooksett Public Library
Tuesday, May 15, 2007**

CALL TO ORDER: Chairman G. Longfellow called the meeting to order at 7:00 pm.

PRESENT: Michael DiBitetto, James Gorton, Jason Hyde, Mike Jolin, Paul Loiselle, David Ross, Patricia Rueppel, Stuart Werksman, Chairman George Longfellow

ALSO PRESENT: Debra Weiss Ford (Devine Millimet), Lauren Simon Irwin (Upton & Hatfield) & BJ Branch (Backus, Meyer, Solomon & Branch)

PLEDGE OF ALLEGIANCE:

PUBLIC HEARING:

Joanne Drewniak & Jessica Skorupski Termination Appeal

Chairman G. Longfellow: This is a public hearing but the public will not be allowed to speak.

Debra Ford: Good evening, I'm Debra Ford. I represent the Town of Hooksett on these matters. I'll give a brief statement of what we're going to do tonight so everyone understands.

By letter dated April 12, 2007, Joanne Drewniak and Jessica Skorupski were terminated from employment. The letter stated that upon reviewing the report authored by an independent investigator, Attorney Lauren Irwin, the Council concluded that there was cause for discipline as Ms. Drewniak and Ms. Skorupski's conduct was insubordinate, dishonest and unsuitable and that the conduct has interfered with their job performance and had an adverse affect on the efficiency of Town services. The letter of

termination informed each employee that they had ten days to request in writing a hearing before the Town Council.

On April 20th, 2007, Atty. BJ Branch, on behalf of his clients, Ms. Drewniak and Ms. Skorupski requested a public hearing. The Council has granted Atty. Branch's request for a public session pursuant to RSA 91-A:3 II(a).

The Council wishes to point out the Town Personnel Plan referenced in the termination letter in April 12th, 2007 became effective in 1998. In October 2006 a new Personnel Plan was adopted and this plan typically states all procedure including an appeal does not apply to a dismissal. Accordingly, although the new plan does not require an appeal hearing, nevertheless, the Council wishes to extend to Ms. Drewniak and to Ms. Skorupski the appeal hearing being held tonight in order to afford the employees an opportunity to explain to the Council why the termination should be rescinded and/or modified.

The Council will first hear Ms. Drewniak's termination appeal hearing. The Council will not be taking any questions or comments from the audience. On April 30th, 2007, Atty. Branch was forwarded a letter outlining the procedures on both Ms. Drewniak and Ms. Skorupski's hearing tonight. So that everyone understands, the procedures are:

1. The matter will be heard by all Councilors. Neither the Council, nor Ms. Drewniak or Ms. Skorupski will be able to call witnesses. Atty. Branch requested that either he or his client, Ms. Drewniak be permitted one hour to state their position regarding why they believe the termination should be rescinded. At the conclusion of Ms. Drewniak's appeal, we will begin Ms. Skorupski's appeal. Atty. Branch has requested either he or his client will have ½ hour to state their position regarding why they believe the termination should be rescinded.
2. Atty. Branch was invited to submit any memorandum of law to support his position as long as it was submitted by May 15, 2007.

3. Atty. Branch was invited to submit any documents or other evidence to the Council as part of his presentation.
4. During or after Atty. Branch's presentation, the Council may ask questions. All questions from the Council will go through me and I will relay the questions to Mr. Branch. Neither Atty. Branch nor his clients are permitted to question the Council.
5. Atty. Lauren Irwin, the independent investigator will then discuss her findings and conclusion to the Council. She will be limited to 40 minutes. The Council may ask questions, which again, will be asked only through me. Atty. Irwin will not be subject to examination by either Atty. Branch or his clients. Atty. Branch may, however, ask the Council to follow up on any questions he may have for Atty. Irwin.
6. Pursuant to the Personnel Policy, the Council will issue a decision by May 25th, 2007 stating whether it affirm or rescind the termination or take any other appropriate action. The Council's decision is final.

There has been a great deal of media coverage. Some of it has been inaccurate. All present here tonight are reminded that this is serious personnel issue, affecting the personal and professional lives of many individuals. Atty. Branch and Atty. Irwin are reminded to be careful not to divulge names of persons who have not initiated the complaint or who have not filed these appeals. On behalf of the Council we request courtesy, decorum and fairness.

Atty. Branch: My name is Atty. BJ Branch and I represent Joanne Drewniak and Jessica Skorupski. Before we get started, I want to thank you on behalf of both of them for this opportunity to make a presentation in the hopes that you will revisit and change your prior decision.

Before I get into the main presentation, I want to make it clear that the last thing my clients want to do is sue this Town. I will discuss the legal and factual errors that we feel were made to convince you to change your mind. I have been a Councilor and I've had lawyers stand in front of me and threatened suit. It's not a pleasant experience. It's not something I'd want you to interpret me as doing. We want to settle this case. We do not want into litigation with the Town. I want to let you know and I've discussed this with my clients that I will waive all of my attorney's fees, which are significant, if this Council changes its decision. That is not an obstacle to any decision that you make. In that regard I want to make sure you understand how much these individuals want their jobs back. And we will demonstrate that sincerity tonight. My presentation will be broken down into four sections with some overlap by definition. That's why ½ hour was set-aside for Ms. Skorupski as opposed to an hour.

First, I will introduce to you the people were talking about in terms of what's in their personnel records. Second, I will discuss the process, which led to the report and its deficiencies. Third, I will discuss the legality of the decision the Council made. And fourth, I will discuss the facts alleged in the report. Please understand that this has been a difficult and stressful time for my clients and for the Council.

On May 14th, my clients were threatened with a lawsuit for defamation if they mention the name of the other employee involved. I will attempt to stay away from that particular person's name. As a practical matter, I do want to thank you again for allowing us to have this opportunity and we will try to accord with what Atty. Ford stated.

First, I have here some poster boards so you could get to know who we're talking about. This is Joanne Drewniak's excerpt from her personnel file. Before I go through all this, which is good material, I suppose its fair that I summarize for you the bad material that's in her file. Ok, I'm done, 'cause there is none. There's not one negative thing in that file. Let's go through in some detail her most recent evaluation. Her date of hire is 8/31/98. These evaluations cover certain periods. This covers August of last year. She didn't get a chance to have another one. Let's go through this quickly. *"Turns out more than required; very industrious; is safety conscious; almost always completes assigned tasks without*

reminders; on time; commendable; tolerates pressure; performs very well during crisis situations; congenially cooperative; works effectively with others; very good knowledge of information; performs the job and understands nearly all of it; is exact and precise most of the time; spot reviews only required; excellent evaluation; you are an important member of the Hooksett government; thank you for your continued work and dedication during your eight years here, etc.” (Atty. Branch summarized Ms. Drewniak’s evaluations and commendations received for the Council.)

Let’s talk about the process. There are a number of concerns regarding the process which was followed in this matter mainly, the investigation process. This is separate from the legality of their decision, which will be discussed later. The first concern about the process was the introduction of the investigation report. According to the report, authored by Atty. Irwin, the fact finder, *“It is agreed that although this investigator is an attorney and practices at the law firm that represents the Town, her role in this investigation is strictly that of an investigator and not as legal counsel.”* I don’t doubt the good faith of Atty. Irwin in any shape, manner or form. You have put her in an impossible position when you do this to her. You can’t be an attorney who practices in a law firm that represents the Town especially when the Town is at least contemplating actions, which involves legal issues and be an impartial fact finder simultaneously. No person can. No person can logically occupy both roles. You are either an impartial fact finder and you’re an attorney for the Town. Not to question what Atty. Irwin’s motives are, but the factual gathering by definition will be filtered through the Town’s advocate and her perception as the Town’s advocate. Further, whether important questions were asked. For example, the Town was described by many witnesses as toxic. By Town I meant the Town Hall. For how long? This is nowhere discussed. The implications that the environment is toxic as a result of this event. But in fact had this been addressed more completely, we believe that the fact finder would have found that the toxic environment existed for a significant period of time the conduct which led to this investigation. Documents were obviously reviewed but were not listed in that section of the report. It summarized documents that were reviewed. It certainly hasn’t been provided to us. In the report on page 4 it states, *“...X wrote a statement concerning this issue at Mr. Jodoin’s request. According to the report, this investigator spoke with X, however, the statement is not listed under documents that have been reviewed.*

We haven't seen it. The questions in answer sessions were substantially more confrontational than merely being asked to confirm that prior written was true. Especially, when that statement was generated as a result of e-mails between Mr. Jodoin and this employee. My clients never had the opportunity to review or ascertain how the statement came to be written and whether it actually summarizes what actually occurred and what was documented in the e-mail.

Further, it does not appear that logical and important inquiries were made. For example, a witness reports that she heard Joanne Drewniak call David Jodoin an "expletive deleted". Will get to what that is, later. It then goes on to say that the witness believes that the statement was made in the Town Office hallway in front of at least one citizen. The witness goes on by saying, she was so offended by them, she reported it to David Jodoin. We never saw that report. It's not in any file. It doesn't appear anywhere in the report, whatsoever. Simple logic will dictate to you, if in fact she heard such a thing, a swear word, coupled by a statement that "*he'll be out of here soon.*" And was so offended that she reported it to Mr. Jodoin, she would have known at that time where she allegedly has heard it, whether a citizen was present or not. That just believing the statement was made at the Town Office hallway and maybe in front of at least one citizen. Importantly, Joanne Drewniak apparently was never asked whether she called David Jodoin that "expletive deleted" word in the Town hallway in front of at least one citizen, which is extremely important because Joanne will deny she called David Jodoin a bad word in front of any citizen and she even stated "*he'll be out of here soon.*" One of the allegations against Joanne is she used an inappropriate word to refer to David Jodoin on one occasion. Ladies and gentlemen, she admitted it. That's how you knew about it, she admitted it. She did not make the statement. That is an unfounded allegation and every statement in this report is unsworn to. Nobody was sworn in. No one had to take an oath. No one had to be focused on the fact that if they made an inaccurate or untrue statement, they will be committing perjury. Joanne admitted to something that could reflect on her adversely, establishing that she is a credible witness who is telling the truth and therefore her input on whether other allegations are true should have been considered. Because she showed willingness to tell you the truth and admitted to things that aren't helpful to her.

When you look at the fact finders report, the allegations that were relied upon conclude that Joanne Drewniak has engaged in a pattern of using inappropriate language to refer to the Town Administrator. When in fact, what you will hear later is that she referred, admittedly, in an inappropriate manner about David Jodoin once behind closed doors, during her lunch break to her supervisor and co-worker. Once, and it never happened again. She was warned. Had any of you ever referred to someone you respect or even love in a moment of anger or frustration in a derogatory way? One inappropriate deviation from decorum probably did not result in you being ejected from your family or terminated from your job.

I can't emphasize enough that this fact-finding report was based on unsworn testimony. This is nothing but letting a bunch of people who want to snipe at other people any consequences to do so. Even the procedure that had been adopted on this very hearing, appears calculated and simply provides a mechanism to affirm what's already been done. The procedure that had been adopted for this hearing is inadequate and do not appear reasonably calculated to ascertain the truth of what happened. The procedure does not permit sworn testimony as you've heard even at this stage. Joanne Drewniak and Jessica Skorupski are denied their right to cross-examine the witnesses against them. The fact that this Council did not permit to question Atty. Irwin is reflective of the one-sided nature of the proposed rules. Since you will not permit us to question Atty. Irwin I have a list of questions I'd like to ask. I had presented those questions to Atty. Ford. I guess she will determine whether they get asked or not. But I would ask that they'd be asked.

Finally, there is a fundamental unfairness, with all due respect, in having this Council rule on its own decision. This act together with the proposed format makes it virtually impossible for the Council to approach this issue with an open mind and make an objective determination. This report does not appear to be seriously tested by the fact finder but instead accepted it as face value. This report raises more questions than it answers.

For example, in the first sentence of the report on page 3, it says, "David Jodoin first became aware of this issue during the week of March 19th, 2007. I'm going to tell you, that statement is inaccurate. There

is an employee from the Town of Hooksett who still has a job there. She was not disciplined in any shape, manner or form as a result of this inquiry. She is here tonight besides the fact there is absolutely no upsides for her to be here. Her name is Liz Dionne. She would tell you if you allowed sworn testimony that David Jodoin called her into her office in mid-February to discuss the alleged rumor, not March 19th. She has nothing to gain and everything to lose by bringing that to your attention. That fact made it clear that Mr. Jodoin did know about this well before March 19th. So why he did claim otherwise to the fact finder is unclear. I also want to Liz Dionne will testify under oath that the environment has been toxic for at least 6 months prior to this investigation. The toxicity of the environment was created by other than this rumor and the other conduct discussed in this report. I hope that some of the questions I've asked from Atty. Irwin that to a large extent, the toxicity of the work environment was created by David Jodoin. I have some statement here. All of which have been verified by more than one person. Some of them aren't very nice. This was the type of climate they were working in. And this is what you must understand so that you put into context what they said.

For example, David Jodoin made a statement to S. Piper and someone else that he thought George Longfellow was losing it. That's why he doesn't know what's going on. He also made a statement to both of these people of how slow the Council meeting is because the majority of them are elderly. He said that 4 or 5 of them are over the age of 70. That's also when Phil was there. I don't know who Phil was, frankly. Another testimony from another person. This person in front of another person, "*David Jodoin introduced me to a former employee of his from Allentown, whom he explained worked in a department similar to Codes and Planning and his desire to hire her to replace Jessica.*" July, 2005, that comment is noted. On or about August 10th, 2005, David Jodoin called this person into his office to discuss Code Enforcement Office functions. She expressed to him her desire to have Jessica Skorupski groomed to become a Zoning Officer. Mr. Jodoin went on to a lengthy discussion on his experience with another person, a former code enforcement official for Allentown. At the conclusion he stated, I do not believe women belonged in Code Enforcement to explain he will not promote Jessica. On several occasions, this is again, another person, not one of these two individuals, "*reiterated to me his desire to clean house. He also reiterated his desire to hire people currently employed by Allentown to fill certain positions*

beginning with Jessica Skorupski's". These people were hounded by Mr. Jodoin. The climate was filled with gossip started by Mr. Jodoin. He would talk about his family in an adverse way. He referred to Joanne's husband and the whole family as difficult, losers and her husband is a hothead. That is not testimony from Joanne Drewniak or Jessica Skorupski. That is a testimony from someone, whom if you allowed testimony, she would talk about. Joanne Drewniak will admit to using a bad word and you'll it tonight. It is inappropriate, once. The fact finder said that she had heard several people confirm that Joanne Drewniak have used this word. What you'd hear is that Joanne Drewniak uttered this word in front of Jessica Skorupski and Sandy Piper in Sandy Piper's office behind closed doors during a lunch break on their own time and she was warned not to do it. And she never did it again. One time, all these go out the window. We'll get to the facts a little later.

Legality, there are number of questions regarding the legal validity of what this Council did and by what authority the manner it was executed. These issues are relevant to the financial exposure that the Town faces as a result of the Council's position if this position is upheld. If any of my theories that this decision is not legally authorized and lawfully implemented is true, then the Town faces the prospect of not only paying their own attorney and the fact finder attorney and me but also their damages. In the introduction, it stated that the Council wanted to stay out of the fact-finding role, to use an attorney investigator rather than Mr. Jodoin due to Mr. Jodoin's role as a complainant. According to the fact finding report, "*David first became aware of this issue during the week of March 19th.*" I guess that could be as early as March 19th. The bulk of the interviews that set the table for the fact-finding report were conducted on March 29th by Atty. Irwin. A mere 10 days later after Mr. Jodoin became aware of it. Between March 19th and March 29th there's only 1 council meeting. It was March 28th. How in God's name could Atty. Irwin be officially retained, briefed on the issues and conduct interviews less than 15 hours after you authorize this to take place.

Clearly this investigation was at least set into motion before the Council meeting authorizing it or it was authorized by some or all of you acting outside of a regular meeting. Maybe the position will be that the Town Council did not have to authorize it, that David Jodoin authorized it. Therefore, he authorized it

right after he learned of it occurring during the week of March 19th but before the interviews were commenced on March 29th. Presumably then, sometime after March 19th, well before March 29th, it was decided that he shouldn't conduct the investigation because of the perceived conflict of such significance. We'll accept it at face value that it was. Why was he on March 26th, working with a witness to develop a statement of what she heard and when she heard it. Three days before he authorized the investigation officially or at some point after you authorized it unofficially but presumably for the purpose of avoiding him doing the investigation. Why was he working with this witness on March 26th? Not only that, also on March 26th, he's also meeting with Liz Dionne to discuss this issue. Again, either he has a conflict and shouldn't have been conducting this investigation or he doesn't. By March 26th, certainly he must have known and yet, what was he doing? He was conducting or arguably controlling this investigation.

In addition, we've been denied the information that's constitutionally necessary for us to be able to participate in this hearing. You refused to provide us with minutes and decisions, which were reached at non-public sessions. Under RSA 91-A:3, non-public materials must be publicly disclosed, unless, the board determines that divulging the information would affect adversely the reputation of any person, other than someone on the board to render the proposed action or pertains to terrorism. None of those apply. Ms. Piper, Ms. Skorupski, Ms. Drewniak & Ms. Bonsteel have waived any objection in terms of the potential effect on their reputations. Please release that material. Let the public see it. Let us see it at least, before we come here and try to make a case about what happened. The Town Council acting as a body has no authority to discharge employees of the Town, none. The Town Council was the one who terminated these employees. Article 6.2 of the Charter requires that the Town adopt a personnel plan. This places the Town's personnel plan on very different footing than personnel plan of private employers. After all, the Charter is the constitution for the Town of Hooksett. It requires that a personnel plan be adopted. Article 1.1 of the personnel plan states, "*The overall responsibility of the administration of this plan rests with the Town Administrator. Department Heads are responsible for administration within their departments.*" Article 16.4.1 of the personnel plan states, "*The Department Heads shall bring all such violations to the attention of the employee. Disciplinary action taken may be a reprimand, suspension or discharge.*" Section 16.4.2 states, "*The Department Head shall suspend or discharge employees.*" It is

clear under the personnel plan and pursuant to the Charter, it is the Department Head who terminates their subordinate employees and not the Council. On that basis, your action was illegal. One might argue because the Town Administrator has supervisory authority that in extraordinary circumstances, when the normal routine cannot apply, the Town Administrator has the power to terminate employees. That still does not give the Council the right to terminate employees. The only basis for you to act under these circumstances will be under Section 4.7 of the Charter states, "*The Council may, by majority vote, overrule any action or lack of action normally under the control of the Administrator.*" However, the circumstances of this case, the provision does not apply. Clearly, it is not the normal way things are done. The way things are done normally as stated in the Charter and personnel plan would be for the Department Head to do it. Consequently, the language in Section 4.7 does not apply. There is no basis in law for you acting as a body to do this.

I sat on this Council. I was a member of the Council from the very first year, transition year from Selectmen to Town Council. You are a policy making body you are not to be involved with the day-to-day town business. You are not to be involved with the hiring and firing. That's why we went to a Council form of government. The only persons who have the authority to discharge employees are the Department Heads. As a fall back, maybe the Town Administrator. You had no lawful authority to do what you did. In addition to all that, there is free speech in this country. Even speech that people find offensive, even colorful speech.

Individuals in this case were talking about, whether anyone else would admit or not, disproportionate treatment of a particular employee and about a favorable treatment of a particular employee. Such favorable treatment that people outside came to the employee and said, "*What the heck is going on between David Jodoin and this person?*" This caused others in the community to speculate there must be something going on. This disproportionate and unfair treatment was further worsening morale at the Town Hall. Discussions of why this particular employee might be getting favorable treatment in terms of salary. Why a particular employee is getting favorable treatment from the Town Administrator is reasonable thing for employees to discuss. These three individuals were talking in their individual

capacity amongst themselves. They were talking about important speech of disproportionate treatment and perceptions it created inside and outside the Town Hall were affecting morale at the Town Hall and performance at the Town Hall. This is important speech, which is protected under the first amendment. I'm sure Atty. Ford will confirm for me there is a US Supreme Court case involving an employee who the day after President Ronald Reagan was shot said, "*I only wish they had succeeded in killing him.*" I find that offensive. That employee was terminated for making that comment in the workplace. The US Supreme Court said, "*Sorry, it's offensive.*" It is an important speech. It is expressing a political opinion. Therefore, she was reinstated.

Employees talking about the single most powerful employee of the Town of Hooksett and how that person is treating another employee in an overly favorable fashion and appears to be overly familiar with that employee to the point where residents are coming in and commenting about it to them is similarly protected speech. Lastly, the manner in which the Council carried out its decision subjects the Town to incredible liability. The notice of termination, quite frankly, is inaccurate and false. The only way my clients could have stopped that speech, the publication of that false speech is by resigning within 5 days. Resign in 5 days and we'll cover it up. If you don't resign in 5 days, this will be a black mark on your employment record.

The Council stated that the cause for discipline was the conduct was, amongst other things insubordinate and dishonest. You're calling these people either liars or thieves. They didn't steal, they didn't lie, they didn't cover up. That is inaccurate and it is defamatory. Furthermore, you said they were insubordinate. Insubordinate is defined as, "*unwilling to submit to authority*". Nowhere in the factual findings is there any evidence that Joanne Drewniak or Jessica Skorupski ever refused to obey a directive request from anyone at the Hooksett Town Hall. How could they be insubordinate. Lastly, it indicated the conduct was unsuitable. I'll give you that. Maybe it was unsuitable. But you went on to say that the conduct interfered with effective job performance, and had an adverse affect on the efficiency of Town services. Simply not true. It is that the so-called "toxic" atmosphere to the extent it interfered with the delivery of Town services was in effect well before the conduct of Ms. Drewniak and Ms. Skorupski were accused of

engaging it. I suppose there could be a difference of opinion on whether it interfered with their job performance or the efficient of the Town services. I'll give you that. But it's not a matter of opinion as to whether it was dishonest. Nothing in that report says they were dishonest. There's nothing in there indicating it was insubordinate.

So, under the Charter, you didn't have the power to act because only the Town Administrator can hire and fire. Under the personnel plan, Department Heads must do it. Nowhere does it say you can do it. I'm not going to go through this ethic report here. I want to make sure I don't mention anybody's names that might sue me from this Boston law firm. I do want to note for the record, I do view this an intimidation tactic and a tactic to scare us away. This individual is not admitted in New Hampshire so I'm not particularly concerned. I'm just going through this report, page by page. Everyone keeps on talking about the report. I look at the report all I could do is shrug.

"The Town chose to use this investigator rather than Mr. Jodoin, Town Administrator due to Mr. Jodoin's role as the complainant. In addition, the Council wanted to stay out of the fact-finding role."

When was this done, sometime between March 19th and March 29th, I guess. If it was, how did it get executed so quickly? I know Atty. Irwin, she's got a busy schedule. There is no way, in my opinion, that Atty. Irwin could be called by someone from the Town Council at 7:30 or 9 pm on the night before and be there, prepared to interview 15 witnesses. It just doesn't happen. I think the Town has the right to know how long this has been pestering. We have a witness who said it was January. But, you don't want to hear that.

Documents reviewed. I still don't see the statement that was generated as a result of Mr. Jodoin's conversations with one of the principal witnesses in this case. Maybe, it'll come out now as a surprise.

Page 3...

"The environment was described as toxic." How long? That would have been nice to know.

“David Jodoin first became aware of this issue during the week of March 19th, 2007.” Again, we challenge that. We have a witness who would say it was a lot earlier.

“He was in the break room when ? mentioned that ? had told her of a rumor involving their relationship. That employees were suggesting that ? was receiving preferential treatment due to an affair, that ? and ? were always together.”

Let's go through that and see if anyone actually said that or whether that is the conclusion of someone who understandably might have been a little sensitive to the fact that she was being discussed around the office. Let go to the little allegations. One thing that stated here on page 4 is it is important that none of the witnesses interviewed stated they believed the rumor was true. Of course at the time they were interviewed they knew that. But they didn't know it when this process began. If you believe Mr. Jodoin's testimony, this all happened in a three-week period of time. There was a period of time when people weren't sure whether this was true or not. But when the investigation started, and they were factually asked, by then they were able to conclude there was nothing to it. They had just let it percolate through and ignored. The only reason why it's out right now is because of the action that you took. We're not saying, by the way, that there is any truth to it. Even the people who brought it up, they didn't say there was something going on. They said, *“What's going on?”* He hears about this rumor from person A in the break room and he's upset about this rumor. He's happily married. If people spread this rumor, he'd be accused to sexual harassment. This is the person who controls the Town Hall. Why does he have to come running to you to straighten this out, with all due respect to him. Any of you who owns a business know, to be a competent executive requires you sometimes to discipline your charges a little bit and get control over things. You don't go running off scared and frightened to a policy making board and say, *“Please help me.”* All he had to do was to call people and say, *“Cut it out. It's not true.”* You have three people talking about, it's not my clients. We have Mr. Jodoin, the person who told him in the break room and the person who told the person who told him in the break room. How juvenile is this? How silly is this? He hears about it in the break room. Rather than talking to this person, he e-mails this person. I'm

sure that e-mail is not available for review by anybody. Maybe that's where the rumor started, in this e-mail. This person e-mails him back. Then after these e-mails, David requested this person write a statement, which we still have not seen. This person confirms during the week of March 12th and 16th Jessica Skorupski called her and during the conversation Jessica said that she heard something is going on between Leeann and David because they spend so much time together in the Finance office. The person who received that statement, who actually heard it, she thought Jessica was speaking in a joking manner. Not even saying there was something going on. It could mean that Mr. Jodoin relies on her for every decision he makes. This person felt badly having to use Jessica's name in this statement because she did not believe Jessica was being malicious. I guess that justifies termination. Then it was transferred to another person, Sandy Piper. I can say that. And she had indicated she had heard that rumor. I'd like to see the statement. It'll be interesting how they got into discussion. Did this person who's doing the e-mailing and being on the phone say, something like, "*I was just talking to Jessica, there's a rumor going around.*" Did that plant the idea or notion in Sandy's head. It's all inconsequential it seems. In addition, the Town's telephone bill confirmed there was a call from Town to Mary's home. I suspect if you look at the phone bill, you'll see numerous calls that were made because these people did their best to keep these people in the loop. The person agreed that Sandy repeated the rumor. David also asked Liz Dionne, I can say her name, if she was aware of the rumor. Liz told David she was aware of the rumor suggesting that David and Leeann were getting too close. Why didn't anyone focus on the fact that everyone including residents were asking what's going on. Maybe the action of the Town Administrator and this other employee were creating a perception and maybe, we should be sensitive to perception. We lawyers have to avoid even the appearance of impropriety. Not that it was anything untoward. It may appear that way to people on the street. Because we know for a fact that this all started from outside the Town Hall who noticed their cars together after office hours.

D. Ford: The Council has some questions they'd like to ask you. Page 7 of the report by Atty. Irwin states that, "*Ms. Drewniak called Mr. Jodoin a "fucker or a little fucker" several times while at work.*" Are you denying now that that is so?

BJ Branch: Absolutely denied by Joanne Drewniak. She was never asked by the fact-finder whether that statement was true. She did admit to saying it once.

D. Ford: Didn't Ms. Irwin read her notes of the interview with Ms. Drewniak.

BJ Branch: Yes, but she did not read the notes of the statements that she had taken from other people so Joanne Drewniak had no idea that had been accused of making such a statement in other than the circumstance which she stated in her interview that she admitted doing once behind closed doors, on a lunch break in a moment of anger and frustration.

D. Ford: When the witness said she heard Joanne Drewniak called Mr. Jodoin, "*a fucker*", and say, "*He'll be out of here soon.*" You're denying that.

BJ Branch: Absolutely. What it said is that this woman who makes that comment says, "*she believes that these statement was made in the Town Office hallway*". Don't you think she would have known whether in fact they were made at the Town Hall hallway, in front of other people. She was so offended by it that she reported it to David. The specifics of it should be very clear.

D. Ford: It says on the third paragraph that when Jessica Skorupski reported that Joanne Drewniak called David, "*a little fucker*", you're saying that's the one time.

BJ Branch: Absolutely, the one time. We don't deny it although it seems to me that must be the smoking gun. That one time that Joanne Drewniak swore.

D. Ford: You can answer the question yes or no. We'll be a lot quicker tonight.

BJ Branch: The answer is we deny it and she said it once in front Sandy Piper and Jessica Skorupski in a closed door meeting during their lunch break.

D. Ford: Where it says on the fourth paragraph that Joanne also admitted that she referred to customers as “*little fuckers*” not to their faces when she was angry, you’re sticking by that? That is true?

BJ Branch: No, in fact let me take care of that for you. I was getting to that. I had to wind it up. If you had allowed Ms. Drewniak to testify, what she would say is this, unfortunately, Joanne does admit to using the term once was made to Sandy and Jessica behind closed doors during the lunch hour. Sandy immediately warned her not to do it again and she has not. Joanne denies ever calling a customer that word. She said she was a little casual sometimes with profanity.

D. Ford: So when Atty. Irwin read her notes which specifically says, Joanne Drewniak referred to customers as “*little fuckers*” when she was angry. Did she correct Atty. Irwin and told Atty. Irwin she got it wrong?

BJ Branch: I would say since I was not allowed to be there that I can’t say that with certainty. Joanne Drewniak will indicate...she has the notes here, by the way. Joanne Drewniak indicates that that was an innocent miscommunication or a misunderstanding between and that she never ever referred to customers in that fashion.

D. Ford: Your documentation for the Council tonight is that it’s a little misunderstanding about possibly calling customers “*little fuckers*”.

BJ Branch: Yes. She says she’s sometimes casual with profanity. If the customer had been rude or crude and yelling and abusive, that in her mind that’s exact what she’d call that person.

D. Ford: If the Council believes that Ms. Drewniak used the term “*little fucker*” about Mr. Jodoin or the Town’s people on one or more occasions, would you agree that is grounds for discipline and termination?

BJ Branch: I agree with you it is grounds for discipline but for a nearly 10 year employee with glowing reviews it is not grounds for termination. It is poor judgment exercised once. Who has told you this happened? Joanne Drewniak. No one confirmed or corroborated that she had said that. At best what you've got is her saying without anybody noticing, she said that about a customer to herself walking away after being abusively treated. "*Jesus, that little fucker.*" That is grounds for termination in the opinion of the Council? As opposed to saying, "*Hey, don't even think that.*"

D. Ford: There appears to be no apology, no acceptance of responsibility, about using swear words like that, or discussing a rumor about an adulterous relationship. You're sitting here today basically saying, this is no big deal, so what. Is that your position?

BJ Branch: No, I think in the very beginning of my presentation I said that Joanne Drewniak admits to using an inappropriate and impolite term, that she shouldn't have used it. Her Department Head told her she shouldn't use it and she never used it again. She uttered that word in front of her Department Head. That Department Head exercised her power under the personnel plan to give her a verbal warning. Her Department Head given 9 years of spectacular performance had the discretion to say, "*I am going to verbally warn you. Don't use that word to describe Mr. Jodoin. I don't care how upset you are.*"

D. Ford: That's not my question. My question is whether your clients will apologize not just for using foul language but spreading adulterous rumors about Mr. Jodoin and a female employee.

BJ Branch: Well, if you let them testify, perhaps they would. As a practical matter, what we have said is what we'll continue to say. She said it. I said it in my presentation. Joanne Drewniak admits it was wrong to use that term but it was a moment of anger and frustration in a very difficult, toxic environment. She made that statement once.

D. Ford: What about the comments that implied adulterous behavior between Mr. Jodoin and a female employee? Do you consider that to be a serious act?

BJ Branch: I think if Joanne Drewniak was running around saying, "*they are having an affair*", yes, that would be bad. However, she never said that. She did not spread adulterous rumors. She said they seem to be really close together. That's different from, "*they are having an affair*".

D. Ford: So if your employee at your place of work make a comment that you were having adulterous relationship with one of your female employee, don't you think you would fire that employee who said that about you?

BJ Branch: If I had the kind of employee who's described on those performance reviews, I would certainly be man enough to discipline that employee myself but not terminate them. And wouldn't come running to the Council to have an investigation conducted.

D. Ford: Did your clients accept the severity of the rumors about the adulterous relationship, harm to Mr. Jodoin's spouse, to his children, to the female employee's children. Its kind of bothering me. I don't hear any responsibility, any, "*Gee, I'm sorry. We shouldn't have been talking about this*". You seem to treat this as some little gossip about what color she dies her hair when this is about an adulterous relationship at work.

BJ Branch: I would like you to show me where in this report does it say, "*adulterous affair or that they were having a sexual relationship*". What you see in this report, are statements about a perceived difference in the way he treats her versus how he treats other employees. And that a customer came in and suggested something must be going on. On this report, no one was spreading the word that they were absolutely having an affair. What was being spread or discussed was disproportionate treatment and people were speculating about why. I defy you to show me where Joanne Drewniak is quoted as saying, "*They're having an affair.*"

D. Ford: That's the answer to my question?

BJ Branch: I guess the answer to the question is yes, if she was walking around and saying to people, “*You know what, I think David Jodoin is having an affair with another person.*” That would be definitely cause for discipline. I don’t believe that’s what actually happened. And again, you’re relying upon accusations that are unsworn, untested from cross-examination. In a situation where there were clearly people in this office who may not like other people as much. I think, frankly, a smear job was taken on Joanne Drewniak. I do believe it was wrong of her to use that word and she admits that. I do believe it would have been wrong for her to state that they were having an affair, to spread that rumor. But I don’t think its cause for termination for her to have repeated what she heard someone say from outside the Town Hall or from inside the Town Hall.

D. Ford: Your presentation is that the smear job was against your clients as opposed to a smear job against the Town Administrator and a female employee.

BJ Branch: Absolutely. As a practical matter, we do have to be in control of perception we create. If I gave my employees cause to believe that I was inappropriately close to another employee, I would want that brought to my attention, so that I could correct it. Appearances are important. But where in this report does Joanne Drewniak say he’s having an affair with her?

D. Ford: You would agree with me then, page 4, at the top, “*none of the witnesses interviewed stated they believe any of it was true. In fact, no witness had observed anything that supports the existence of a romantic relationship. This involves false rumor rather than any legitimate concerns of any relationship.*” Do you disagree with those statements?

BJ Branch: I disagree with those statements on behalf of my clients in so far as, I believe that the conclusion that a rumor they were having an adulterous affair was jumped to by people when in fact when you piece together the actual comments, no one says they’re having an affair. The person who jumped on that conclusion then began a series of events that in my opinion put a target on Joanne Drewniak and

I think there was already a target on Jessica Skorupski. I'm not saying it's right to use a derogatory term against your boss. And I'm not saying people should necessarily run around and spread rumors they know to be false. But I do think it's relevant when the Town is buzzing about their perceived relationship to comment on it and ask. If you look at the report, it says Joanne Drewniak indicated she didn't say it to anyone else. She did discuss it with the person who has told her.

Lauren Irwin: Good evening. My name is Lauren Irwin. I was asked to be the fact-finder investigator in this matter. I will say that I was asked to do this very quickly due to the seriousness of the matter. I began my investigation the day that I was asked to do it. I believe I was asked in the morning and started interviewing people that afternoon. It was done quickly because it was communicated to me that it was a serious matter that needed to be dealt with in a serious way. The investigation needed to be done promptly due to how upset the Town Administrator was about the conduct that was alleged happened. So I did begin very quickly.

It was also my understanding that I was asked to be the fact finder because it appear to unfair or inappropriate to have the Town Administrator, who was the complainant in the matter investigate rumors that was about him or conducts that was about him. We wanted as fair a process as possible and we couldn't have the alleged victim or the complainant of the conduct investigate themselves. Because the Council needed someone outside of the Council to be a fact-finder so that you could listen to the facts in a fresh way. That's why I was asked to investigate. I was first told of the complaint that it came from David Jodoin and also that he learned of the rumor that he was having a romantic relationship with a female employee through someone else and had asked her to put it down on paper what she had told him verbally. That was the basis for his complaint. I did list that statement in my report as a letter from an employee. A letter and a statement is the same thing. There hasn't been anything excluded from my list of documents. There wasn't any notice to anyone. It was done as expeditiously as possible. I went to the Town Hall and I met with David Jodoin first.

One of the first things I want to share with the Council is how incredibly upset Mr. Jodoin was about this rumor. This was not anything close to sitting around the water cooler and saying, "*you wouldn't believe the tie he wore one day.*" He considered this incredibly hurtful to him both personally and professionally. He showed me a picture of his children he has in his office and was very concerned that his wife and children will have to hear about a false rumor concerning him having an adulterous relationship at work. In fact, I would also point out the letter/statement from the employee interpreted this as a very serious matter. This other employee said that she viewed it as an attempt to ruin his professional and family life. The content of the rumor is very important in the findings on this matter. The content was accusing or suggesting that someone is having an adulterous relationship or at least a romantic relationship with a subordinate employee and this man is married with young children in the community as is the female employee has children living in the community. That was the first interview I had.

Mr. Jodoin also had expressed to me he's very concerned that his career would be tainted because of this false rumor. He would have been falsely accused of giving someone a benefit at work, giving them a part-time position or a certain salary or some work benefit because of a false rumor of a romantic relationship and that could follow his career. Further, he was concerned that if these employees were willing to spread what they knew were false rumors what would be the next thing they would do because they were angry about his decision on a personnel matter. The way he viewed it is they were angry at the position being offered to this employee or they were angry about the salary or something else that he did and were willing to spread what they knew was a false rumor. And he expressed to me, "*what's the next thing that's going to happen, am I going to be falsely accused of sexual harassment, or something else that's serious enough that they could hurt me further with something they knew is false?*" He was concerned that he has to speak to female employees in his office. Does he have to be nervous that someone is going to falsely accuse him of doing something inappropriate? He was very, very upset of the idea that people would do something, spread something knowingly false about him to hurt him. He was further concerned that qualified employees that the Town is trying to hire wouldn't want to work for him. He was also upset about being referred in the Town office as a "*little fucker*", which was reported to him. It was inappropriate, undermined his authority and it interfered with his ability to manage the Town.

He expressed to me that he's had some physical symptoms. He has significant stress over these issues. It wasn't anything close to a minor significance. He was concerned about his ability to continue in his position. He perceived that employees are jealous and upset about his recommendation that the female employee get a part-time position at a certain salary. They are upset with his decision and coming from that was the spreading of a false rumor that this must be because something was going on. There was sort of a motive to undermine his decisions on this personnel matter.

I got a copy of the personnel policy and I began interviewing. In addition to looking at the e-mail and statement of the first employee who was asked to put her statement in writing by Mr. Jodoin, looking at the personnel policy, I also did look at five personnel files. I received a copy of a telephone bill to corroborate the fact that telephone calls were made from the Town office.

I met with 10 other employees over the next three days. That was March 29, Apr 2nd & Apr 4th. I told each of the witnesses my role as an investigator, the issues I was investigating, (1) a rumor of a romantic relationship being spread at the Town office by employees and (2) whether the employees were referring to the Town Administrator in derogatory terms. I told them I was investigating, I told them my role as an investigator. I told them I would be taking notes as I spoke to them. That at the end of the session I would read them my notes. If I got anything wrong, they could tell me and I will correct my notes. Anyone who asked for copy of my notes was given a copy. Joanne Drewniak was one of the ones who asked for a copy. And I gladly gave her a copy. Neither Joanne Drewniak nor Jessica Skorupski ever mentioned or asked to have an attorney present at the meeting. The reason I know that is that there were two employees who asked to have an attorney present. And when they did that despite the fact the Town did not believe they had the right to have an attorney present. We talked about it. We decided an abundance of caution and fairness, we will allow them to have an attorney present. Mr. Branch was present for 2 of the interviews. But that was not an issue in the 2 employees were talking about tonight. I warned each witness that there was to be no retaliation for them telling me the truth and participating in the investigation. And to let me know and let the Town Council know if they thought they were being subjected to retaliation for being involved in the investigation process. After Mr. Jodoin, I met with the

other victim of the rumor, the female employee. Confirming that there was no basis for the rumor, that there was no perception or reason to believe that the rumors were true, that she was not uncomfortable with any conduct by Mr. Jodoin. It was important to me that we separate out whether there was an honest discussion about what's going on, was there a sexual harassment issue, was there a romantic relationship or do we all know that it is false and was spreading a false rumor.

From the other victim of the rumor, there was absolutely no discomfort that she had. She explained to me that she had to be trained to do payroll. That was the reason why Mr. Jodoin was in her office. That was not disputed by any witness I spoke to. Every witness I spoke to said, *"yes, I understand she was being trained to do payroll. They are in the Finance Office. They are sitting in the computer and she was being trained to do payroll."* This female victim of the rumor was also upset about the detrimental effect on her children and her reputation in the community. As to what was said about the rumor, until tonight, it seemed undisputed to me that everyone realized that what they were suggesting was there was at least a romantic relationship between Mr. Jodoin and this female employee. Other witnesses confirmed that Jessica said, *"look at those two there. They're even here late at night together."* No one said to me they used the word adultery or they're having sex together, or *"look I saw them doing this, this and that"*. It was never disputed to me that the message was these two were having a romantic relationship. That was said by every witness.

One thing interesting to me as a fact-finder there were very few factual disputes in this matter. Most of the conduct if not all conduct was admitted when I asked people. It is true one witness said she first heard of the rumor from a non-employee and then passed it on and discussed it in the office. The origin may have come from outside of the office but then it was spread around and commenting on it in the office. One witness said that Jessica was the first one to tell her and Joanne Drewniak of the rumor. Joanne Drewniak reported that Jessica was the first one to tell her of the rumor. Jessica admitted that she never saw any romantic behavior and did not believe the rumor was true. No witness told me that they ever thought the rumor was true. Not until tonight did I ever hear a suggestion, *"Oh at first we thought it might be true, then we decided it wasn't."* I heard and I asked, *"Do you have any reason to*

believe that this rumor is true? Have seen anything or have any evidence this was true?" Every witness said absolutely not. They did not have any evidence, support or reason to believe it was true. Jessica admitted to me she told another employee they were close together. He's spent all his time at the Finance office with her and rumor has it something is going on between them. Joanne Drewniak admitted that when Jessica told her when they were with Sandy that Jessica said, "*something was going on. What the heck is going on?"* They then continued to chat about it at work. Joanne told me she did not believe the rumor was true. Through Jessica and Joanne, that's where I learned about the rumor.

The question was raised tonight as to whether when David Jodoin first heard of the rumor was accurately written on the report. I look back on my notes speaking to Liz Dionne with Atty. Branch present and Liz Dionne said she thinks she heard the rumor around February, she said 2 to 3 months ago, so around February. She told me that she thinks she told David about it a few weeks ago, which would have been in March. I met with her on April 4th. So that's within a week or quite consistent with David's recollection of when he first heard the rumor. I don't think it matters that much when David first heard of the rumor. I think it's fairly consistent on that.

I guess I feel very strongly based on the 10 or 11 people I interviewed that there wasn't anyone who was legitimately questioning whether the rumor was true. That there were knowingly talking about something they knew was not true. To the extent that I talked about dishonest behavior, as it applies in the personnel policy. I'm not talking about witnesses lying to me. I'm talking about spreading a knowingly false rumor. I think that's dishonest behavior. If I wrote that in my report about dishonest behavior, that's what I meant.

As to the second issue was whether Joanne Drewniak ever referred to the Town Administrator or others as "*little fucker*". I guess I'm a little bit surprised that we tonight limited it to just one time because when I asked Joanne, she said she probably said "*little fucker*" about David Jodoin, probably to Sandy when she was "*pissed off*" that day. She didn't remember the reason why she was "*pissed off*". Then, later she said she probably only said "*little fucker*" to someone other than Sandy onetime recently. So it seems to

me that she was saying...my memory from talking with her is that, "*yeah, that's probably something I might have said*". That's a phrase she had used. She knows she used it in talking with Sandy about Mr. Jodoin and she probably said that to someone other than Sandy onetime recently. Then she also added that she also said that about a citizen, not to their face, when she was angry. I had the impression, as opposed to what was said tonight, that it was a regular phrase that she used. She did not tell me that she had said it about Mr. Jodoin a bunch of times, which she wasn't surprised she might have used that phrase to talk about him and others. When I heard other people say, "*yea, I heard her call him little fucker*". It corroborated that she probably said it more than once. But she admitted to me that she said it at least once and probably more than once about Mr. Jodoin and about others. I didn't see it as a factual dispute on that issue. I saw it as an admitted conduct. Jessica reported that Joanne had called David a "*little fucker*" when she was mad at him about something. Jessica has heard her say it, Sandy has heard her say it and said she had informally said, don't use that language. It wasn't anything that was done formally, wasn't a reprimand in the personnel file. It wasn't done officially. Another witness reported that Joanne referred to David as "*little fucker*" when they were alone. Joanne admitted, as I talked about earlier. In closing, I found very few factual disputes. It was mostly admitted conduct. I didn't make specific recommendation about what discipline should be done by the Council but I did recommend that the conduct supported discipline of some kind. I did review the Personnel Policy and find that disruptive, unprofessional, insubordinate or dishonest behavior was grounds for discipline. I believe the Council's action was consistent with my findings. Thank you.

D. Ford: Thank you. Atty. BJ Branch's asked me to ask you these questions. Did you investigate whether the Town had a policy regarding permissibility or impermissibility of gossips in the workplace?

L. Irwin: I guess my answer is I didn't ask everyone if there was a policy about gossip. I did review the personnel policy and as I said on my report, Section 16.3.5 says that, "*Dishonest unsuitable conduct when it interfered with the efficiency of the Town is grounds for discipline.*" That's where I see this come in and I was aware there have been other rumors spread in the past at the Town Hall. Even if I had known that other rumors have led to discharge. As I said before, this wasn't a "*can you believe his tie or*

he must die his hair..” It’s about somebody who’s having an affair with a subordinate employee. The nature of the gossip was very, very serious.

D. Ford: Did you investigate whether any of these employees had any prior warnings prohibiting gossiping in the workplace and stating that it should not occur and they disregarded those warnings and refused to follow them?

L. Irwin: I did look at the personnel files of the people subject to discipline. I did not see any warnings about gossiping in Joanne or Jessica’s file. I was told by Sandy that when Joanne used the word “*little fucker*” with her that she said, “*Gee, you shouldn’t use that language.*” She originally told me that she had reprimanded her for it and sort of came back and said, “*you know, it wasn’t a reprimand. It was unofficial. Joanne did not view it as a reprimand so it was not put in the personnel file.*” That’s what I knew about that.

D. Ford: In your experience, have you found it unusual to have gossip in the workplace?

L. Irwin: I haven’t been called to investigate gossip in the workplace before. I would say that I’ve been working for a long time and there certainly can be gossip about what people were wearing or whether you liked everyone at work. I can tell you I’ve never been asked to investigate nor have I had in workplace gossip about married people having an affair.

D. Ford: Did you recommend that the Council terminate these employees?

L. Irwin: I didn’t recommend a specific discipline.

D. Ford: In your experience, have you seen similar instances where something less than termination was the action taken?

L. Irwin: I can't say I've seen a similar instance. I can say I've had one issue referring to a supervisor in a derogatory manner. I had a school district where there was someone who was referring to a supervisor in a derogatory manner at work. I believe the person was not renewed for that reason and some other reasons. It was taken very seriously.

D. Ford: Have you, in a moment of anger or frustration, referred to a person you care and respect using a word you later regretted?

L. Irwin: I guess I'll have to separate out when I am at home. Do I ever yell at my husband or raise my voice to my kids or say something I later regret. Absolutely, I have never referred to a supervisor at work anything close to "*a little fucker*". I think I would tend to separate how I acted outside of work with how I act at work. I think I am more guarded at work.

D. Ford: Did you investigate to what extent David Jodoin tolerated or participated in gossips and inappropriate language?

L. Irwin: No, I would say no. I didn't. I was told by David that there have been a "toxic" environment, that there have been a lot of disgruntled employees. Some people are not getting along with others. But, I didn't have an indication that there has been any type of rumor that was similar to this one, about an adulterous relationship. And I didn't have an idea that he's heard that someone had referred to him in such derogatory terms before this.

D. Ford: Did you follow-up with Atty. Branch's clients regarding accusations made by other employees about them, investigated whether those accusations were true.

L. Irwin: With respect to Jessica and Joanne, I didn't need to do that in my view because they admitted the conduct. I think my finding was that Joanne had called David "*a little fucker*" on at least one occasion, which she absolutely admitted. It was probably more than once given the number of people including

Jessica who had heard her use those terms. I didn't think it was necessary to go back and test the fact that's been admitted.

D. Ford: That will be the end of the questions. With that, I will close the hearing on Joanne Drewniak. I will remind everyone that on the personnel policy, the Council has 10 days to issue a decision, which will be on the 25th of May. I will get the decision out on or before that day. Now, we'll move on to Jessica Skorupski's termination hearing. We're running a little bit late. I don't think there's any reason to reiterate what's been said. We've heard it. Please keep that in mind as you go to your next presentation.

BJ Branch: When you think of the one-sided investigation proceedings is evidence. We're talking about Joanne, I better move to Jessica Skorupski now but if anyone had bothered to take sworn testimony or to follow-up what they would have found and Jessica is right here so I'll make the offer of proof is that when it was reported that she had heard Joanne say that. It was that one time Joanne admitted to it. She was in the room with Sandy Piper. If you go through this report, you've got Sandy Piper saying she heard it in that one instance and she warned her. You have Jessica Skorupski hearing it because she was there. Then we have Michelle Bonsteel saying she asked Joanne whether she had used that term. And she did use it. That one time. The full story isn't going to be discussed today it's going to be a distilling of the fact instead of a hearing of the fact. Jessica Skorupski, incredibly glowing reviews from June 2000 forward. *"She required little supervision, performed the tasks quickly, is accurate and precise, she's usually quick to understand and learn, etc."*

Again, you have an employee who for 6 years demonstrated exemplary conduct. And I heard Atty. Irwin indicate that they at the time that they were discussing these rumors, that they were false. You go through the report and you go through exactly what Atty. Irwin said, you have Jessica saying, *"What's going on between those two?"* Does that sound like someone who is knowingly spreading a false rumor? There is an incubation time here that has to be examined. When this first came up, it was not a situation where people know that it was true. That's the conclusion the fact-finder drew. So be it. It was incorrect and inaccurate and it was admitted that this rumor started outside the Town Hall, a citizen from the Town

noticed it. That means that the conduct was such that a total stranger concluded that something might be going on. To say that three weeks after the whole rumor started, that every moment along the way, they knew it was untrue, were intentionally spreading the false rumor. I would suggest to you that rumors go both ways. The people spreading rumors, unfounded rumors about Joanne Drewniak. It's interesting that Michelle Bonsteel asked Joanne Drewniak whether she ever heard her use that term. That's because while this investigation was ongoing, people were telling other people about what was being asked, what was being said. Everyone was talking about it. My writing is terrible but Atty. Irwin said she showed Joanne Drewniak and Jessica Skorupski her notes. I just looked at those notes. I suppose if I really work at it...look at this. This statement here I think is what she's talking about. I have trouble understanding, I think it said, "*has something ABG citizen something when angry not to face*". Is that something that would allow her to conclude with certainty that in her report it would be stated that she had said that about a customer, in the Town Hall? She did not. This is incredibly disproportionate and unfair punishment for what is essentially conduct that occasionally occurred in a workplace. That's not to say that this is conduct that should be admired, conduct that shouldn't be disciplined. I don't understand why the questions whether we somehow think that we think this is all a complete joke. That is not what we are saying. We have admitted that this was not a conduct that is necessarily perfect by a stretch of the imagination. What we're saying here is when you look at the factual situation, it's conduct that does not justify, essentially the death penalty for their careers.

When you do a gist, Jessica was heard talking to some people about it. So there's another employee, all you have to do is look at your report who told two people that she was not terminated and she could be the person who got the rumor started. We don't have anything about Jessica saying anything bad about David Jodoin, one bad word, at one time. Allegedly, she did do something, though, which I don't think she was asked about. Supposedly, Jessica said something like, "*that _____ Planning Department. I should go upstairs and cry and whine and get my way.*" Jessica was never asked whether she said that and Jessica will deny that she did.

This Town Hall has a little bit of a problem that's similar to other work environment. Some people don't like other people and the Town Administrator is not keeping it under control. This is not anything different than what happens day to day. A supervisor who has sufficient ability to manage the Town should have sufficient ability to manage simple gossip. I guess all of 6 years of Jessica Skorupski's employment goes out the window because she repeated something that was heard another citizen say to her. Unfounded, unsworn to accusation that she hung up the phone and said a bad word. Does that seem fair? If you ever talk to them directly, if you allow these people to testify, you will hear that there is an agenda here. I've got these statements from employees, some are still working there. That he wanted to clean house. More than a year ago, he was talking about how he could get rid of Jessica Skorupski. Don't you think that should be taken into account.

My presentation for Jessica could be very brief. She was terminated for nothing. She repeated a few things that she heard. At that time, it was clear, that she wasn't sure whether it was true or not. That's why she said, "*What's going on between those two?*" That's asking a question. That's not asserting that they were having a sexual relationship, an adulterous relationship. I issue a challenge where anyone of my clients ever stated they were having an adulterous relationship. It was treatment that made people question what was going on between the two of them. There could be numerous conclusion other than they were having an adulterous relationship. It could be because she was being groomed to take over for somebody. That was what was going on between them. The factual discrepancies in this report are remarkable.

On page 2 or 3 of the report says, "*both doors are always open when Mr. Jodoin and this employee were together in the room alone.*" But on page 6, it changes to at least one of the doors is closed. If there is one door closed. No one know what goes on in there and it leads to speculations. One of the witnesses said they never suggested that there was an inappropriate affair here. This is what happens throughout this report. Michelle Bonsteel in the report states that she angry and frustrated that her words were being twisted to convey the notion that she was suggesting they were having an affair. Interestingly enough, the woman who wrote the statement and sent the e-mail. That person actually states, just so we're clear

on this. This person thought that Jessica was speaking in a joking manner. She didn't think there was anything going on. She wasn't saying, "*they're having an adulterous relationship.*" She made a comment, "*people are talking, they want to know what's going on, he's in there all the time, the doors are closed.*" And you will see the witnesses say contrary to what Mr. Jodoin and the other said. That in fact, both doors were closed in the upstairs room where this is going on. Again, this isn't to suggest that something is going on. It would suggest that a perception is being created. The fact that that perception is being created is what generated a citizen from outside the Town Hall questioning what was going on. Don't you think when a citizen is asking what's going on to another employee, that that employee might start wondering is there something going on. It's quite a leap to go from wondering what's going on to say that they were knowingly spreading a false rumor of an adulterous relationship. Again, no one stated there was an adulterous relationship. There were questions. There were concerns. There was some speculation as to why a Town citizen would say something like this.

For that, two exemplary employees, who have glowing reviews, never been warned, are targeted. They were executed, in essence. Their careers have ended after, looking at their reviews giving great service to the Town of Hooksett. Atty. Irwin stated this all happened very quickly. So the employees come in to work, apparently, the day after the Council meeting and immediately brought into a room and asked questions. You know why an attorney was involved in the last couple interviews? Because employees were coming out of those interviews going, "*I don't know what the heck is going on. It feels like an inquisition.*" So by the time it got around to the two employees who asked for an attorney because all employees coming out of that room were saying, "*jiminy crickets!*" They were taken by surprise. They had no opportunity to review. They were told there was no retaliation for telling the truth. Well, termination is retaliation. It strikes me as amazing that you used this report as a basis for terminating them when the most damaging inclination comes from the witnesses who have been terminated. They were being truthful at that time. Why should you not believe them when they tell you now that they are certain things in this report, which are inaccurate. The only evidence that anyone ever had initially of Joanne using a bad word about the Town Administrator came from her. So don't you think you should

listen to what else she says. What you have is one bad word, in a closed room, at a lunch break, it was subject to a verbal warning by her department head, which is the way it should be handled. This is equivalent to double jeopardy. She was verbally warned not to do this and she never did it again. And now, having been punished for it already, you're terminating her. That's a violation of the plan and certainly a violation of fair play. They admit that they could have handled it a little differently. Joanne already admitted she should have used that one word, on that one occasion. And she hasn't. When you think about this fact and circumstances on how Atty. Irwin obtained this information. Maybe, you didn't absolutely get it correct in that 10 or 15 minute interview. When you look at how many interviews were conducted on March 29th, how thorough and comprehensive could that have been when according to Atty. Irwin, they started in the afternoon. You are looking at a factual report generated extremely quickly and no sworn testimony, and is generated essentially in 4 hours of interviews to people under stress. Maybe some of the facts reported in that report are not correct and you should revisit this case. I would suggest that you listen to these people. Jessica who admits to what she said when she said it denies several of the other allegations against her. The investigator did not go back to Jessica to verify the allegations. Don't you think she was entitled to the opportunity to rebut the unsworn allegations of a co-employee? Sandy Piper, Jessica and Joanne could have simply not recalled the conversation that took place behind closed doors, with no witnesses present. And then, there would have been nothing. Instead, after a promise of no retaliation, after a request to please tell the truth, they told the truth. I think frankly that being terminated is retaliation. Because I was asked to keep it brief, I will end it there except to say that I want to be sure that no one is saying that this conduct that has taken place, if you look at it there were many employees who engaged in this conduct who weren't terminated. Several employees who repeated this rumor still have their jobs and still have personnel files with nothing talking about this. Another employee told Mr. Jodoin about the rumor, that's how he knew about it. They discussed it with two other people. Why these employees, because quite frankly, you want them to go. This gave him a really good pretense to do it. You have to understand if you actually had a fact-finding process where you took some evidence that there will be many people who would confirm these allegations. You are ignoring that situation. To allow these people, long-time employees, who had given good service and their good knowledge to be thrown out of the office on the basis of unsworn, hearsay testimony with very little validity is simply

unconscionable and it does not represent the feelings of this community by any stretch of the imagination. I urge you to reconsider, not whether you want to, send the message that you don't want this conduct to occur. Not to send the message that you think all the stuff discussed here was good or bad. To send the message that you look at both sides of the equation and 1 or 2 instances of arguably, improper conduct is not going to result in people being terminated. If there's anything that's going to discourage qualified applicants for working for the Town of Hooksett, as Mr. Jodoin has allegedly feared, is treatment like this of good employees, with long histories. Do the right thing. It's difficult, I know, that maybe, under the circumstances there was a rush to judgment. And maybe with some reflection, a different more conciliatory approach could be proceeded. That maybe addresses the root cause of the problem and set up behind the Town so that it doesn't happen. So people could come to the Town of Hooksett and be honest with people and not be stabbed in the back. I urge you to re-look at this situation and what your decision was and bear in mind that because of this rush to judgment, with all due candor and without attempting to be offensive you did not make the decision in a way that it will be legally supported. Even if you decide now that it is the right decision, you went about it in a legally incorrect way. That's all there is to it. Nowhere in the Charter are you empowered to fire employees. Thank you.

D. Ford: I only have one question for you. Page 5 of the report says that Jessica admitted that she told another employee, "*rumor has it something is going on between them.*" That's a statement and not a question, wouldn't you agree? My question is, it is a statement that she made and not a question, correct?

BJ Branch: Yes, Jessica admitted that she told Mary, "*rumor has it something is going on between them.*" That is a statement.

D. Ford: That is a statement.

BJ Branch: But what is going on between them?

D. Ford: So it was more than questioning. She made an actual statement.

BJ Branch: Well, something was going on between them that's why a customer from the Town of Hooksett said, "*what's going on?*"

D. Ford: So is your testimony now is that there is really something going on? Are you back-tracking on that?

BJ Branch: No, I'm not back-tracking on that. I am saying that you're the one who's back-tracking, with all due respect, you're the one who's saying that...I'm saying or that my client said there was an adulterous going on. When you say, "*rumor has it, something is going on between them*". There could be any number of connotations to that statement that aren't necessarily that they are having an adulterous relationship. It could be that they're working on creating a new position, as in fact occurred in this case. And that maybe other new positions were going to be created. Maybe they were considering getting rid of somebody. There are numerous statements and conclusions that could be drawn. I would suggest that automatically concluding that "*rumor has it, something is going on between them*" means knowingly spreading/stating that there was an adulterous relationship going on. That's a bit of a leap.

L. Irwin: I'll just add a couple of things to what I've said before. First of all, about my handwriting and the fairness of the process. I apologize for my handwriting to witnesses. I made sure I read what my statement stated and that what I had written was accurate. And they had an opportunity to correct it. When I gave them a copy of my notes, I made sure they could read what I wrote. I said, "*I'm going to give you a copy. If there's something you can't read in my notes, let me know. I'll tell you what it is.*" I can tell you, I can read my notes. If anyone has any questions about what I had written in my notes, please feel free to ask me because I know what I wrote and I can read it. I did type up the report not too long after I wrote the notes. So there wasn't any question to me that I had interpreted in my notes. I also like to add, I believe this process is fair. I didn't cut anyone off in my interview. I would have taken more time, if more time was needed to do the interview. I felt that the questions I had were answered and they

were given an opportunity to add anything they wanted to add to the interviews. Jessica admitted calling an employee who was on leave and saying, "*they're close together, they spend a lot of time together in the office and rumor has it something is going on*". I will say that Jessica when she heard that "*something was going on with those two*" was said by someone else. I asked Jessica did that something mean "*romantic relationship to you*"? I had in my notes "*romantic*". She interpreted when you say, "*something is going on*" that that's inferring something romantic. So I don't think there's any confusion about what they meant by "*something*". I wrote that in my notes. I did write down that Jessica told me she never saw any romantic behavior, she did not believe that the rumor was true and in my notes from Jessica, "*yeah, she told me they were spending a lot of time together*". But that there was nothing inappropriate, that she had no reason to doubt that he was training her. She didn't have any reason to believe the rumor was true. She was still admitting to me that she had said, "*something was going on*". She spoke about it not only with the employee who was home but also she was the one who first raised the rumor to Joanne Drewniak. So she was the one who went and told people about it. I've done several investigations but I've never done an investigation where interviews were done under oath. I haven't heard of that happening. I don't think that's a standard way of doing an interview. I think I've done a good job confirming that what I wrote down was what the witnesses had told me. And they had the opportunity to hear me read my notes that I copied if they wanted them.

D. Ford: That concludes both hearings. I want to say thank you to Atty. Branch, Atty. Irwin, to spectators. Thank you for keeping the decorum and courtesy. We appreciate it. We'll have a decision my May 25th. Thank and good night.

ADJOURNMENT:

The meeting was adjourned at 9:30 pm.

Respectfully submitted by,

Evelyn F. Horn
Administrative Assistant

Jason M. Hyde
Town Council Secretary