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July 28, 2010

Sent via e-mail and U.S. Mail

Mr. Andrew T. Rees
Council Attorney
Tulsa City Council
175 East Second Street, Fourth Floor
Tulsa, Oklahoma 74103

Re: Position of "Council Attorney"

Dear Drew:

This letter is written to you, in my capacity as attorney for the Mayor of the City of Tulsa, The Honorable Dewey F. Bartlett, Jr. It has come to our attention that, for fundamental reasons, you have no authority to act as "Council Attorney", and we demand that you resign from that position immediately. As the City Council knows, in 1999 and again in 2001, the Council specifically declined, by majority vote, to place on the public ballot the issue of amending the Charter to provide for the employment of a "Council Attorney". (See Memorandum from Martha Rupp Carter to Mayor Bill LaFortune and Deputy Mayor Steve Sewell - Subject: "Attorney serving Council", dated July 30, 2003). Subsequently, former Mayor LaFortune yielded to Council pressure and, without public vote, established the position of Council Attorney "by . . . the transfer of the senior assistant city attorney position by the administration to the Council. . . ." *Id.* Mayor LaFortune was specifically advised by then-City Attorney Martha Rupp Carter that:

Charter requirements nonetheless mandate that all legal services, including those performed by this attorney [referring to the so-called "council attorney"] be managed and supervised by the City Attorney. *Id.*

The City Attorney concluded that:

The means to honor charter requirements placed on the City Attorney within this changed organizational structure will have to be explored and determined as we proceed. *Id.*

In any event, there was never any Charter amendment (approved by the voters) which permitted the establishment of a "Council Attorney" with allegiance to, and as an advocate for, the City Council. Nevertheless, the City Council has utilized you as its attorney for several years, and you have been paid through the Council's budget. You did not serve the Council in accordance with the City Charter's provisions. Therefore this action was not permitted by the City Charter and was, in essence, a misappropriation of funds.

These unauthorized actions are particularly egregious in light of former Mayor LaFortune's recent public statement, as reported in the July 21 Tulsa World: that the actions of the City Council in executive session "... were not the kind of actions the [Open Meeting Act] is most concerned with". Tulsa World, July 21, 2010. Mr. LaFortune continued by publicly stating that the Council's violation of the Open Meeting Act "...was about decorum, not substance. Importantly, Mr. LaFortune defended the Council's violation of the Open Meeting Act by stating that it "...acted on its attorney's advice."

As the Council's minutes make clear, this so-called "advice" was given by you acting as the "Council Attorney" (a position not authorized, or even contemplated by the City Charter). The Rupp Carter Memorandum to LaFortune stated that you were merely transferred from the City Attorney's office to the Council, and **remain an Assistant City Attorney**. As you know, or should know, the City Attorney and her Legal Department have completely recused from "...providing legal advice or assistance relating to the City Council's investigation of alleged false statements made to the Council by a member of the Mayor's staff." (See Memorandum from Deidre O. Dexter, City Attorney et al. to Mike Kier, City Clerk, dated July 9, 2010.) You have ignored that directive from the City Attorney to whom you directly report.

We further note that on the July 15, 2010 agenda for a "Special Council Meeting", the Council placed on its agenda as Section Item Text:

03. Proposed Charter Amendment: Establishing a Council Attorney
(Turner) 10-446-5

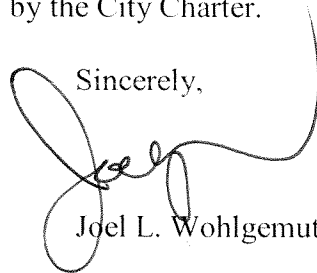
This further demonstrates that the City Council recognizes the invalidity of your position absent a Charter amendment. This specifically affects all actions taken by the City Council's actions or omissions, performed pursuant to your advice or otherwise taken in your presence or with your input, including, but not limited to, Terry Laflin's purported investigation of Terry Simonson and Mayor Bartlett and the report which he generated, as well as all Council meetings related thereto. There are also serious questions regarding the appropriation of significant funds by the City Council for the performance of services by you that are unauthorized by the City Charter.

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We expect that you and the City Council will act in accordance with the City Charter and immediately terminate this illegal and improper violation of law. In addition, we note that the City Council plans to discuss at its July 29, 3:00 p.m. Special Meeting the status of its impermissible investigation into the alleged actions of Mayor Bartlett and his Chief of Staff Terry Simonson. Under the circumstances detailed above all such actions, including the planned July 29 executive session represent the City Council's disregard of the City Charter and the immediate need for remedial action to prevent the Council from acting outside of the Charter.

In addition, there needs to be a determination of the amount of funds that have been misused to fund a position that is unauthorized by the City Charter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joel L. Wohlgenuth', with a large, looping flourish extending upwards and to the right.

Joel L. Wohlgenuth

JLW:nab

cc: The Honorable Dewey F. Bartlett, Jr. *(via e-mail)*
David O'Meilia *(via e-mail)*
William F. LaFortune *(via hand delivery)*