

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

NICOLE KOWALSKI)	CASE NO.
276 Atterbury Blvd.)	
Hudson, OH 44236)	JUDGE:
Appellant,)	
)	
v.)	
)	NOTICE OF APPEAL FROM HUDSON
HUDSON CITY COUNCIL)	CITY COUNCIL CENSURE OF
1140 Terex Rd.)	NICOLE KOWALSKI AND
Hudson, OH 44236)	COMPLAINT FOR WRIT OF
Appellee.)	MANDAMUS
)	
)	(ORAL ARGUMENT REQUESTED)

Appellant, Councilwoman Nicole Kowalski (“Councilwoman Kowalski”), by and through undersigned counsel, hereby gives notice of her appeal, **pursuant to R.C. 2506.01**, from the decision of Hudson City Council to pass a motion to censure Councilwoman Kowalski during the December 6, 2022 Hudson City Council Meeting (the “Censure”). The Censure **constitutes a final order, adjudication, or decision by Hudson City Council pursuant to R.C. 2506.01** and is reflected in Hudson City Council’s draft December 6, 2022 Meeting Minutes which are attached hereto as Exhibit “A” and are incorporated herein by reference.¹

COUNT I
(Notice of Appeal)

In accordance with the Ohio Revised Code 2506, this notice of appeal is taken upon the following grounds:

¹ The December 6, 2022 minutes have not yet been approved by Council because the five Councilmembers who voted for Censure at the December 6, 2022 meeting did not attend the next regularly scheduled City Council meeting on December 20, 2022 and no quorum was present. The decision was reported as final by the President of Hudson City Council on December 7, 2022 and published to the community and received by

- 1) This Court possesses jurisdiction to hear appeals from decisions of agencies of political subdivisions pursuant to R.C. 2506.01.
- 2) §731.45 of the Ohio Revised Code limits the ability of the legislative authority to punish a member to acts of Disorderly Conduct or violations of its rules;
- 3) The City of Hudson's Charter does not provide Hudson City Council with the authority to censure or publicly admonish its members;
- 4) Hudson City Council acted without authority to censure or discipline Councilwoman Kowalski, a member of Council, because:
 - a. Hudson City Council lacks the legal authority to do so;
 - b. Councilwoman Kowalski's conduct did not warrant censure;
 - c. Councilwoman Kowalski did not violate the Hudson City Charter.
- 5) Hudson City Council failed to provide Councilwoman Kowalski with any due process in making its decision, including but not limited to the following:
 - a. Hudson City Council failed to provide Councilwoman Kowalski with notice of the proposed Censure;
 - b. Hudson City Council deprived Councilwoman Kowalski the right to a fair hearing;
 - c. Hudson City Council deprived Councilwoman Kowalski of the right to present evidence on her own behalf during the December 6, 2022 hearing;
 - d. Hudson City Council deprived Councilwoman Kowalski of the right to meaningfully respond to the allegations made just before the passage of the Censure.
- 6) The Censure rendered by Hudson City Council is constitutes a final order, adjudication or decision of the Hudson City Council under R.C. 2506.01(C).

7) After the vote occurred to Censure Councilwoman Nicole Kowalski on December 6, 2022, Hudson City Council President Chris Foster published that Councilwoman Nicole Kowalski was formally censured by Hudson City Council with a vote of 5 – 2, and Councilwoman Kowalski received notice of the same. A true and accurate copy of the notice is attached hereto as Exhibit B and is incorporated herein by reference.

8) The Censure rendered by Hudson City Council is not in accordance with Hudson City Charter, due process and the law;

9) The Censure rendered by Hudson City Council is contrary to the Hudson City Charter, due process and the law and the facts;

10) Hudson City Council made other errors made in the December 6, 2022 proceedings that prejudiced Councilwoman Kowalski and deprived Councilman Kowalski of her ability to make a record and present evidence.

11) On December 6, 2022 Councilwoman Kowalski was wrongfully, illegally, and maliciously censured by the Hudson City Council.

12) Hudson City Council alleged that the Councilwoman Kowalski engaged in “1) improper activity regarding campaign finance legislation related to Ordinance Nos. 22-26 and 22-48; 2) improper requests for prosecution of a resident for alleged campaign finance violations; and 3) improper direction of legal counsel to secure an outside legal opinion.”

13) Such allegations were unsupported by facts and evidence and Councilwoman Kowalski was not permitted to present her own evidence or to respond in a meaningful way to the Censure at the December 6, 2022 meeting.

14) Hudson City Council failed to provide Councilwoman Kowalski with adequate advanced notice of the allegations or the purported evidence against her.

15) Hudson City Council failed to conduct a hearing on the allegations. Rather, Hudson City Council ambushed Councilwoman Kowalski without providing advanced notice of the intent to raise the issue of censure.

16) Hudson City Council did not give Councilwoman Kowalski the opportunity to be represented by or advised by an attorney.

17) Hudson City Council did not hear from or question witnesses regarding the proposed Censure.

18) Hudson City Council failed to notify Councilwoman Kowalski that she had the right to appeal its decision to Censure her.

19) Councilwoman Kowalski has the right and duty to ensure compliance with Hudson's local laws, including Hudson's campaign finance laws.

20) Councilwoman Kowalski has the right and duty to inquire about violations of Hudson's local laws, including Hudson's campaign finance laws.

21) The Censure was made in an effort to exert power not held by Hudson City Council.

22) The Censure was made solely to harass, damage, and put Councilwoman Kowalski's reputation in disrepute.

23) Councilwoman Kowalski's due process has been violated by Hudson City Council's wrongful issuance of the Censure.

COUNT II
(Writ of Mandamus)

24) This Court has jurisdiction to hear original actions in Mandamus pursuant to the Ohio Constitution, Article IV, Section 4(B), and pursuant to Ohio Revised Code 2731, *et seq.*, and Ohio Revised Code 149.43(C).

25) Councilwoman Kowalski is a resident of the City of Hudson, Ohio, situated in the County of Summit.

26) Hudson City Council is a public office within the meaning of R.C. 149.011(A).

27) Hudson City Council is comprised of public officials within the meaning of R.C. 149.011(D).

28) This matter arises with regard to certain public records requests made by Councilwoman Kowalski through undersigned counsel on December 12, 2022 (the "Public Records Requests"), which were made in accordance with R.C. 149, *et seq.* A true and accurate copy of the Public Records Requests are attached hereto as Exhibit B and are incorporated herein by reference.

29) During the City's regularly scheduled Council Meeting on December 6, 2022, Hudson City Council voted to waive privilege with respect to: a) alleged improper activity regarding campaign finance legislation related to Ordinance Nos. 22-26 and 22-48; b) alleged improper requests for prosecution of a resident for alleged campaign finance violations; and c) alleged improper direction of legal counsel to secure an outside legal opinion (the "Waived Topics").

30) Hudson City Council waived its privilege with respect to the Waived Topics.

31) During the December 6, 2022 City Council Meeting, Hudson City Council used documents and correspondence between the City and its attorneys pertaining to the Waived Topics to vote on the Censure of Councilwoman Kowalski.

32) During the December 6, 2022 City Council Meeting, Hudson City Councilmembers made specific statements relating to advice the City's legal counsel provided to the City with respect to the Waived Topics.

33) On December 12, 2022, Councilwoman Kowalski, through undersigned counsel, issued the Public Records Requests seeking “All Documents between Hudson City Council and its members and Walter Haverfield that relate to [the Waived Topics].”

34) The attorney-client privilege is not only waived as to the documents used during the December 6, 2022 City Council Meeting, but also to the entire remaining material which relates to the same subject matter. *Mid-American Natl. Bank & Trust Co. v. Cincinnati Ins. Co.*, 74 Ohio App.3d 481, 489, 599 N.E.2d 699, 704.

35) Despite having waived attorney-client privilege with respect to the Waived Topics, and despite using and referring to the sought documents during the December 6 Meeting, the City claims attorney-client privilege and refuses to produce unredacted responses to the Public Records Requests.

36) Despite having waived attorney-client privilege with respect to the Waived Topics, and despite using and referring to the sought documents during the December 6 Meeting, the City claims attorney-client privilege and refuses to produce responses that relate to the Waived Topics.

37) Mandamus is the appropriate remedy to compel compliance with R.C. 149.43, the Ohio Public Records Act.

38) Councilwoman Kowalski has a clear right to receive responses to the Public Record Requests, as they relate directly to Hudson City Council’s Censure of her, and Hudson City Council waived its attorney-client privilege with respect to the Waived Topics.

39) Hudson City Council has a legal duty to respond promptly and thoroughly to the Public Records Requests, since the Public Records Requests seek information that is no longer protected by the attorney-client privilege, and the Waived Topics were publicly discussed at the December 6, 2022 City Council Meeting.

40) Councilwoman Kowalski lacks an adequate remedy in the ordinary course of law absent production of responses to the Public Records Requests. Councilwoman Kowalski is entitled to unredacted responses of the Waived Topics to combat the Censure. Hudson City Council has refused to produce unredacted copies, or, alternatively, offered to produce unredacted versions so long as they do not enter public view.

41) Hudson City Council's waiver of attorney-client privilege relates in its entirety to the Waived Topics, and Hudson City Council cannot use attorney-client privilege as a sword to wrongfully censure Councilwoman Kowalski but assert it as a shield to prevent Councilwoman Kowalski from obtaining documents and correspondence to refute the Censure.

42) Councilwoman Kowalski is entitled to costs and reasonable attorneys fees in pursuing responses to the Public Records Requests.

WHEREFORE,

Councilwoman Kowalski respectfully requests that the Censure be nullified and vacated, and that the City of Hudson be ordered to provide Councilwoman Kowalski the rights and protections afforded by the United States and Ohio Constitutions and to abide by the limits of the Ohio Revised Code and the Hudson City Charter.

Councilwoman Kowalski respectfully requests that this Court issue a Writ of Mandamus to compel the production of unredacted public records.

Councilwoman Kowalski respectfully requests that the City of Hudson pay her reasonable attorneys fees and the costs of this appeal and any other remedy that this Court deems appropriate.

/s/ Hilary F. DeSaussure

BRENNAN, MANNA & DIAMOND, LLC

Matthew R. Duncan (#0076420)

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INSTRUCTIONS FOR SERVICE

Please serve a copy of the foregoing NOTICE OF APPEAL by Certified U.S. mail, return receipt requested, upon the City of Hudson at the address listed in the case caption of this NOTICE OF APPEAL.

/s/ Hilary F. DeSaussure _____
BRENNAN, MANNA & DIAMOND, LLC
Hilary F. DeSaussure (#0098989)



City of Hudson, Ohio

Meeting Minutes - Draft City Council

Jeffrey L. Anzevino, Mayor
Christopher W. Foster, President of Council (Ward 2)
Christopher A. Banweg, Council Member (At-Large)
Beth A. Bigham, Council Member (Ward 4)
Karen E. Heater, Council Member (At-Large)
Nicole V. Kowalski, Council Member (At-Large)
Katherine R. Schlademan, Council Member (Ward 1)
Skylar J. Sutton, Council Member (Ward 3)

Thomas J. Sheridan, City Manager
Marshal Pitchford, City Solicitor
R. Todd Hunt, Special Counsel
Aparna Wheeler, Clerk of Council

Tuesday, December 6, 2022

6:15 PM

Town Hall
27 East Main Street

Executive Session starting at 6:15 p.m.; Regular Meeting to follow at 7:30 p.m.

1. Call to Order

Mayor Anzevino called to order the meeting of Hudson City Council at 6:19 p.m., in accordance with the Sunshine Laws of the State of Ohio, O.R.C. Section 121.22.

Present: 6 - Mr. Banweg, Mr. Foster, Mrs. Heater, Mrs. Kowalski, Ms. Schlademan and Mr. Sutton

Absent: 1 - Mrs. Bigham

2. Executive Session

A motion was made by Mr. Foster, seconded by Mr. Banweg, to enter into executive session for the purpose of interviewing applicants for the Architectural & Historic Board of Review. The motion carried by the following vote:

Aye: 6 - Mr. Banweg, Mr. Foster, Mrs. Heater, Mrs. Kowalski, Ms. Schlademan and Mr. Sutton

Executive session adjourned at 7:23 p.m. Mrs. Bigham entered the meeting at 7:25 p.m.

3. Pledge of Allegiance to the Flag

4. Roll Call

Present: 7 - Mr. Banweg, Mrs. Bigham, Mr. Foster, Mrs. Heater, Mrs. Kowalski, Ms. Schlademan and Mr. Sutton

Staff in Attendance: Mr. Sheridan, City Manager; Mr. Pitchford, City Solicitor; Ms. Wheeler, Clerk of Council; Mr. Comeriato, Assistant City Manager - Operations; Mr. Hannan, Community Development Director; Mr. Knoblauch, Assistant City Manager - Financial/Special Projects; Mr. Kosco, City Engineer; Mr. Leiter, HCTV Production Assistant; and Mr. Stifler, Economic Development Director.

5. Approval of the Minutes

- A. [22-0103](#) **Minutes of Previous Council Meetings**
Brief Description: Draft minutes of previous meetings are provided for City Council's review and approval.
Attachments: [November 15, 2022 Meeting & Workshop Minutes - Draft](#)
[November 22, 2022 Workshop Minutes - DRAFT](#)

There being no changes, the minutes were approved as submitted.

6. Honorary Resolutions

- A. [22-155](#) **A RESOLUTION THANKING MR. JIM STIFLER FOR SIX YEARS OF SERVICE TO THE COMMUNITY.**
Brief Description: This Resolution provides recognition and thanks to Jim Stifler for his dedicated service as Chief Economic Officer.
Attachments: [Resolution No. 22-155](#)

The Mayor and Councilmembers acknowledged Mr. Stifler and his work with the City.

A motion was made by Mr. Banweg, seconded by Mrs. Kowalski, that Resolution No. 22-155 be adopted. The motion carried by the following vote:

Aye: 7 - Mr. Foster, Mrs. Heater, Mrs. Kowalski, Ms. Schlademan, Mr. Sutton, Mr. Banweg and Mrs. Bigham

7. Public Comments

Mr. John Liesen, 1649 Haymarket Way, and Mr. Clark Wonderland, 2075 Jesse Dr., spoke in support of the Military and Veterans' Commission.

8. Correspondence and Council Comments

Mr. Sutton thanked Hudson High School students for a presentation on what could be improved in the City and extended their thanks to Mr. Kosco and Mr. Sheridan for their time with the students.

Mrs. Kowalski also attended a service learning presentation and learned that many high schoolers hang out in either the Acme or high school parking lot, which she believes reinforces the need for a recreation center. Mrs. Kowalski also provided an Environmental Awareness Committee update and asked that Councilmembers e-mail the chair or the city manager with goals for 2023.

Mr. Banweg thanked the public speakers who spoke in support of the Military and Veterans Commission. He also encouraged everyone to see the light shows throughout the City.

Mr. Foster addressed the public speakers.

Mayor Anzevino recognized all the activities and events that occur in town during the holiday season and encouraged residents to visit the City's website to learn more.

9. Report of Manager

Mr. Sheridan stated that kindergartners filled two police cruisers for Toys for Tots.

Leaf season is finishing up and staff is getting snow plows ready for a possible storm.

There is a new clock in Council Chambers and Mr. Sheridan would like to add another to show Landsberg, Germany time, as well as send the same two clocks to Landsberg.

10. Discussion Items

A motion was made by Mr. Foster, seconded by Mrs. Bigham, to waive attorney-client privilege to the narrowest extent possible but necessary to take action on the following topics: 1.) improper activity regarding campaign finance legislation related to Ordinance Nos. 22-26 and 22-48; 2.) improper requests for prosecution of a resident for alleged campaign finance violations; and 3.) improper direction of legal counsel to secure an outside legal opinion.

Discussion followed about the privileged information and what can be discussed in a public meeting.

The motion carried by the following vote:

Aye: 5 - Mrs. Heater, Mr. Sutton, Mr. Banweg, Mrs. Bigham and Mr. Foster

Nay: 2 - Mrs. Kowalski and Ms. Schlademan

Mr. Foster provided background on the subsequent motion and why he was bringing it forward.

Mrs. Kowalski discussed her experience with Campaign Finance and her initiatives to bring forward amendments to the current Campaign Finance legislation.

Mayor Anzevino recessed the meeting to allow Councilmembers to review the distributed documents at 8:13 p.m. and reconvened the meeting at 8:29 p.m.

After the meeting reconvened, Mr. Foster discussed the timeline of activities related to the motion and explained what censure means. Further discussion followed on the material provided to Councilmembers and Mrs. Kowalski was given an opportunity to respond to the motion.

A motion was made by Mr. Foster, seconded by Mrs. Bigham, to censure Mrs. Kowalski for activity that represents wrongdoing by a public official, by not informing Council of her intent related to legislative activity, and misappropriation of funds for political purposes; and for attempting to bind Council as a body by trying to bring this prosecutorial item beyond the bounds of her authority as a Councilmember. The motion carried by the following vote:

Aye: 5 - Mr. Sutton, Mr. Banweg, Mrs. Bigham, Mr. Foster and Mrs. Heater

Nay: 1 - Ms. Schlademan

Excused: 1 - Mrs. Kowalski

11. Appointments

Mr. Foster appointed Mr. Banweg, Mrs. Bigham, and himself to the Ad Hoc Committee to evaluate City Solicitor applicants.

A motion was made by Mr. Foster, seconded by Mr. Sutton, to appoint Francoise Massardier-Kenney to the Architectural and Historic Board of Review for a partial term ending June 20, 2024. The motion carried by the following vote:

Aye: 7 - Mr. Sutton, Mr. Banweg, Mrs. Bigham, Mr. Foster, Mrs. Heater, Mrs. Kowalski and Ms. Schlademan

12. Suspension of the Rules for the Consent Agenda

A motion was made by Mr. Banweg, seconded by Mrs. Bigham, to suspend the rule requiring three readings. The motion carried by the following vote:

Aye: 7 - Mr. Sutton, Mr. Banweg, Mrs. Bigham, Mr. Foster, Mrs. Heater, Mrs. Kowalski and Ms. Schlademan

Approval of the Consent Agenda

A motion was made by Mrs. Heater, seconded by Mr. Banweg, to approve the Consent Agenda. The motion carried by the following vote:

Aye: 7 - Mr. Banweg, Mrs. Bigham, Mr. Foster, Mrs. Heater, Mrs. Kowalski, Ms. Schlademan and Mr. Sutton

- A. [22-0104](#) **A Motion to appoint Councilmembers Foster and Sutton to serve as Representatives to the Volunteer Fire Fighters' Dependents Fund Board for the 2023 Term.**

Brief Description: On an annual basis, City Council must appoint two of its members to serve on the Volunteer Fire Fighters' Dependents Fund Board (VFFDFB), and Councilmen Foster and Sutton have expressed interest in serving.

Motion No. 22-0104 passed on the Consent Agenda.

- B. [22-0105](#) **A Motion to Approve the Proposed 2023 City Council Meeting Schedule.**
Brief Description: A proposed meeting schedule for the new year has been prepared for Council's review and approval.

Attachments: [2023 Council Calendar Overview \(updated\)](#)
[Meetings Schedule 2023 \(updated\)](#)

Motion No. 22-0105 passed on the Consent Agenda.

- C. [22-156](#) **AN ORDINANCE AMENDING THE CITY'S PAY RANGE**

**STRUCTURE AND PAY RANGE ASSIGNMENTS SCHEDULE
ADOPTED BY ORDINANCE NO. 21-135.**

Brief Description: This Ordinance authorizes an annual salary adjustment for the City's non-bargaining unit employees. The pay bands provided in the Pay Range Structure chart attached to the Ordinance have each been adjusted by a factor of 1.02 over the 2022 Pay Range Structure figures. This Ordinance also amends the City's Pay Range Assignment Schedule.

Attachments: [2023 pay ranges - Non Union - Exhibit A](#)
[2023 Pay Range Assignment - Exhibit B](#)
[Ordinance No. 22-156](#)

Ordinance No. 22-156 was passed on the Consent Agenda.

- D. [22-157](#) **A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT FEDERAL FUNDS THROUGH THE MUNICIPAL BRIDGE PROGRAM FOR THE REPLACEMENT OF THE DILLMAN DRIVE BRIDGE; AND DECLARING AN EMERGENCY.**
- Brief Description:** The City applied for and was awarded federal funds through the Ohio Department of Transportation's Municipal Bridge Program for the replacement of the Dillman Drive Bridge. ODOT is requesting written acceptance of the awarded funds.
- Attachments:** [Dillman Drive Bridge Location](#)
[Resolution No. 22-157](#)

Resolution No. 22-157 was passed on the Consent Agenda.

- E. [22-158](#) **A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS FOR THE SALE AND PURCHASE OF REAL PROPERTY AND THE ACQUISITION OF TEMPORARY EASEMENTS FOR THE MIDDLETON AND STOW ROAD SIGNAL INSTALLATION PROJECT; AND DECLARING AN EMERGENCY.**
- Brief Description:** Due to the installation of the new traffic signal, permanent right-of-way acquisitions are required for the project.
- Attachments:** [Middleton-Stow Signal Acquisition Table](#)
[Middleton-Stow Signal Project Plan w Aerial](#)
[Resolution No. 22-158](#)

Resolution No. 22-158 passed on the Consent Agenda.

- F. [22-159](#) **A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS FOR THE SALE AND PURCHASE OF REAL PROPERTY FOR THE MIDDLETON AND STOW ROAD SIDEWALK PROJECT; AND DECLARING AN EMERGENCY.**
- Brief Description:** Due to the installation of the new sidewalk, permanent right-of-way acquisitions are required for the project.

Attachments: [Middleton-Stow Sidewalk Acq Table](#)
[Exhibit A - Middleton Stow Sidewalk Acquisitions Map](#)
[Resolution No. 22-159](#)

Resolution No. 22-159 passed on the Consent Agenda.

- G. [22-160](#) **A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDA TO LEASES FOR SPACE AT 1769 AND 1566 GEORGETOWN ROAD FOR USE BY THE PUBLIC WORKS DEPARTMENT THROUGH JANUARY 1, 2027; AND DECLARING AN EMERGENCY.**
Brief Description: The Department of Public Works currently leases space at 1769 and 1566 Georgetown Road, Hudson, OH for use as administrative office and operational space. The annual cost of these two leased spaces is \$269,654.34 currently. It is necessary to continue to lease these spaces to ensure the minimal office and operational space required to carry out the responsibilities and services of the Public Works Department.
Attachments: [Exhibit A - 1566 Georgetown Road- Lease Addendum 2023](#)
[Exhibit B - 1769 Georgetown Road Fleet Department- Lease Addendum 2023](#)
[Exhibit C - 1769 Georgetown Road Public Works- Lease Addendum 2023](#)
[Resolution No. 22-160](#)

Resolution No. 22-160 passed on the Consent Agenda.

- H. [22-161](#) **A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF HUDSON IN 2023 TO SELL BY INTERNET AUCTION PERSONAL PROPERTY, INCLUDING MOTOR VEHICLES AND OTHER PROPERTY REFERENCED IN REVISED CODE §721.15 WHICH ARE NO LONGER NEEDED FOR PUBLIC USE OR ARE OBSOLETE OR UNFIT FOR THE USE FOR WHICH THEY WERE ACQUIRED.**
Brief Description: Staff is requesting permission to use govdeals.com and other similar services to dispose of unneeded, obsolete, or unfit equipment. This is a required annual renewal of agreement for Govdeals online auction services.
Attachments: [Resolution No. 22-161](#)

Resolution No. 22-161 passed on the Consent Agenda.

- I. [22-162](#) **A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE EQUIPMENT, MATERIALS, SUPPLIES AND SERVICES FOR THE CITY'S PUBLIC UTILITY AND VELOCITY BROADBAND SERVICES OPERATIONS ON AN AS-NEEDED BASIS DURING THE YEAR 2023.**
Brief Description: This annual resolution requests permission allowing the Public Works Department to make purchases of equipment, materials,

supplies and services in the operational area of the municipal utilities and Velocity Broadband service operation that will exceed \$25,000 based on the 2023 approved budget.

Attachments: [HPP-Velocity Permission to Purchase \(Nov. 2022\).pdf](#)
[Resolution No. 22-162](#)

Resolution No. 22-162 passed on the Consent Agenda.

- J. [22-163](#) **A RESOLUTION AUTHORIZING THE CITY MANAGER, DURING THE YEAR 2023, TO ADVERTISE FOR BIDS OR TO UTILIZE THE VARIOUS CHARTER-AUTHORIZED GOVERNMENTAL COMPETITIVE PURCHASING PROGRAMS AND ENTER INTO CONTRACTS FOR CONSTRUCTION MATERIALS, SUPPLIES, SERVICES, AND EQUIPMENT.**

Brief Description: This Resolution would authorize the advertisement, receipt of bids and award of contracts for capital items, services, equipment, and materials and supplies for Public Works operations as included in the approved 2023 Annual Budget.

Attachments: [Permission to Bid Award \(Nov. 2022\).pdf](#)
[Resolution No. 22-163](#)

Resolution No. 22-163 passed on the Consent Agenda.

13. Legislation

- A. [22-146](#) **A RESOLUTION ACCEPTING THE CITY MANAGER'S RECOMMENDATION NOT TO IMPLEMENT THE GROWTH MANAGEMENT RESIDENTIAL DEVELOPMENT ALLOCATION SYSTEM DURING CALENDAR YEAR 2023.**

Brief Description: The City is not removing the Growth Management Allocation System; however, because of no appreciable population change, the system would not be implemented for 2023.

Attachments: [GMA Report memo to Council for YR2023](#)
[Growth Management - reference data](#)
[Public Hearing Notice \(11-15-22\)](#)
[Resolution No. 22-146](#)

A motion was made by Mr. Banweg, seconded by Mrs. Heater, that this Resolution be adopted on third reading. The motion carried by the following vote:

Aye: 7 - Mrs. Bigham, Mr. Foster, Mrs. Heater, Mrs. Kowalski, Ms. Schlademan, Mr. Sutton and Mr. Banweg

- B. [22-147](#) **AN ORDINANCE AMENDING SECTION 1040.01(A) AND (B) AND SECTION 1043.03(A)(3) AND (4) OF THE CODIFIED ORDINANCES, REVISING WATER RATES FOR THE CITY.**

Brief Description: This ordinance will amend the City’s water rates in accordance with the water rate study completed by CT Consultants. The Existed Service Area Rate and Expanded Service Area Rate will be blended into one rate. This blended rate will be increased 6% per year from 2023 through 2027 and 2% per year thereafter.

Attachments: [Public Hearing Notice \(11-15-22\)](#)
[Ordinance No. 22-147](#)

Mr. Banweg was excited to see this legislation come to fruition and is looking forward to seeing what comes out of the infrastructure ad hoc committee.

Mr. Sutton agreed and hoped that the unified water rates helps build out the infrastructure, as well as correcting the long-standing two-tiered water rate. Mr. Foster concurred.

A motion was made by Mr. Sutton, seconded by Mr. Banweg, that this Ordinance be adopted on third reading. The motion carried by the following vote:

Aye: 7 - Mr. Foster, Mrs. Heater, Mrs. Kowalski, Ms. Schlademan, Mr. Sutton, Mr. Banweg and Mrs. Bigham

- C. [22-148](#) **AN ORDINANCE AMENDING ORDINANCE NO. 22-53 AMENDING THE INTERCONNECTION POLICY FOR CONNECTION OF RESIDENTIAL AND/OR COMMERCIAL SOLAR POWER GENERATION SYSTEMS TO THE CITY OF HUDSON'S POWER GRID.**

Brief Description: Staff requests City Council approval to modify the language in Section 3 “City of Hudson Net Metering Rate Schedule” of the current interconnection policy to reflect industry standard language.

Attachments: [Exhibit A](#)
[Solar Interconnection Packet rev 7 Oct 2022](#)
[Ordinance No. 22-148](#)

A motion was made by Mr. Banweg, seconded by Mrs. Bigham, that this Ordinance be adopted on third reading. The motion carried by the following vote:

Aye: 7 - Mrs. Heater, Mrs. Kowalski, Ms. Schlademan, Mr. Sutton, Mr. Banweg, Mrs. Bigham and Mr. Foster

- D. [22-154](#) **AN ORDINANCE AMENDING SECTION 230.01 OF THE CODIFIED ORDINANCES SETTING FORTH THE MONTHLY FINANCIAL REPORT FROM THE CITY MANAGER.**

Brief Description: The ordinance will clarify the monthly finance reporting requirements as directed in the City code.

Attachments: [Ordinance No. 22-154](#)

Mayor Anzevino read the title of Ordinance No. 22-154, which constituted its second reading.

- E. [22-164](#) **AN ORDINANCE ESTABLISHING THE CITY OF HUDSON MILITARY AND VETERANS’ COMMISSION, ADDING A NEW CHAPTER 297 TO PART TWO - ADMINISTRATION CODE, TITLE**

EIGHT OF THE CODIFIED ORDINANCES OF THE CITY OF HUDSON.

Brief Description: The ordinance would establish the Hudson Military and Veterans' Commission, due to the significant United States Armed Forces population of veterans, active-duty members, reservist members, and young military families.

Attachments: [Ordinance No. 22-164](#)

Mayor Anzevino read the title of Ordinance No. 22-164, which constituted its first reading.

F. [22-165](#) **AN ORDINANCE RE-DESIGNATING THE TITLE "FINANCE DIRECTOR" IN ALL RELEVANT PORTIONS OF THE CODIFIED ORDINANCES.**

Brief Description: The legislation corrects discrepancies in the Codified Ordinances, where terms other than "Finance Director" are utilized.

Attachments: [Ordinance No. 22-165](#)

Mayor Anzevino read the title of Ordinance No. 22-165, which constituted its first reading.

14. Executive Session

A motion was made by Mr. Foster, seconded by Mr. Banweg, to enter into executive session with Council, the Mayor, and the City Manager, to discuss the employment of public employees. The motion carried by the following vote:

Aye: 6 - Mrs. Kowalski, Mr. Sutton, Mr. Banweg, Mrs. Bigham, Mr. Foster and Mrs. Heater

Nay: 1 - Ms. Schlademan

Executive session was adjourned at 9:28 p.m.

15. Adjournment

There being no further business, Mayor Anzevino adjourned the regular meeting at 9:28 p.m.

Jeffrey L. Anzevino, Mayor

Aparna Wheeler, Clerk of Council

Upon approval by City Council, this official written summary of the meeting minutes shall become a permanent

record, and the official minutes shall also consist of a permanent audio and video recording, excluding executive sessions, in accordance with Codified Ordinances, Section 220.03(d), Rules.

**Councilman Chris Foster**

December 7 at 4:27 PM · 🗨️

12/6/2022 Council Meeting

We started early to interview applicants for Architectural & Historic Board of Review and appointed, later in the evening, Francoise Kenny to the partial term ending in June of 2024. We had 3 other great applicants apply and I sincerely hope they come back as positions become available on AHBR or other boards.

Additionally, I created an Ad-Hoc committee to interview for a full time on staff solicitor. The committee consists of myself, Chris Banweg, and Beth Bigham.

Two residents came to speak in Public Comments in favor of the creation of a veterans committee.

Jim Stifler officially retires and was provided an Honorary Resolution thanking him for his years of service in Hudson as Chief Economic Officer.

<http://hudson.legistar.com/gateway.aspx?M=F&ID=7e9e2970-d76b-4c8f-bae2-ea8360c0af12.pdf>

Big item during discussion required lifting attorney-client privilege to the narrowest extent possible but to take action on (1) improper activity regarding campaign finance legislation related to Ord. 22-26 and 22-48; (2) improper requests for prosecution of a resident for alleged campaign finance violations; and, (3) the improper direction of legal counsel to secure an outside legal opinion.

Lifting this privilege simply means council could openly discuss some items that were in e-mail exchanges related to creation and research, along with action, regarding these campaign finance ordinances. There is no way to discuss these issues in executive session as sunshine laws do not provide a mechanism to enter executive session to discuss improper action.

The vote was taken 5-2 (Kowalski, Schlademman). I provided council with a set of documents showing e-mail exchanges between Ms Kowalski and several individuals. Mostly solicitors, special council, and prosecutors. Without going into extended detail, and this section of our meeting took nearly an hour, I request a motion to censure Ms Kowalski for activity that both represents wrongdoing by a public official, by not fully informing council of her intent related to legislative activity and misappropriation of funds for political purposes, and for attempting to bind council as a body by trying to bring this prosecutorial item beyond the bounds of her authority as a councilmember. In this motion I would urge Ms Kowalski to become more transparent with council and act as a member of this body rather than acting as an individual authority to do with city resources as she pleases.

The evidence showed that Ms Kowalski, without the knowledge of council, simultaneously pursued campaign finance reform legislation and discussions about potential prosecution of a resident for a violation. Two attempts at legislation failed, three legal opinions were drafted. And dozens of contacts and thousands of dollars were spent in this vein. There are references to involve the county prosecutor as well, which is a clear violation of office. This cannot be done by one member of council (Section 3.12, Council and its members shall deal solely through the city manager in respect to any part of the administrative service, or the daily operations thereof, for which the city manager is responsible). The body of council had never been informed of this, and the spending continued. Even after being told the statute of limitations had been exceeded and it could not be prosecuted, was a further inquiry made into who the other independent prosecutor was that may have written an opinion and passed on prosecution.

In the end a censure is a motion of displeasure by council. Nothing more. We should have known about the legislative ties to prosecution. We should have been made aware of the time this took from various legal advisors with limited time. We often hear "we didn't hear back from the solicitor within a reasonable time". Well, now we know what they spent a lot of time on. Directing staff to involve outside resources, in particular a county prosecutor, is not within the authority of any single member. It boils down to one persons mission without council consent. I sincerely hope we can focus on those things that assist our residents and the infrastructure we all want and need, rather than utilizing resources to attempt prosecution of a resident or build legislation that council is clearly not interested in hearing. The motion passed 5-1 (Schlademman). Lets move on.

Consent agenda

Most items were easy. Just a summary- Skylar and I will remain the Volunteer Fire Fighters' Dependent Fund Board representatives.

We approved our council meeting schedule for next year with a couple breaks for spring break, summer and around the holidays. We will still have a retreat in January as well.

Calendar here: <http://hudson.legistar.com/gateway.aspx?M=F&ID=8fd264fe-5aa9-48da-bcb9-ae25953eb3f9.pdf>

Pay Range Structures and titles were updated as they are each year. Staff receive a 2% COLA, which matches the Union agreed COLA's negotiated a couple years ago.

The city is accepting federal funds through the municipal bridge program for the replacement of the Dillman Drive Bridge. Location: <http://hudson.legistar.com/gateway.aspx?M=F&ID=c0ccf9bd-e2a4-4ef7-8b06-afb200b2407d.pdf>

We authorized the purchase of a few easements related to the Middleton and Stow rd signal installation. Aerial plan of signal: <http://hudson.legistar.com/gateway.aspx?M=F&ID=4e45e419-5ba0-432f-964b-ae91ecb84db.pdf>

We extended leases for Public Works at 1769 and 1566 Georgetown road through Jan of 2027. Council has agreed to build a new public works building but we have run into a few problems with "where". We think we have the spot nailed down and are doing some additional wetland delineation to make sure it works for the project. It's a long term build. Well worth doing once you look at the 10yr+ financial perspective. The lease to 2027 should get us to where they could move into a newly built home (we hope).

Internet auctions to sell city items that the city no longer needs, and supplies for VBB and HPP and other utilities were provided for as well. Finally, we authorized staff to bid a number of charter-authorized governmental purchasing programs for construction material and supplies and services for 2023.

Legislative Agenda

22-146 We accepted the city managers recommendation to not implement the growth management program in 2023, restricting residential builds. The amount scheduled is reasonable as you will see in the following link: <http://hudson.legistar.com/gateway.aspx?M=F&ID=78198ab2-5623-457d-bb68-8d52c60e635c.pdf>

22-147 An ordinance amending the water plan rates for the city passed. This eliminates the 2 rate structures in the city and establishes a single rate structure for all, and sets rate increases annually at a level rate to deal with inflation over time.

<http://hudson.legistar.com/gateway.aspx?M=F&ID=25dff637-c0cc-4ece-b1aa-080021aab68b.pdf>

22-148 Modified language related to solar Net Metering Rate Schedule.

<http://hudson.legistar.com/gateway.aspx?M=F&ID=f7442e41-6d40-4621-b133-64e7b83d2d61.pdf>

The above 3 were all 3rd readings and passed 7-0.

On second readings were a textual change clarifying the monthly report from our city manager.

And on first reading, the creation of a Veterans Commission: <http://hudson.legistar.com/gateway.aspx?M=F&ID=b2d6e68f-d51b-4126-b6cb-b4f6b4242a7c.pdf>

That's it. Questions or concerns, let me know.





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December 12, 2022

VIA ELECTRONIC MAIL & CERTIFIED MAIL

Hudson City Council
Attn: Jody Roberts
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Hudson City Council
C/O Marshal Pitchford
C/O Todd Hunt
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To whom it may concern:

This office represents Councilwoman Nicole Kowalski with regard to Hudson City Council's censure of her, which occurred on December 6, 2022. Pursuant to the Ohio Public Records Act, Section 149.43 of the Ohio Revised Code, I am requesting that you promptly produce the records identified below. All records shall be produced in accordance with controlling law in the manner in which they are maintained. Any documents that are withheld from production under claim of privilege or otherwise shall be specifically identified in a privilege log by noting the author, date, recipients, general subject matter, and the legal basis for non-disclosure. I reserve the right to request additional information to determine whether any records withheld from production are privileged or otherwise exempt from disclosure. In the event court action to compel disclosure of the requested records is necessary, reimbursement of all legal fees and related expenses under the Public Records Act and controlling law will be sought.

Pursuant to the Ohio Public Records Act please produce the following records, documents, and communications that include, but are not limited to, text messages, emails, audio recordings, social media communications (including, but not limited to, Facebook Messenger), app-based communications (including, but not limited to, WhatsApp), written memoranda, etc. "Records",





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“documents”, and “communications” shall be given the broadest definition as allowable by controlling law (hereinafter referred to as “Documents”).

1. All Documents between Hudson City Council and its members and Walter Haverfield that relate to campaign finance legislation activity related to Ord. 22-26 and 22-48.
2. All Documents between Hudson City Council and its members and Walter Haverfield that relate to Walter Haverfield’s constitutional investigation and analysis of Ord. 22-26 and Ord. 22-48.
3. All Documents between Chris Foster, Chris Banweg, Beth Bigham, Karen Heater, and Skylar Sutton that reference Nicole Kowalski made between January 1, 2022 to the present.

Please promptly provide me with copies of the requested documents. If able to be transmitted electronically, please forward electronically by one or more mail attachments, or via electronic drop box serve, to hfdessaussure@bmdllc.com and mrduncan@bmdllc.com. If some records become available sooner than others, please deliver them as they become ready rather than waiting for all records to become available.

I look forward to your anticipated cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Hilary F. DeSaussure", with a long horizontal flourish extending to the right.

Hilary F. DeSaussure

Cc: Matthew R. Duncan