



Date: May 22, 2018

To: Mayor and Members of the City Council

From: Councilmember Al Austin II, Eighth District *al*
Councilmember Suzie Price, Third District *SP*
Councilmember Daryl Supernaw, Fourth District *DS*
Councilmember Dee Andrews, Sixth District *DA*

Subject: Recommendation to Vote to Censure Councilmember Pearce

RECOMMENDED ACTION:

Recommend the City Council vote to censure Councilmember Jeannine Pearce for her conduct as a member of the City Council that has reflected poorly on the City of Long Beach and raises questions of potential sexual harassment, conflict of interest and failure to adhere to the City's Code of Ethics.

BACKGROUND:

Information that has been publicly released resulting from a Long Beach Police Department investigation regarding Councilmember Jeannine Pearce raises serious concerns about her actions as a Councilmember.

The investigation stems from an incident on June 3, 2017 involving Councilmember Pearce and her former Chief of Staff, Devin Cotter.

Members of the City Council refrained from commenting on the matter while the criminal investigation was ongoing into allegations of domestic battery and driving under the influence against Councilmember Pearce.

While that portion of the investigation has concluded with no criminal charges being brought against Councilmember Pearce, the information that has been revealed raises questions of potential sexual harassment, conflict of interest and failure to adhere to the City's Code of Ethics.

According to Long Beach Police Department reports that were made public, both Councilmember Pearce and her former chief of staff made statements to the police that they had been dating for approximately 3 years, and some of the statements indicate that the relationship continued up until about three months prior to the June 3 incident.

Councilmember Pearce hired Mr. Cotter as her chief of staff in July 2016, which indicates that she hired him at the time that she was in an admitted dating relationship, and that dating relationship between a supervisor (Councilmember Pearce) and subordinate employee (Mr. Cotter) continued throughout the duration of his employment.

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The City of Long Beach's policy on unlawful harassment complaints defines sexual harassment in part (Policy 2.2, II, B), as follows:

"...When an employment decision...is based on whether an employee... submitted or refused to submit to some form of sexual conduct, is considered sexual harassment.

"The following are three criteria, which shall be utilized as guidelines for determining whether or not certain conduct constitutes unlawful sexual harassment:

- Submission to the conduct is made either as an explicit or implicit condition of employment; or,
- Submission to or rejection of such conduct is the basis for employment decisions affecting an individual, such as, continued employment or decisions affecting pay, benefits, and/or advancement opportunities, or other terms and conditions of employment; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

The action by Councilmember Pearce to hire an employee with whom she was in an active relationship with, exposed the City to significant risk for potential sexual harassment and conflict of interest.

According to press reports, the City Attorney's office had to negotiate an agreement with Mr. Cotter for his termination of employment in December 2016, which included paid leave.

According to the Police Department, an investigation by the Los Angeles County District Attorney's Public Integrity Division is ongoing regarding "alleged inappropriate behavior and conflicts of interest."

In addition, the actions by Councilmember Pearce on June 3, 2017, in which she identified herself as a Councilmember, put the integrity of the Long Beach Police Department at risk, after several public allegations of preferential treatment were made.

In response, the Police Department conducted an Internal Affairs investigation which required more than 300 hours of work, including interviews and a review of documents, reports, computer data, recordings and other relevant data. The investigation concluded that the allegations of misconduct against the Long Beach Police Department were unfounded.

While that portion of the investigation has concluded with no criminal charges being brought against Councilmember Pearce, the information that has been revealed raises questions of her veracity, potential sexual harassment, conflict of interest and failure to adhere to the City's Code of Ethics.

Most recently, the California Attorney General has been asked to review the inappropriate use of public resources by Councilmember Pearce's office for political campaign business that was sent from a City email on April 30, 2018.

The Long Beach Municipal Code requires all Councilmembers, City employees, officers and

commissioners to agree to a Code of Ethics. This Code of Ethics includes a pledge to “make every effort to avoid a conflict of interest” and “to exercise prudence and good judgment at all times.”

Given the information that has been made publicly available to this City Council, the actions by Councilmember Pearce did not adhere to the City’s Code of Ethics.

Censure is a disciplinary procedure under Robert’s Rules of Order, naming a particular member of the legislative body as an offender. The Long Beach Municipal Code states that the rules of parliamentary practice contained in "Robert's Rules of Order" shall govern the Council where applicable and not otherwise inconsistent with any provision of this Code.

The last time the Long Beach City Council censured a colleague was in 1993, when the Council voted unanimously to censure a councilmember for “highly inflammatory and prejudicial” statements he made in a public forum.

This is not a tool that should be used recklessly, and it is not a step that we take lightly in invoking it now.

We request that the City Council vote to censure Councilmember Jeannine Pearce for her conduct as a member of the City Council that has reflected poorly on the City of Long Beach and raises questions of potential sexual harassment, conflict of interest and failure to adhere to the City’s Code of Ethics.

FISCAL IMPACT: There is no fiscal impact with this recommendation.



City of Long Beach Memorandum
Working Together to Serve

REQUEST TO ADD AGENDA ITEM

Date: May 18, 2018

To: Monique De La Garza, City Clerk

From: Councilmember Al Austin, Eighth District
Councilmember Suzie Price, Third District
Councilmember Daryl Supernaw, Fourth District

Subject: Request to Add Agenda Item to Council Agenda of May 22, 2018

Pursuant to Municipal Code Section 2.03.070 [B], the City Councilmembers signing below request that the attached agenda item (due in the City Clerk Department by Friday, 12:00 Noon) be placed on the City Council agenda under New Business via the supplemental agenda.

The agenda title/recommendation for this item reads as follows:

Recommend the City Council vote to censure Councilmember Jeannine Pearce for her conduct as a member of the City Council that has reflected poorly on the City of Long Beach and raises questions of potential sexual harassment, conflict of interest and failure to adhere to the City's Code of Ethics.

Council District	Authorizing Councilmember	Signed by
8	Al Austin	<i>[Signature]</i>
3	Suzie Price	<i>[Signature]</i>
4	Daryl Supernaw	<i>[Signature] for Daryl Super</i>

Attachment: Staff Report dated May 22, 2018