

MATTMILLER CROSBIE

CITY OF BARDSTOWN
CITY COUNCIL

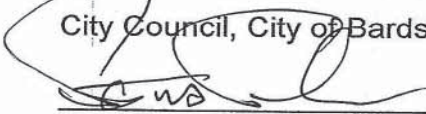
INVESTIGATION

FINAL REPORT
March 28, 2017



MATTMILLER CROSBIE
ATTORNEYS AT LAW

Scott A. Crosbie
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To: City Council, City of Bardstown, Kentucky
From: 
Scott A. Crosbie
MATTMILLER CROSBIE, PLLC
Date: March 28, 2017
Re: Investigative Report

We have completed our investigation the City Council of the City of Bardstown, Kentucky. This report resulted in ten (10) significant factual finding and offers potential actions which the City Council. The findings, summarized below, identify serious concerns regarding the conduct of Mayor John Royalty. Due to the nature of certain findings outlined within this report, the City Council may decide to pursue certain actions.

Questions regarding this investigative report should be directed to Scott. A. Crosbie.

INTRODUCTION

Prior to the City Council's scheduled Work Session on November 1, 2016, a stack of envelopes or "packets" mysteriously appeared outside the City Council Chambers. The envelopes were initially gathered from the exterior stairwell by Larry Green and returned to City Hall before the start of the meeting. At least one envelope was opened and some contents reviewed. Clerk Barbara Bryant, Kathy Graham and Larry Green were present when the packet was opened.

Each envelope was addressed to a specific member of the council and included one for the mayor and two for the new media. Each contained copies of public records dating back as far as 1996 primarily targeting Councilmember Keisha Copeland. One record involved a 1996 unemployment insurance claim connected to Councilmember Francis Lydian's business. The rest of the packet contained many documents regarding

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Councilmember Copeland, including fire department records and court records—traffic tickets, small claims and similar offenses. All records were personal documents and unrelated to any pending City business. The City Council elections were scheduled for November 8, 2017 and the public disclosure of information perceived damaging to the Councilmembers could affect the election outcome.

After reviewing the envelope's content, a decision was made to return the packets to the City Council Chambers. Clerk Bryant distributed the packets to the Councilmembers, Mayor Royalty and the news media. As the packets were opened and examined, the circumstances surrounding the packets were troubling to many Councilmembers.

Coinciding with the delivery of the packets, Interim Police Chief McKenzie Mattingly appeared at the meeting in the capacity of a "private citizen". The Mayor commenced the meeting by allowing Mattingly to make a public statement. His statement related to the City's response to his Open Records Request seeking documents and information about Councilmember Copeland's assigned City iPad. In his comments to the City Council, Cpt. Mattingly suggested the City's response likely indicated improper or unethical conduct in Councilmember Copeland's use of the iPad. Following Mattingly's presentation, Mayor Royalty made similar, public statements regarding the packets and Councilmember Copeland's iPad use.

Based upon these events, the City Council decided to investigate the circumstances further. Under the authority provided under KRS 83A.130 (13), the Council approved the hiring of an outside investigator. The purpose for the investigation was to determine whether any City officials or employees were involved with the collection of documents and delivery of the packets. And, if so, whether the conduct violated any City policies or laws.

SUMMARY OF INVESTIGATION FINDINGS

The three-month investigation confirmed evidence of these facts:

1) Mayor John Royalty had actual knowledge and personal involvement in the research, collection and distribution of the records in the packets.

a. On separate occasions, Mayor Royalty ordered Cpt. Todd Spalding to print copies of the fire incident reports associated with Councilmember Keisha Copeland. Cpt. Todd Spalding gave the reports to Mayor Royalty in 2015 and on September 27, 2016—the same date on the reports contained inside the packets.

b. Approximately two weeks prior to the delivery of the packets, Mayor Royalty forwarded the website link to the internet blog article critical of Councilmember Copeland to his Office Assistant, Kathy Graham, and Councilman Bill Buckman.

- 2) Mayor John Royalty ordered a City employee to lie to the City Council so he could obtain their iPads under false pretenses and gain unauthorized access to their personal email accounts.
- 3) Mayor John Royalty ordered a City employee to access the personal email account of Councilmember Keisha Copeland, without her consent and upon false pretenses.
- 4) Mayor John Royalty directed the City employee to obtain access to Councilmember Copeland's personal email account despite knowing and ignoring the City employee's reservations about the legality and/or appropriateness of the action.
- 5) Mayor John Royalty improperly used City personnel and equipment to access, review and obtain copies of private email communications of Councilmember Keisha Copeland dating to 2013 and before she was an elected City official.
- 6) Mayor John Royalty disseminated the private email communications to a third party in violation of Councilmember Copeland's privacy intending to injure her reputation and affect the outcome of the City Council elections.
- 7) Mayor John Royalty, in concert with Police Captain McKenzie Mattingly and possibly others, devised a plan, requiring the use of City personnel, resources and equipment, to retaliate against Councilmember Copeland.
- 8) Mayor John Royalty abused his official authority and influence with the intent and purpose of interfering with or affecting the result of the City Council elections.
- 9) Mayor John Royalty, under oath and subject to perjury, provided false and deceptive testimony during a December 12, 2016 deposition about his prior knowledge and involvement with records distributed to City Council at the November 1, 2016 Work Session and the appearance by McKenzie Mattingly at this public meeting.
- 10) Mayor John Royalty, after the City Council authorized the investigation, accessed and/or obtained, private email communications sent by third-parties to Councilmember Copeland's City email account.

PROCEDURAL HISTORY

- o The City Council approved a motion¹ filed by Councilmember Fred Hagan at the City Council's November 22, 2016 meeting. The City Council authorized this investigation per the authority provided in KRS 83A.130 (13).
- o On December ____, 2016, City Attorney, Tim Butler, issued a Request for Proposals² to retain legal and investigation services by law firms.

¹ Councilmember Hagan's written motion filed with Clerk Bryant on November 15, 2016 (Exhibit 1).

² Request for Proposal issued by City Attorney (Exhibit 2).

- On January 3, 2017, the City Council approved the recommendation to hire Mattmiller Crosbie, PLLC, to conduct this investigation.
- On or about January 4, 2017, a legal services agreement was executed by Councilmember John Kelley, on behalf of the City Council. Under the scope of services, Mattmiller Crosbie agreed to investigate, evaluate and provide legal advice related to certain events, potentially improper, relating to the conduct of government employees and elected officials.
- On January 24, 2017, the City Council approved expanding the investigation's scope into other areas identified during the investigation.
- On or about January 25, 2017, Councilmember Kelley executed an amended legal services agreement expanding the scope of services.

INVESTIGATIVE PROCESS

This investigation was authorized under KRS 83A.130 which provides:

The council shall have the right to investigate all activities of city government. The council may require any city officer or employee to prepare and submit to it sworn statements regarding his performance of his official duties. Any statement required by the council to be submitted or any investigation undertaken by the council, if any office, department or agency under the jurisdiction of the mayor is involved shall not be submitted or undertaken unless and until council's action is given to the mayor. The mayor shall have the right to review any statement before submission to the council and to appear personally or through his designee on behalf of any department, office or agency in the course of any investigation.

Mattmiller Crosbie retained the investigative expertise of retired FBI agents, Carl Christiansen and Clay Mason, to assist the firm obtain evidence. All voluntary witness interviews relied upon in this report were conducted by Mr. Christiansen and Mr. Mason. Both were present during the interviews. Mattmiller Crosbie obtained public records through numerous Open Records Requests filed with the City and other government agencies. Other evidence, including documents, were obtained by voluntary disclosure by third-parties and witnesses. No sworn statements were obtained by investigators.

A. Witness Interviews

These individuals were interviewed by Mr. Christiansen and Mr. Mason during the investigation. All individuals attended and participated in the interviews voluntarily:

Councilmember Keisha Copeland
 Councilmember Dick Heaton
 Councilmember John Kelley
 Councilmember Bill Sheckles
 Councilmember Roland Williams
 Former Councilmember Fred Hagan

Brandon Brewer, IT Supervisor, City of Bardstown
Cpt. Todd Spalding, Fire Department, City of Bardstown
Traci Hudson, City of Bardstown, CFO
Linda Gray, Peercy & Gray, PSC, External City Auditor
Greg Ashworth, City of Bardstown, Risk Manager
Mike Abell, former, City of Bardstown, CFO
Marlin Howard, former Fire Chief, City of Bardstown
Chief Randy Walker, City of Bardstown, Fire Department
Rick McCubbin, former Police Chief, City of Bardstown
Kathy Graham, former Assistant to Mayor, City of Bardstown
Greg Woodson, friend and acquaintance of Cpt. Todd Spalding
K.A., Nelson County business person
Other confidential, background sources

These individuals declined requests for voluntary interviews unless provided with investigator's questions in advance:

John Royalty, Mayor, City of Bardstown³
Barbara Bryant, City Clerk, City of Bardstown⁴
McKenzie Mattingly, Captain, City of Bardstown Police Department⁵

The following individual agreed to meet with investigators, but declined to answer investigators' questions⁶:

Larry Green, HR Director/CAO, City of Bardstown

B. Open Records Requests

Mattmiller Crosbie submitted multiple requests for City records, including electronic communications between City employees and elected officials, under the Kentucky Open Records Act⁷. In response to the requests, the City provided Mattmiller Crosbie approximately 5000 pages of documents. The firm made follow-up efforts to obtain City records not provided or inaccessible in the format provided, but were unsuccessful. After consultation with the client, a decision was made not to formally appeal the City's responses.

³ Communications exchanged with Mayor Royalty and/or his legal counsel, Hon. Jason Floyd, regarding his voluntary participation in the investigation and interview (Exhibit 3).

⁴ Communications exchanged with Clerk Barbara Bryant regarding her voluntary participation in the investigation and interview (Exhibit 4).

⁵ Communications exchanged with McKenzie Mattingly regarding his voluntary participation in the investigation and interview (Exhibit 5).

⁶ At the scheduled interview with investigators, Larry Green recited KRS 83A.130 (13) pertaining to sworn statements and investigations authorized by council. Investigators advised Mr. Green he was not being asked to provide a sworn statement. He declined to be interviewed further. He stated he would cooperate with investigators if he received a request for a sworn statement.

⁷ Open Records Requests submitted to City by Mattmiller Crosbie identifying records and documents for review (Exhibit 6).

Mattmiller Crosbie also submitted requests to other public agencies, including, the Kentucky Administrative Office of the Courts ("AOC").

FACTUAL BACKGROUND

Events and Circumstances Leading Up November 1, 2016 City Council Meeting

This report first summarizes the tumultuous relationship between Mayor Royalty and the City Council beginning soon after he assumed his official duties as Bardstown's Mayor. The background provides context when examining the events and circumstances which culminated with the delivery of the anonymous packets and appearance of Interim Chief Mattingly at the November 1, 2016 City Council meeting.

Restructuring, Resignation of Police Chief and Termination of Police Officers

When Mayor Royalty unilaterally restructured the Police Department in April 2016 and demote two officers on the command staff without consulting current Chief Rick McCubbin, the action created significant controversy within the community and on City Council. McCubbin received the news while off-work, recovering from surgery. Councilwoman Copeland spoke to media outlets describing Mayor Royalty's decision as a "repulsive, irresponsible and calculated decision."

Shortly after the announcement of Mayor Royalty's restructuring, Rick McCubbin retired. Mayor Royalty named Cpt. McKenzie Mattingly as Interim Police Chief. The decision was met with further criticism due to Mattingly's history. While working as a Louisville Metro police officer, he was charged, but acquitted of murder when he shot a man during an undercover sting operation.

During an April 27, 2016 Council meeting, dozens of local residents attended. A group of citizens had organized and gathered 300 names on a petition to push for an immediate investigation regarding the decision to restructure the Police Department. Other residents were upset about Mayor Royalty's proposed changes to the 911 dispatch center costing local jobs. At the meeting, Councilmember Copeland proposed bringing in an outside party to investigate. In her public comments, Councilmember Copeland pushed a motion to investigate misconduct by the Mayor. Councilmember Fred Hagan was not ready yet to move forward. However, Councilmember Hagan notified Clerk Bryant following the meeting and asked her to add a Council investigation for discussion on the next meeting agenda.

The Mayor continued to publicly defend his decisions and the controversy continued. Councilmember Copeland continued to voice opposition and many perceived her as the leading the charge for an investigation. Often, Councilmember Copeland's constituents critical of Mayor Royalty would post on her Facebook social media site. Clerk Bryant reviewed Councilmember Copeland's social media posts on May 5, 2016⁸ and contacted

⁸ Facebook Search Results of Councilmember Keisha Copeland dated May 5, 2016 (Exhibit 7).

a third-party vendor to determine whether the posts were subject to Open Records.⁹ A directive soon followed directing Councilmember Copeland not to delete the content of her Facebook account.¹⁰

Racial Divisions and Animosity

Councilmember Copeland told investigators her relationship with Mayor Royalty soured significantly following the 2015 MLK event. Mayor Royalty failed to attend as was customary and expected at this symbolic, annual event. His explanation for his absence appeared to diminish the importance for the event. She requested a face-to-face meeting to discuss the missed function and to clear the air on other issues. She recalled asking him about attending City project sites with him. He responded with a racially-charged anecdote which Councilmember considered offensive. Councilmember Copeland was troubled by the interaction.

Other African-American Councilmembers expressed similar experiences. Councilman Sheckles shared his perceptions about Mayor Royalty's interactions with minority Councilmembers. He described Mayor Royalty as vindictive. By example, Councilmember Sheckles told investigators how Mayor Royalty discovered a decade-old lien owed by Sheckles. The lien was \$77.00. Mayor Royalty sent a copy of the document to a local reporter.

Other witnesses shared their observations about racial bias. Former Fire Chief Marlin Howard told investigators he has heard Mayor Royalty speak in a derogatory way about African-Americans including use of the "N" word. He stated Mayor Royalty had nicknames he commonly-used when referring to the African-American Councilmembers: "Keke" for Kecia Copeland, "Lele" for Francis Lydian and "Roro" for Roland Williams.

In December 2016 deposition, Mayor Royalty testified about the different factions on the City Council. He categorized the Council as the "blacks" and the "whites".

Former CFO Mike Abell stated Mayor Royalty had issues with Kecia Copeland when she was running for office and ever since. He described general animosity and Mayor Royalty's behavior vindictive. He used one incident as an example. He recalled Mayor Royalty going to the utility billing office to obtain a list of accounts with late payments. He discovered Councilmember Copeland's name on the list as owing a small amount. Mayor Royalty ordered Councilmember Copeland's utilities immediately shut-off. Later that same day, billing staff discovered Copeland made her payment the prior evening. Her payment envelope had been deposited in the night deposit box, but after the box had been emptied early in the morning.¹¹ Councilmember Copeland's account was the only one ordered by Mayor Royalty for immediate termination.

⁹ Email exchanges to/from third-party vendor and Clerk Bryant dated May 5 2016 regarding Facebook accounts (Exhibit 8).

¹⁰ Email from Clerk Bryant to Councilmember Copeland on May 5, 2016 stating she was required not to delete any of the Facebook content on her social media account (Exhibit 9).

¹¹ Email correspondence to and from Mike Abell and Mayor Royalty (Exhibit 10).

Controversies Continue at Police Department

As the summer progressed, local news media paid close attention to the problems at the Police Department and other areas of Bardstown City Hall. Many issues receiving closer discernment by reporters were due to the public questions and criticisms during City Council meetings. Most of these were coming from Councilmember Copeland.

The Kentucky Standard and Nelson County Gazette filed numerous Open Records Requests^{12 13 14} with Clerk Bryant in the months leading to the November 8, 2016 City Council elections. City officials sought to delay or avoid complete disclosures^{15 16 17} of information. When information was provided, news reporters viewed the City responses as inadequate. In one instance, Forrest Berkshire, Editor of the Kentucky Standard, filed an appeal to the Kentucky Attorney General's Office to obtain police department records.¹⁸

Councilmember Copeland continued to press forward challenging the decisions and leadership over the Police Department. When she did not view the Mayor as forthcoming, she sought records and information through Open Records Requests.^{19 20} Mayor Royalty and Interim Chief Mattingly were frustrated with the spotlight on the activities of the Police Department coming from the City Council and news media. Even though he was serving as Interim Police Chief and the voice of the Department, Mattingly refused an offer for a meeting intended to improve police-media relations.²¹

Trailergate

On September 19, 2016, a Bardstown citizen identified Interim Chief McKenzie Mattingly operating city vehicle pulling the utility trailer the citizen had reported stolen. Mattingly

¹² Open Records Request filed by Forrest Berkshire, Kentucky Standard, on September 2, 2016 seeking copies of police reports (Exhibit 11).

¹³ Email exchanges between Forrest Berkshire, Kentucky Standard, and Clerk Bryant on September 7-8, 2016 regarding production of records (Exhibit 12).

¹⁴ Email exchanges between Clerk Bryant and McKenzie Mattingly on August 30, 2016 about responding to Open Records Request filed by Randy Patrick, The Kentucky Standard (Exhibit 13).

¹⁵ Email from Cpt. Mattingly to Mayor Royalty, Clerk Bryant, et. al on September 6, 2016 regarding The Kentucky Standard's Open Records Requests (Exhibit 14).

¹⁶ Email exchanges between Cpt. Mattingly and Clerk Bryant from July 28-29, 2016 regarding Open Records Requests submitted by The Kentucky Standard and Nelson County Gazette for body camera videos (Exhibit 15).

¹⁷ Email exchanges between Cpt. Mattingly and Clerk Bryant on August 8-9, 2016 regarding Open Records Requests (Exhibit 16).

¹⁸ Letter from City Attorney, Tim Butler, dated September 29, 2016 responding to September 22, 2016 Open Records Act appeal filed by Forrest Berkshire relating to disclosure of police records (Exhibit 17).

¹⁹ Email exchanges between Councilmember Copeland and Clerk Bryant on September 16, 2016 regarding Police Department records (Exhibit 18).

²⁰ Open Records Request submitted by Councilmember Copeland on October 14, 2016 seeking a copy of the Police Department's Take-Home Vehicle Policy (Exhibit 19).

²¹ Email communications to/ from Kathy Graham and McKenzie Mattingly on August 25, 2017 (Exhibit 20).

was using the stolen utility trailer for his personal use.²² The incident caused a public outcry. Facing pressure from the Bardstown community, media²³ and councilmembers, specifically Councilwoman Copeland²⁴, Mattingly issued a written statement²⁵, returned the property to its owner, and issued an apology.²⁶ Royalty verbally reprimanded Mattingly on a morning radio show, advising that “he should have known better,” and directed him to develop department policies and procedures for handling found and recovered property²⁷

With the issue still simmering, Mayor Royalty notified the City Council by email on October 19, 2016 of his decision about Mattingly’s discipline.²⁸ The emailed followed a City Council meeting where Councilmember Copeland confronted Mayor Royalty about Mattingly not receiving more severe punishment. Mayor Royalty had stated Mattingly received a verbal reprimand and the issue was resolved. Mayor Royalty would not entertain further discussion of the incident. Upon receipt of the Mayor’s email, Councilmember Copeland responded. In repeating her earlier comments, Councilmember Copeland stated she believed a full investigation was appropriate and a suspension of Interim Chief Mattingly should be considered. No follow-up response was sent by Mayor Royalty, but he did privately forward Councilmember Copeland’s email to McKenzie Mattingly²⁹ and Kathy Graham.³⁰

The Mayor’s Plan

Since the outset of his administration, Councilmember Copeland was a regular critic who openly disapproved with Mayor Royalty’s decisions. Often, Councilmember Francis Lydian supplemented her public comments with his own criticisms. If neither Councilmember was reelected, Mayor Royalty could alleviate some of the public pressure.

²² Jim Brooks, *Mattingly issues written response to question about use of recovered trailer*, Nelson County Gazette (October 12, 2016).

²³ Open Records Request submitted by Forrest Berkshire, The Kentucky Standard, on October 10, 2016 requesting policies and/or regulations regarding the Police Department’s treatment of stolen property in its custody (Exhibit 21).

²⁴ Open Records Request submitted by Councilmember Copeland on October 14, 2016 regarding the Police Department’s internal inventory of stolen and/or found property (Exhibit 22).

²⁵ Statement by McKenzie Mattingly dated October 12, 2016 regarding his possession of stolen trailer (Exhibit 23).

²⁶ Jim Brooks, *Mattingly issues written response to question about use of recovered trailer*, Nelson County Gazette (October 12, 2016).

²⁷ Jim Brooks, *Mayor: Acting police chief verbally reprimanded over role in ‘TrailerGate,’* Nelson County Gazette (October 19, 2016).

²⁸ Email correspondence from Mayor Royalty to City Council on October 19, 2016 (Exhibit 24).

²⁹ See Exhibit 24. Email from Mayor Royalty to McKenzie Mattingly on October 20, 2016 privately forwarding Councilmember Copeland’s October 19, 2016 email asking for investigation and suspension of Interim Chief Mattingly.

³⁰ Email from Mayor Royalty to Kathy Graham on October 20, 2016 privately forwarding Councilmember Copeland’s October 19, 2016 email asking for investigation and suspension of Interim Chief (Exhibit 25).

A. Phase One: Lying to City Council to obtain Councilmembers iPads

On Monday, October 17, 2016, Mayor Royalty approached Brandon Brewer, IT Supervisor, to enlist his assistance in his scheme. Mayor Royalty directed to retrieve all assigned I-Pads from City Councilmembers.³¹ Mayor Royalty provided Brewer with some instructions about how to obtain the iPads³². He wanted Brandon Brewer to lie. Mayor Royalty instructed Brewer to send all Councilmembers an email stating IT must immediately install mandatory software updates on the iPads.³³

Brewer later confirmed with investigators there were no mandatory updates and no reason to recall the iPads. The security software update was a complete fabrication. Mayor Royalty directed Brewer to lie to the entire City Council. And, Mayor Royalty made it clear to Brewer he was to keep quiet about what Mayor Royalty requested him to do. He could tell no one. Brewer explained to investigators how this order worried him. He became increasingly concerned about Mayor Royalty's conduct. He confided in his boss within a few days of the Mayor directing him to lie to the City Council.

Brewer followed the Mayor's orders and emailed all Councilmembers shortly after their meeting.³⁴ The subject line for the October 17, 2016 stated "iPad Updates". Brewer wrote:

I need to gain possession of your iPads by the end of the business day. There are some security vulnerabilities that have been uncovered within Shareplus from our mobile device management console called MaaS that I need to address ASAP. Please either drop your city iPads off to me personally or to reception if I am not in the office to give me a chance to take care of this. I will contact you all individually when they are ready to be picked up. Thank you. Brandon Brewer³⁵

Brewer's email was blind-copied to Mayor Royalty so he knew his orders were followed.³⁶ When all iPads were not received, Brewer sent a follow-up email to the City Council, forwarding the original on Tuesday, October 18, 2016. The email states "I need these [iPads] ASAP".³⁷

Mayor Royalty also followed-up with Councilmembers. At the bottom of his October 19, 2016 email to Councilmembers about "Trailergate", Mayor Royalty writes, in bolded-letters:

³¹ Encrypted Microsoft Word document attached to November 4, 2016 email Brandon Brewer sent to his direct supervisors. The heading of the document is: "Details of Kecia Copeland's iPad Investigation" and reflects his Mr. Brewer's name the author (Exhibit 26).

³² List of City issued iPads (Exhibit 27).

³³ See Exhibit (27). "Details of Kecia Copeland's iPad Investigation"

³⁴ Email from Brandon Brewer to City Councilmembers dated October 17, 2016 (Exhibit 26).

³⁵ Id.

³⁶ Investigator's computer screen shot of hidden 'Properties' from October 17, 2016 email (Exhibit 29).

³⁷ Email from Brandon Brewer to City Councilmembers dated October 18, 2016 (Exhibit 30).

*****Reminder – IT sent out an email regarding all councilmen need to return their I-pads immediately for a security update. ****³⁸**

Brewer told investigators he received the iPads from all councilmembers, except Keisha Copeland, within a few days after sending the initial email. Councilmember Copeland turned in her iPad the following Monday, October 24, 2016. Brewer stated Mayor Royalty's instructions were to examine the contents of each Councilmember's iPad for any personal use and prepare a written report reflecting his findings.

The iPads were examined in the order of receipt and as follows:³⁹ Councilmember Lydian, Councilmember Buckman, Councilmember Simpson, Councilmember Williams, Councilmember Hagan and Councilmember Copeland. Brewer reviewed each iPad's photo/video galleries, browsing history, and email accounts to determine whether personal accounts were synced to the device.⁴⁰ He prepared a written summary and provided the document to Mayor Royalty.⁴¹

B. Phase Two: Without her legal authorization, Mayor Royalty reviewed and copied Councilmember Copeland's private email communications for later use.

After examining Keisha Copeland's iPad and reporting his findings, Mayor Royalty told Brewer Councilmember Copeland's iPad "...will soon be subject to open records"⁴² ⁴³ He instructed Brewer to keep the iPad in his possession [i.e. not return it to Councilmember Copeland].⁴⁴ The City Council election date was looming.

Brewer determined four Councilmembers, Lydian, Williams, Hagan and Copeland, had synced their personal email accounts with their iPads.⁴⁵ Lydian, Hagan and Copeland had limited pictures and/or video on their device.⁴⁶ All photos/ videos were innocuous.⁴⁷ The few videos on Councilmember Copeland's iPad appeared to have been filmed by a young child, presumably her son. The boy appears singing and talking in the videos.⁴⁸ Only the personal browsing history, photos/videos and email of Copeland were archived and saved on the City server.

³⁸ Email from Mayor Royalty to City Councilmembers sent October 19, 2016 (Exhibit 31).

³⁹ See Exhibit 26. Details of Kecia Copeland's iPad Investigation by Brandon Brewer.

⁴⁰ Id.

⁴¹ Findings of iPad review of Councilmembers prepared and delivered to Mayor Royalty (Exhibit 32).

⁴² Note: Interim Chief McKenzie Mattingly filed his Open Records Request for Councilmember Copeland's email on October 26, 2016.

⁴³ See Exhibit 32. Findings of iPad review of Councilmembers prepared and delivered to Mayor Royalty. Note: Document states "Email account review pending open records". Note: The Open Records Request of Mattingly had not been submitted as of this date.

⁴⁴ See Exhibit 26 Details of Kecia Copeland's iPad Investigation by Brandon Brewer.

⁴⁵ See Exhibit 32. Findings of iPad review of Councilmembers prepared and delivered to Mayor Royalty.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Note: Investigators reviewed the content of photos/videos produced in response to Open Records Request for the saved/ archived iPad data of Councilmember Copeland.

The following morning, Tuesday, October 25, 2014, Mayor Royalty came to Brewer's office. Mayor Royalty told Brewer he wanted to personally examine Councilmember Copeland's iPad.⁴⁹ Brewer was ordered to unlock the device using Councilmember Copeland's personal password. Brewer complied.⁵⁰ Brewer showed Mayor Royalty how to view the contents of Councilmember Copeland's personal Gmail account. He warned the Mayor that by proceeding further he would be accessing Councilmember Copeland's personal account information. He told Mayor Royalty Gmail is an IMAP based email service. Any paired device to an IMAP based email account mirrors the same information accessible from other devices (e.g. Councilmember Copeland's personal cellphone, iPad and/or home computer). Brewer cautioned Mayor Royalty that even though he could access Councilmember Copeland's emails using the City's iPad, it does not mean she sent them or intended to receive them on the City's device.⁵¹

Mayor Royalty then searched through Councilmember Copeland's personal Gmail account.⁵² The City's iPad was simply a tool to give him access to Councilmember Copeland's private life. As older messages populated through the IMAP account from the Gmail server and appeared on the iPad, Mayor Royalty opened and reviewed those he considered of important to his plan. Mayor Royalty reviewed all email folders of Councilmember Copeland's personal Gmail account (e.g. Sent, Inbox, Drafts, Deleted).⁵³ Investigators confirmed Mayor Royalty reviewed Councilmember Copeland's personal information dating as far back as 2013.⁵⁴ Brewer told investigators City employees, Thomas Kaster and Johnny Wright, were also present to witness Mayor Royalty's conduct.

Mayor Royalty selected various emails he wanted to have printed.⁵⁵ The subjects of the personal emails Mayor Royalty desired for his own use included:

- Intimate communications between Councilmember Copeland and a private citizen she was in a personal relationship with;⁵⁶
- Personal financial information;⁵⁷
- Private business dealings involving her outside work;⁵⁸ and,
- City Council reelection strategy and information.⁵⁹

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

⁵³ Id.

⁵⁴ Personal email of Councilmember Copeland dated November 14, 2013 (Exhibit 33).

⁵⁵ See Exhibit 26. Details of Kecia Copeland's iPad Investigation by Brandon Brewer.

⁵⁶ Personal email of Councilmember Copeland (Date redacted) (Exhibit 34).

⁵⁷ Personal email of Councilmember Copeland April 6, 2016 (Exhibit 35).

⁵⁸ Personal email of Councilmember Copeland dated June 15, 2016 (Exhibit 36)

⁵⁹ Personal emails of Councilmember Copeland dated August 31, 2014 and October 24, 2016 (Exhibit 37)

Mayor Royalty also asked Brewer to copy Copeland's email exchanges with members of news media,⁶⁰ public officials from outside agencies, former City employees and private citizens critical of Mayor Royalty.⁶¹ Brewer later told investigators he was directed to place the printed copies of the emails in an envelope, seal the envelope and write his initials on the seal so the Mayor would know whether the envelope had been opened. Brewer was instructed to place the envelope on Mayor Royalty's desk which he later did.^{62 63}

Beginning around 11:00 a.m. on Tuesday, October 25, 2016, multiple emails from Kecia Copeland email account, keciacopeland34@gmail.com, were forwarded to the City email accounts of Brandon Brewer and Mayor Royalty. The forwarded emails ranged in dates from 2013⁶⁴ through 2016. Investigators discovered over thirty (30) emails forwarded from Kecia Copeland's private email account to Mayor Royalty and Brandon Brewer on October 25, 2016.⁶⁵

The City's Adopted Policies and Procedures are significant when considering the October 2016 directives of Mayor Royalty to Brandon Brewer. Section Q. Use of Electronic Communication and Storage Systems defines the proper use by employees:

1. Business Use. The City's Electronic Communication and Storage Systems ("Systems") are to be used primarily for business purposes, which means that any communications or research or accessing or material must be job-related.

Section 2 defines the prohibited uses of the City's IT systems:

2. Prohibited Uses. Use of Systems illegally, to aid and abet any illegal use, and for any activity that might impair discipline, threaten working relationships, or disrupt the workplace is strictly prohibited. Such use and activity includes, but is not limited to: 3) harassing any person.

⁶⁰ Note: A Nelson County businessman told investigators he specifically recalls Mayor Royalty reading aloud excerpts of an email exchange between Keisha Copeland and a Louisville news reporter while eating inside the Huddle House. The encounter at the restaurant occurred during this time-frame.

⁶¹ See Exhibit 26. Details of Kecia Copeland's iPad Investigation by Brandon Brewer.

⁶² Note: After commencement of the City Council investigation, Brewer told investigators he was approached by Mayor Royalty. Brewer was uncertain of the date of the discussion. Brewer advised the Mayor stated he recalled the envelope laying on his desk. However, Mayor Royalty thought he secured it in his desk drawer. He advised he was now unable to locate envelope. The envelope containing Councilmember Copeland's personal communications is missing.

⁶³ Note: Investigators are uncertain whether Mayor Royalty's discussion during this investigation occurred after Mattmiller Crosbie submitted its Open Records or whether Mayor Royalty spoke with Brewer to possibly influence his recollection of the events. However, Brewer confirmed all records printed and enclosed in the sealed envelope delivered to Mayor Royalty were forwarded to Mayor Royalty's City email account. In response to Mattmiller Crosbie's Open Records Requests, none of the forwarded emails were produced from Mayor Royalty's City email account.

⁶⁴ Keisha Copeland was a private citizen in 2013.

⁶⁵ Note: Although these email exchanges were discovered when reviewing the City's responses to the Open Records Request of Brandon Brewer and Kathy Graham City email accounts, none of the documents forwarded on October 25, 2016 from Councilmember Copeland's Gmail account to Mayor Royalty's City account were produced by Mayor Royalty and Clerk Bryant in response to Mattmiller Crosbie's formal request. No records were produced from Mayor Royalty's personal account.

C. Phase Three: Conspire with Interim Police Chief McKenzie Mattingly, and possibly others, using the pretense of an Open Records Request to obtain information previously obtained through improper means.

Interim Chief Mattingly filed two requests for Councilmember Copeland's records. His initial Open Records Request was filed on October 25, 2016. The request was rejected as too broad since it failed to define a time-frame. Mattingly filed his second Open Records Request⁶⁶ on October 26, 2016 at 4:14 p.m. The request was submitted during normal business hours of the Bardstown Police Department and Cpt. Mattingly's timesheets reflect he worked that day. Mattingly used the City's Open Records Request Form and described the records as:

I'm requesting copies (paper or digital) of all emails sent, received, and deleted from the City of Bardstown owned iPad utilized by Kecia Copeland since Jan. 1, 2015. Also copies (paper or digital) of all images stored or deleted from this iPad since Jan. 1, 2015. Also, copies (paper or digital) of any documents stored on or deleted from this iPad since Jan. 1, 2015.

Brewer encountered Councilmember Copeland in the parking lot on Wednesday, October 26, 2016. Councilmember Copeland advised Brewer she had been in communications with City Attorney, Tim Butler, about McKenzie Mattingly's initial Open Records Request. Tim Butler had told Councilmember Copeland to retrieve her iPad from IT⁶⁷ and review her device for records subject to Mattingly's request. Brewer gave Copeland her iPad.⁶⁸

Shortly after returning the iPad to Councilmember Copeland, Brewer had a conversation with Clerk Bryant. Brewer advised her that Councilmember Copeland now had the iPad. Upon learning of this development, Clerk Bryant contacted Mayor Royalty⁶⁹ who, in turn, contacted Brewer.⁷⁰

Mayor Royalty ordered Brewer to immediately get the iPad back from Councilmember Copeland. Brewer called Councilmember Copeland and explained he was not supposed to have released her iPad to her. Unaware of Mayor Royalty's plans for her personal records, Councilmember Copeland cooperated and returned the iPad to Brewer later in the afternoon.⁷¹ Shortly after Brewer's communications with Mayor Royalty and Clerk Bryant, Clerk Bryant hand-delivered to Brewer McKenzie Mattingly's 2nd Open Records Request for Councilmember Copeland's iPad contents and emails.

⁶⁶ Open Records Request of McKenzie Mattingly submitted on October 26, 2016 (Exhibit 38).

⁶⁷ Note: Councilmember Copeland confirmed this account with investigators.

⁶⁸ See Exhibit 26. Details of Kecia Copeland's iPad Investigation by Brandon Brewer.

⁶⁹ Note: Investigators were unable to determine why Clerk Bryant contacted Mayor Royalty or if she understood the reasoning for obtaining all Councilmembers iPads was for an IT security update. Ms. Bryant declined the request for a voluntary interview with investigators.

⁷⁰ See Exhibit 26. Details of Kecia Copeland's iPad Investigation by Brandon Brewer.

⁷¹ Id.

Clerk Bryant emailed Kecia Copeland on Wednesday, October 26, 2016 at 4:26 p.m.⁷² The email was copied to Tim Butler and Brandon Brewer with the subject line: "Open Records Request". Clerk Bryant states she needed Councilmember Copeland's records by 12:00 p.m. on Friday, October 28, 2016 so she could have "a clear idea of how to respond to this request." Councilmember Copeland responded a few minutes later asking Clerk Bryant, "Is this all city business emails? I thought I had till Monday???"^{73 74}

After Copeland returned her iPad to Brewer, he evaluated how to copy the thousands of emails reflected in her iPad account. Mattingly's request was very broad and implicated email records over multiple years for responsive documents.⁷⁵ He determined the volume was too great to forward each email individually from her iPad to his email account.⁷⁶

The following day, October 27, 2016, Brewer asked Clerk Bryant to contact Councilmember Copeland. To fulfill Mattingly's Open Records Request in the short time-frame Clerk Bryant expected, Brewer needed Councilmember Copeland to access her personal email account from a desktop workstation at City Hall so her emails could be exported in bulk.⁷⁷

Clerk Bryant responded to Copeland's follow-up email concerning the time-frames for production of the records:

I will respond to the ORR on Monday [October 31, 2016]. The reason I need information the day prior is so that I can get a sense of what numbers we are talking about (whether in CD or paper form). I must postmark the letter for the 31st of October.

In discussion with the City Attorney, he and I will need to decide if the e-mails, documents, etc., that are captured, are of a private nature or should be released as a public record. Barbie Bryant, CKMC^{78 79}

Investigators noted Clerk Bryant's demands of Councilmember Copeland were different than how she handled previous Open Records Requests of Councilmembers using personal accounts. In this instance, Clerk Bryant required "capturing" the entirety of Councilmember Copeland's account. Upon receipt of the account records, Clerk Bryant advised Copeland she and the City Attorney would decide what information to release to

⁷² Email from Barbara Bryant to Keisha Copeland on October 26, 2016 regarding Open Records Request (Exhibit 39).

⁷³ Id.

⁷⁴ Note: Councilmember Copeland was unaware Brandon Brewer and Mayor Royalty had already reviewed her personal Gmail account during this time-frame. She relied on the false statement her iPad was needed for a security update.

⁷⁵ Note: Investigators were unable to determine why Clerk Bryant determined Mattingly's ORR did not fall within the statutory exemptions or why she failed to provide notice to Mattingly of the City's need for additional time to obtain and review the records prior to production.

⁷⁶ See Exhibit 26. Details of Kecia Copeland's iPad Investigation by Brandon Brewer.

⁷⁷ Id.

⁷⁸ Id.

⁷⁹ Note: Investigators were unable to determine why Clerk Bryant and City Attorney did not require Mayor Royalty to produce all records contained in his personal email account, using the same process and review procedures, required of Councilmember Copeland.

McKenzie Mattingly. Previously, Councilmembers were requested to review their personal accounts and produce only those records reflecting official City business and responsive.^{80 81}

Councilmember Copeland did not receive Clerk Bryant's communications until late Friday, October 28, 2016. She contacted Brewer directly and advised she had been in the hospital. She advised she could come to City Hall on Monday, October 31, 2016.⁸²

Councilmember Copeland reported to Clerk Bryant around 1:30 p.m. on Monday. Using Clerk Bryant's desktop workstation, Brewer instructed Copeland on how to create a label in her Gmail account. Copeland exported the responsive emails from her personal account into a .MBOX file. While Copeland was reviewing her personal Gmail folder, Clerk Bryant stood over her shoulder and took hand-written notes documenting the number of records in Councilmember Copeland's account. When Councilmember Copeland completed her review, Brewer transferred the entire file onto a disc. He emailed Clerk Bryant at 2:11 p.m. adding brief instructions to explain to Mattingly how to open and review the electronic records.⁸³

Later that same afternoon, Kathy Graham, the Mayor's assistant, prepared a letter to McKenzie Mattingly addressed to his home address. The letter is dated October 31, 2016⁸⁴. Ms. Graham signed the letter as "Kathy Graham, Acting City Clerk". The letter states:

Please be advised that in response to your Open Records Request submitted on October 26, 2016, requesting records for the I-pad use by Councilman Copeland from January 2015 through October 26, 2016, we have determined that one (1) CD relates to this request that may be shared with you under the Open Records Act. Of 93 emails sent from the I-pad, only 14 are city business, of 76 in the delete file of the I-pad, 1 was related to city business, approximately 10,600 in box emails received, 41 were related to city business; of 47 video pictures on the I-pad none were city related.

You may inspect these records at City Hall during normal working hours of 8:00 AM until 4:30 PM Monday through Friday. Copies can be requested after inspecting the records at a cost of \$.40 (40 cents) per CD.

Sincerely,

Kathy Graham, Acting City Clerk
Cc: Tim Butler, City Attorney

⁸⁰ Email exchanges between Clerk Bryant and Councilmember Hagan dated May 11, 2016 regarding responding to an Open Record Request (Exhibit 40).

⁸¹ Email exchanges between Clerk Bryant and Councilmember Hagan dated May 11, 2016 and follow-up to initial communications (Exhibit 41).

⁸² See Exhibit 26. Details of Kecia Copeland's iPad Investigation by Brandon Brewer.

⁸³ Email from Brandon Brewer to Barbie Bryant on October 31, 2016 (Exhibit 42).

⁸⁴ Letter from Kathy Graham to McKenzie Mattingly dated October 31, 2016 re: ORR (Exhibit 43).

The letter contained a statistical compilation⁸⁵ of Councilmember Copeland's email account. Investigators confirmed with Councilmember Copeland this information was obtained by Clerk Bryant during her earlier meeting with Brandon Brewer the same day. In reviewing prior City responses to Open Records Requests involving Councilmember emails, no responses provide statistical information about unrelated or exempt records/documents.^{86 87 88} Investigators could not determine why the letter was prepared by Kathy Graham or what time on October 31, 2016 she became "Acting Clerk". Clerk Bryant was present during Councilmember Copeland's review and production of the documents which occurred earlier the same day. Clerk Bryant was present and working the next day, November 1, 2016.

Kathy Graham emailed Cpt. Mattingly the City's October 31, 2016 response to the Open Records Request.⁸⁹ Clerk Bryant was copied on the email. The document was sent at 3:36 p.m. The letter was emailed to Cpt. Mattingly's City email account—not to a private account.⁹⁰ It is unknown when, if ever, Cpt. Mattingly examined or received the responsive records referenced in Kathy Graham's October 31, 2016 response.⁹¹

The Open Records Ordinance requires payment for costs associated with all records requests. Kathy Graham's letter stated Mattingly could obtain a copy of the CD for \$.40. Mattingly did not pay for the records.⁹² Although unknown to Councilmember Copeland at the time, the Open Records idea was planned days in advance by Mayor Royalty⁹³. The Open Records Request submitted by Mattingly was calculated to provide the legitimate appearance the documents and information about the contents of Councilmember Copeland's iPad and Gmail account were obtained properly.

⁸⁵ Note: The statistical compilation reflects Councilmember Copeland's personal use of the iPad. The information is consistent with Mayor Royalty's purpose for obtaining Councilmembers iPads on October 17, 2017 and the content he requested from Brandon Brewer by written summaries following examination of the devices.

⁸⁶ Note: Investigators were unable to determine from Clerk Bryant why she prepared a statistical summary in response to McKenzie Mattingly's request.

⁸⁷ City Attorney Tim Butler previously advised City Councilmembers that "...anything that is private on your iPad is exempt from an open records request." Jim Brooks, *Councilwoman questions public discussion of her private email contents*, Nelson County Gazette (November 9, 2016).

⁸⁸ Email exchanges to/from John Kelley and Clerk Bryant between June 26, 2016 and July 5, 2016 (Exhibit 44). Clerk Bryant describes her limitations in responding to requests stating her job is only to "produce a 'record'".

⁸⁹ Email from Kathy Graham to McKenzie Mattingly on October 31, 2016 attaching ORR response letter (Exhibit 45).

⁹⁰ Open Records Request filed by Councilmember Copeland on November 2, 2016 seeking timesheets of Interim Chief Mattingly between October 17, 2016 and November 1, 2016 (Exhibit 46).

⁹¹ Note: Investigators believe the records were immaterial to Cpt. Mattingly since Mayor Royalty had undertaken his personal review of Councilmember Copeland's account. Cpt. Mattingly public statements during the November 1, 2016 Council Meeting focused on the statistical summary prepared by Clerk Bryant and not the content of any record. Cpt. Mattingly's Open Records Request did not request the statistical summary. Clerk Bryant and Kathy Graham gratuitously compiled and created a "new record" describing the information.

⁹² Mattingly's Open Records Response Form checking off "N/C" or "no charge" (Exhibit 47).

⁹³ November 1, 2016 City Council Meeting. <https://www.youtube.com/watch?v=j7QjS735zxk>

D. Phase 4: Use surrogate at City Council Meeting to publicly release information intended to injure Councilmember Copeland's reputation, suggest possible criminal activity and interfere with City election.

On Tuesday, November 1, 2016, McKenzie Mattingly was patiently waiting in the audience at the start of the City Council meeting. Bardstown City Council elections were one week away. Mattingly wore civilian clothing and proclaimed he was appearing as a "private citizen"—not as Interim Police Chief. He was not listed on the City Council agenda. On cue, Mayor Royalty opened the meeting by stating:

*"I guess let's start out with the, does anyone have anything to say? If it's alright with the council, I need you all to approve if he [Mattingly] has something to say [Mattingly stands up]. That's fine, go ahead."*⁹⁴

Mattingly approached the inside of the Council horseshoe where Councilmembers were seated. He held a document which appeared to be Kathy Graham's October 31, 2016 response. Mattingly addressed the Council:

*I wanted to make you all aware of the Open Records Request I just did. I'm going to read the City's response on it. Please be advised, in response to your Open Records Request submitted October 26th, requesting records for the iPad used by Councilwomen K. Copeland from January 2015 to October 26, 2016, we have determined that one CD relates to this request and it may be shared with you under the Open Records Act. But the 93 emails sent from the iPad on the 14th are city business. Of the 76 deleted from the iPad, one was related to city business. Approximately 10,600 emails are in the inbox and of that, 41 relate to city business. Of 47 video/pictures on the iPad, none were related to city business. So, as best as I can tell, my math is not the best, 85% of emails sent were for personal use. 99% of the deleted emails were used for personal use. 99.5% of the received emails were used for personal use and all of the videos/picture emails on the iPad were used for personal use, so in my humble opinion, there is a disproportionate amount of personal use on this city owned iPad, that also my understanding is that the city pays for the data used on the iPad. So, I would like that to be looked into. I would like Tim Butler to look into that and examine if KRS has been violated of misuse of this iPad, see if there is anything that needs to be recommended to the ethics board. I personally would like to know what the content is of this large amount on this iPad, I would like to get those records released as well. Thank you.*⁹⁵

Following Mattingly's statement to City Council, Mayor Royalty was asked whether he knew anything about Mattingly's Open Records Request or the spectacle playing out during the City Council meeting. He stated:

"Uh, yeah, I'm aware of every Open Records that comes in front of me to City Hall. Barbie alerts me to those. I do not ask why because that is what she told me the very first day, we do not ask why, we just fill out the open records. So in this situation, I have looked into it in detail and it's appalling and disturbing, but, in light to the packet that we received today by, that was sitting outside of the door step, when City Clerk Bryant walked in, I'm going to uh, have advice by counsel, and maybe by the [inaudible], and the Attorney General's Office and whoever, find out what's going on

⁹⁴ November 1, 2016 City Council Meeting. <https://www.youtube.com/watch?v=j7QjS735zxc>

⁹⁵ Id.

*and why and if there is anything, if we broke any laws and if there is any misconduct and in violation with the ethics board. At this point, I really would not like to discuss it because if it is, it could turn into a criminal investigation, so I don't. Other than that, I just don't want to discuss it."*⁹⁶

Mayor Royalty stated further:

*"Well, in the beginning of this administration, everybody was to get a separate email address. Of course, if your personal email is linked to city government, it is open to open records. So, you can call it personal but, and this is the last thing I am going to say on this, but if you use this [holds-up iPad] council members, employees, if you use this to do personal business, you are in violation and that's all I am going to say on this. I would like to move onto the meeting, because this is."*⁹⁷

Councilmember Lydian was upset by Mayor Royalty's suggestion Councilmembers were engaged in unethical, criminal activities. He stated he would propose a City Council investigation, under KRS, about the events [e.g. iPads, delivery of packets]. In response, Mayor Royalty stated "...we might be one step ahead of you, Lydian."⁹⁸

No Law or Ordinance Prohibited Use

Despite previously alleging possible criminal conduct and ethics violations occurred, Mayor Royalty later acknowledged there are no City policies governing Councilmember's personal use of iPads.⁹⁹ Councilmember Fred Hagan emailed Clerk Bryant on November 2, 2016 asking for the citation to the statute or ordinance prohibiting personal use of the iPads. Councilmember Copeland also filed an Open Records Request on November 2, 2016 seeking copies of the policies Mayor Royalty stated were violated.¹⁰⁰

In her response, Clerk Bryant confirmed no statute or ordinance existed.¹⁰¹ Councilmember Hagan forwarded Mayor Royalty her response. Mayor Royalty ignored the issue and defended his statements alleging possible ethical and criminal improprieties by stating:

I do believe when the Council received there [sic] training on the i-pads, it was explained the I-pad was to be used for City Council meetings only. I believe this was brought up at other council meetings also.¹⁰²

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Jim Brooks. *Lacking specific iPad rules, councilman asks Mayor 'what's all the fuss about?'*, Nelson County Gazette (November 2, 2016).

¹⁰⁰ Open Records Request of Councilmember Copeland filed on November 2, 2016 regarding the City's iPad policies (Exhibit 48).

¹⁰¹ Email exchanges to/from Councilmember Hagan, Clerk Bryant and Mayor Royalty on November 2, 2016 (Exhibit 49).

¹⁰² Id.

Mayor Royalty previously made similar baseless allegations about Councilmember Copeland on September 1, 2016.¹⁰³ Mayor Royalty falsely claimed Councilmember Copeland was involved in side-bar negotiations with the Nelson County attorney during a meeting over a city-county agreement. He referenced “unethical” conduct in his communications. The statements were sent to the news media. When the allegations were immediately refuted,¹⁰⁴ Mayor Royalty struggled to explain his conduct.

In fact, the City’s Policies and Procedures specifically contemplate the use of electronic devices, such as iPads, for limited personal purposes. The Policy¹⁰⁵ provides:

Use of E-mail and the Internet for personal purposes during a regular break for during a lunch break or as otherwise permitted by the City is acceptable but only to the extent expressly permitted by this policy.¹⁰⁶

Further, Mayor Royalty and Clerk Bryant were aware several councilmembers relied upon personal email accounts when conducting City official business.¹⁰⁷ Both knew all Councilmembers were not assigned City email addresses.¹⁰⁸ ¹⁰⁹ Councilmembers advised investigators that Brandon Brewer assisted with syncing their personal email account onto their assigned iPad.

Councilmember Copeland’s iPad data was “quarantined”

On Friday, November 4, 2016, at 11:53 a.m., Tim Butler emailed Barbie Bryant and copied Mayor Royalty on both his city and personal email account.¹¹⁰ The subject line is “I-Pad”. Mr. Butler wrote:

Barbie,
As a follow-up to our discussion, I am recommending that all personal files on Councilwoman Copeland’s assigned I-Pad be either copied or destroyed and then the I-Pad returned to her. I spoke with Councilwoman Copeland before leaving City Hall and gave her the option. She is supposed to get back to me. Please follow-up with Brandon to let him know the status of this issue. Assuming there is no further reason to access any of the information on the I-Pad please advise him to “quarantine” the machine until we can give him further instructions. Thanks. Tim Butler

¹⁰³ Email correspondence from Mayor Royalty to Councilmembers and news media on September 1, 2016 (Exhibit 50).

¹⁰⁴ Email from Randy Patrick, Kentucky Standard, to Mayor Royalty on September 2, 2016 regarding Mayor Royalty’s allegations of unethical conduct by Councilmember Copeland (Exhibit 51).

¹⁰⁵ Policies and Procedures. Use of Electronic Communication and Storage Systems.(Exhibit 52).

¹⁰⁶ Note: The Policies and Procedures specifically exempt Councilmembers, but are instructive concerning the allegations of possible criminal and unethical behavior alleged by Mayor Royalty.

¹⁰⁷ Jim Brooks, Council votes to investigate if city had role in anonymous Copeland document dump, Nelson County Gazette (November 22, 2016).

¹⁰⁸ Email and attachment from Clerk Bryant to Brandon Brewer on March 2, 2016 regarding the email accounts of City Councilmembers and Mayor Royalty (Exhibit 53).

¹⁰⁹ Email from Clerk Bryant dated February 26, 2016 noting email contact information for Councilmembers (Exhibit 54).

¹¹⁰ Email from Tim Butler to Barbara Bryant on November 4, 2016 (Exhibit 55).

Clerk Bryant forwarded Mr. Butler's email to Brandon Brewer.¹¹¹ Brewer responded, copied Mayor Royalty, and advised Clerk Bryant he already archived Councilmember Copeland's emails onto the server. He advised Clerk Bryant he "...will await instruction from the Mayor on how to handle this."^{112 113}

Brandon Brewer recognized the mess created by the Mayor's conduct. When the Mayor's plan became exposed, he feared he would be blamed. Late in the afternoon on Friday, November 4, 2016, Brewer emailed his supervisors, Jeff Mills and Nahom Ayele.¹¹⁴ The subject line of the email stated "record of my last week of work...". He attached a document to his email titled, "accountsofCopelandORR.docx".¹¹⁵ In the email, Brewer described the attached document as his "...account of everything that happened". Concerned others could access the document without his consent, he password protected and "ENCRYPTED" the attachment. He asked Mr. Mills and Mr. Ayele to "...please hold on to this forever in case we or you guys ever need to recount what happened from my perspective here on this one...".

Brewer later explained to investigators he created this written chronology to document Mayor Royalty's directives and what he was being asked to do. Brewer stated he was very concerned about Mayor Royalty's requests of him. If Councilmember Copeland's iPad was ever forensically examined, Brewer wanted to have an explanation on why his entries appeared in the iPad.^{116 117}

E. Phase Five: Mayor Royalty designed, researched and executed a parallel strategy to anonymously release information to injure the reputations of Councilmembers Copeland and Lydian prior to Bardstown City Council Election.

Prior to start of the November 1, 2016 City Council meeting where McKenzie Mattingly suggested Councilmember Copeland possibly engaged in conduct meriting an Attorney General investigation, packets containing personal information perceived to be damaging to the reputations of Councilmembers Lydian and Copeland were distributed by Clerk Bryant. Copies of the documents were enclosed in manila envelopes. The names of

¹¹¹ Id.

¹¹² Id.

¹¹⁴ Email from Brandon Brewer to Jeff Mills and Nahom Ayele dated Friday, November 4, 2016 (Exhibit 56).

¹¹⁵ See Exhibit 26. Details of Kecia Copeland's iPad Investigation by Brandon Brewer.

¹¹⁶ Note: During a meeting in early February 2017 after investigators requested Brewer's interview, Brewer told investigators he discussed Exhibit 26 with Mayor Royalty. Also present during this meeting was Clerk Bryant and Larry Green. Brewer recalled Mayor Royalty stating during the meeting Brewer's written chronology did not concern or bother him.

¹¹⁷ Note: The November 4, 2016 email from Brandon Brewer to his supervisors was produced by Clerk Bryant when responding to the Open Records Request of Matt Miller Crosbie. The email's attachment titled "accountsofCopelandORR.docx", was never produced by Clerk Bryant—even after the February 2017 meeting she attended and where the written chronology was discussed. Brandon Brewer independently provided this document to investigators at his interview.

individual Councilmembers, Mayor Royalty and generic "News" were hand-written with a red marker on the front of each envelope.¹¹⁸

Investigators understand all envelopes contained the same content. These documents were inside the packets:

Unemployment tax lien;¹¹⁹
Administrative Office of the Courts, Courtnet Records;¹²⁰
Internet Posting titled "Rip-off Report"; and,¹²¹
City of Bardstown Fire Incident Reports.¹²²

There are variations in the individual accounts regarding the discovery of the packets. The stack of packets was purportedly found sitting on the outside stairwell leading into the Council Chambers. No one admitted any knowledge of the source of the packets¹²³.

Delivery, Discovery and Distribution of Packets

Kathy Graham's Version of Events

Kathy Graham told investigators Mayor Royalty called her several minutes prior to the scheduled start of the November 1, 2016 City Council meeting. Mayor Royalty advised her that someone had called him to tell him there appeared to be "stuff" sitting outside the steps of the Council Chambers. Mayor Royalty did not tell her who he had spoken with and she did not inquire further. Graham asked Mayor Royalty if he wanted her to go pick-up the stuff. She recalls him saying "whatever" in response.

Following this telephone call, *Graham advised Larry Green there was "stuff" on the Council Chamber's steps.* Green left City Hall and returned several minutes later. Mr. Green was carrying the packets which had hand-written names on the outside of each manila envelope. The names were each Councilmember, Mayor Royalty and two marked "media". Ms. Graham opened the packet labeled "Mayor" because it was part of her job duties to open the mail. *She pulled out one document which appeared to be a tax lien on property owned by Councilmember Francis Lydian. She stated she immediately put it back in the packet.* She advised Green and Clerk Bryant to take the packets back to the Council Chambers.

¹¹⁸ Jim Brooks. *Councilwoman, councilman targeted in anonymous election-eve document attack*, Nelson County Gazette (November 2, 2016).

¹¹⁹ Copy of unemployment insurance tax lien (Exhibit 57).

¹²⁰ Copies of Courtnet records (Exhibit 58).

¹²¹ Copies of *Rip-Off Report* (Exhibit 59).

¹²² Copies of Fire incident reports (Exhibit 60).

¹²³ Note: Investigators were permitted to review security camera clips, recorded on November 1, 2017, and stored by the City of Bardstown. The video clips were from a camera placed in the ceiling above the customer service area of City Hall. The five-minute video clips did not provide any view of the City Hall entrance doors or the exterior of the Council Chambers. Investigators were advised no cameras are installed or maintained by the City for surveillance of those public areas.

Ms. Graham denied any knowledge about preparing the packets.

Larry Green's Version of Events

Larry Green testified during a December 13, 2016 deposition about his knowledge of the packets.¹²⁴ Mr. Green stated that on the day of the City Council meeting he encountered Kathy Graham and Barbara Bryant inside City Hall. He stated Kathy Graham was talking to Clerk Bryant about the packets sitting on the top landing of the steps leading into City Council Chambers. Green testified:

And—and I said, “what are these packets?” And she said—I don’t know exactly what she said, but I said, “what—you mean somebody’s dropped some packets off, or there are some packets.” I said, “Did you put them there?”” And she said, “No, no, there’s just some packets there.” I said, “well, I’m gonna go see what they are.” So I went over and I got all the packets. I climbed up the metal steps and I got to the top and I gathered up all these packets and I brought them back to City Hall and I said, “Well, these shouldn’t be sitting outside. That’s—that’s not a good place for packets.” So I put them down on the—on—on Kathy’s desk and looked through it and it had the name of each of the council members and had two or three—it was a big stack of them, two or three or them labeled “Press” or “Media” or something, one labeled “The Mayor”. And—and she said, “Oh, I’ll open this one. This is the mayor’s.” So she opened it and she took—and she didn’t even get them all the way out. She took the papers out the edge of this thing and—and said, “This is, “I forget which it was, “This is Kecia Copeland’s” something or another, “credit report,” or whatever it was, something like that. And I wasn’t paying too much attention. And then she went to another and she said, “This is Francis Lydian” something, or “Kecia” something.¹²⁵ And I said, “That’s not something that has—that we want to deal with.” I—I said, “I’m gonna take those back.” And she said, “I don’t want to deal with it either.” And so she closed it and she sealed it up. I grabbed the whole pile of them and I took them back up over there and climbed the metal steps and put them right back where I found them. I said—and I went back and I said, “Well, that’s—that can’t be any good.” And—and I—and Barbie said, “Well—well, I’ll just put them on their desk when—when I go into the Council meeting.”

When asked whether Barbie Bryant knew what was in the packets before deciding to distribute them to Councilmembers and news media, Green testified:

Yeah, she was—she heard it too, I’m pretty sure, yeah. So she said, “Well, I’ll just—I’ll just distribute them,” and I said, “Don’t do that. We shouldn’t have anything to do with this.” And she said, “No, no.” “I usually go up that way [exterior steps], I’m not gonna change because of this.” And I said, “well, it doesn’t make any difference. I mean, it’s—”

Green then testified Clerk Bryant distributed the packets. He denied knowing whether Mayor Royalty had anything to do with the packets. When asked whether he had discussed the packets with Mayor Royalty as of December 13, 2016—more than one month after they were delivered and subject to multiple news stories, Green stated:

¹²⁴ Transcript from Deposition of Larry Green on December 13, 2016. Pages 230-238. (Exhibit 61).

¹²⁵ Note: Emphasis added to show differences between Kathy Graham and Larry Green’s accounts.

*No., he has made it—he has not talked about it. And when it came up, he didn't—didn't say one way or another. He never—he didn't talk about it.*¹²⁶

When Green was asked if he knew who gathered the information in the packets, Green testified “No, I really do not.”

Mayor Royalty's statements about the packets

In Councilmember Hagan's November 2, 2016 email¹²⁷ to Mayor Royalty regarding his statements about personal iPad use pointing out no ordinance or statute prohibited reasonable use, Hagan also asked about Mayor Royalty's knowledge of the packets. In part, Councilmember Hagan wrote:

And while we are on the subject [referring to the November 1, 2016 City Council Meeting], you held up the envelope while you were making your remarks, indicating that the results of the open meeting request “and this envelope...” If the envelope had just been dropped off at the door, how did you know what was in the envelope, such that you could reference it during the meeting? And in any case, what do the contents of the infamous envelope have to do with the open records request?¹²⁸

Mayor Royalty responded:

As far as the envelope, it was laid at my seat in the council chamber along with the rest of the councilmembers. When I arrived I opened the envelope up to see what was inside and was disturbed by the information the envelope contained. I do believe there were other councilmen and media in the room at that time, if you remember you had arrived late.¹²⁹

CFO Hudson told investigators she recalls hearing the Mayor discussing the same information contained in the packets relating to Councilmembers Copeland and Lydian in the fall of 2015 while standing in the customer service area of City Hall. Mayor Royalty was upset about his relationship with the Council and was venting this frustration publicly.

A local businessman told investigators he and his wife encountered the Mayor at the Huddle House approximately three days before the City Council meeting where the packets were distributed. He recalls reading about what happened during the meeting in the newspaper a few days later which helps him estimate the time-frame. While at the restaurant, the Mayor was loudly complaining about the City Council. The Mayor left the restaurant momentarily and returned with a large manila envelope about ¾” thick. Mayor Royalty opened the envelope and retrieved a document. He read a portion of an email to the businessman and his wife. The email was from Kecia Copeland to a Louisville

¹²⁶ Note: Larry Green's City office is located on same floor in City Hall as Mayor's Office.

¹²⁷ See Exhibit 49. Email exchanges between Councilmember Hagan, Clerk Bryant and Mayor Royalty on November 2, 2016.

¹²⁸ Id.

¹²⁹ Id.

television reporter providing her insight about Mayor Royalty.¹³⁰ Mayor Royalty described his disgust about Councilmember Copeland's email. The businessman stated he did not see or read the other documents in the envelope. He recalls Mayor Royalty stating during this conversation he hoped Councilmember Copeland was not reelected.

Fire Incident Reports Regarding Kecia Copeland

Mayor Royalty was also asked during his December 12, 2016 deposition¹³¹ about his knowledge of the Bardstown City Fire Department incident reports regarding Councilmember Copeland. Mayor Royalty denied having any recollection. He testified:

Question: According to what it purports to say, Mayor, it is a report printed out by Todd Spalding on September 27th at 14:08 and one a few minutes at 14:10. Two separate fire reports and they've got numbers and other information.

Mayor Royalty: **I don't recall.**

Question: Okay. My question is this. Did you ask Todd Spalding to print out those fire reports?

Mayor Royalty: **I don't recall asking nobody to print out fire reports.**

Question: This only occurred a few months back. Is it your testimony that you simply can't remember—

Mayor Royalty: **I don't—**

Question: --or you deny that you did it?

Mayor Royalty: **I don't recall.**

Question: So they you may have done it?

Mayor Royalty: **I do not recall.**

On January 31, 2017, investigators interviewed Cpt. Todd Spalding¹³² about the fire incident reports printed on September 27, 2016 and discovered inside the packets. Cpt. Spalding's memory was much better than Mayor Royalty's.

Among Cpt. Spalding's assigned job duties for the Fire Department, he is often the person of contact to receive and respond to requests for Open Records relating to Fire Department records. In 2015 during the tenure of Fire Chief Martin Howard, Cpt. Spalding told investigators he was approached by Mayor Royalty during regular work hours. Mayor Royalty requested copies of official fire reports about two, prior incidents where Fire Department personnel were dispatched to Councilmember Copeland's residence. Cpt.

¹³⁰ Personal email of Councilmember Copeland dated April 20, 2016 (Exhibit 62). This email was forwarded from Councilmember Copeland's private Gmail account to on October 25, 2017.

¹³¹ Transcript from December 12, 2016 deposition of Mayor John Royalty. Pages 331-333. (Exhibit 63).

¹³² Justin Brown, local IAFF President, was present for the January 31, 2017 interview. and IAFF legal counsel, Buddy Wheatley, participated by tele-conference.

Spalding did not recall the specific date. Cpt. Spalding considered the Mayor's request unusual given the subject of the reports was a Councilmember. He stated Mayor Royalty did not mention the purpose for his request nor did Cpt. Spalding inquire further.

Cpt. Spalding recalled Mayor Royalty returning to the Fire Department on September 27, 2016 at approximately 2:00 p.m. Cpt. Spalding was working in his office when the Mayor arrived. Mayor Royalty told Cpt. Spalding to locate and print copies of the reports concerning Councilmember Copeland. Cpt. Spalding told investigators he is certain he did not provide copies of the reports he generated for Mayor Royalty to any other person. He is certain he did not retain copies of the documents.

After learning through news media accounts the fire incident reports were among those documents in the packets anonymously left on the stairwell at Bardstown City Council Chambers on November 1, 2016, Cpt. Spalding stated the news reports were upsetting and he later spoke to Fire Chief Randy Walker about his feelings about the incident.

Fire Chief, Randy Walker, confirmed with investigators he spoke to Fire Captain Todd Spalding after his name surfaced on media reports. Chief Walker stated Capt. Spalding expressed to him he was upset over his association with the packets. As the Fire Marshal and Inspector interacting with the public daily, Cpt. Spalding expressed dismay how the incident may affect the public's perception of his integrity.

Greg Woodson, a friend of Cpt. Spalding, told investigators he also spoke with Cpt. Spalding following the media reports. Mr. Woodson described Cpt. Spalding as feeling emotionally distressed his name was publicized as the individual responsible for printing the reports contained in the packets. Shortly after the controversy erupted at Council Meeting and in the news media, Woodson stated Cpt. Spalding feared telling anyone who directed him to retrieve these reports from the Fire Department¹³³. If he disclosed the person's identity, Cpt. Spalding feared he would be fired from his job.

Mayor Royalty stated during a November 2016 Council Meeting that Fire Department incident reports were handed out "like candy" and without the requirement of an Open Records Request. His statements were refuted during investigation interviews conducted with former Fire Chief, Marlin Howard, and current Fire Chief, Randy Walker.

Former Fire Chief, Marlin Howard, stated that after Barbara Bryant became City Clerk, the Bardstown Fire Department took on a practice of not releasing any records without following the City's Open Records Policy. This included records of hydrant testing, fire runs, and any other records. Generally, information about official city business was shared between different departments. By example, if Public Works Department needed information about hydrants or water flow, the Fire Department provided this information without an ORR. But, during his 14-year employment with the Bardstown Fire Department, Chief Howard recalls no occasion when a fire run report was requested by another City Department—or a Mayor.

¹³³ As of Mr. Woodson's interview on January 19, 2017, Cpt. Spalding had not told Mr. Woodson that Mayor Royalty directed him to retrieve the official records.

Chief Walker stated that since he was appointed Fire Chief, the Department has required an Open Records Request for reports of any type. Exceptions are only made to other City Departments who have an official need for the information.

CourtNet Records

After discovering the packets contained copies of court records reflecting minor traffic violations and similar infractions involving Councilmember Copeland from several years ago, Councilmember Copeland filed an Open Records Request on November 2, 2016 seeking CourtNet account records¹³⁴. In her request filed with Clerk Bryant, she requested copies of the CourtNet access reports from the City's assigned account.

The following morning on November 3, 2016, Clerk Bryant emailed Lt. Bradley Gillock, Megan Davis and Cpt. McKenzie Mattingly at the Police Department to inquire if the City has an "account" with CourtNet.¹³⁵ McKenzie Mattingly responded to Clerk Bryant for the Police Department the same day.¹³⁶ He identifies sixteen (16) individuals with CourtNet accounts. Mattingly further states:

The rest of the information we do not have access to. I only have information of who has CourtNet accounts related to BPD. **We do not have information relating to what each member accessed on their accounts** [Emphasis added].

Investigators attempted to obtain the CourtNet access logs from the Administrative Office of the Court through a January 17, 2017 Open Records Request. The AOC denied the request citing independence from statutory regulation.¹³⁷ However, the letter noted the internal administrator of Courtnet can view the user activity registered to the account and sub-accounts. The written response from the AOC records office conflicts with Mattingly's explanation provided to Clerk Bryant in response to Councilmember Copeland's November 2, 2016 Open Record's Request.

Mayor Royalty was asked about the Courtnet Records during his December 12, 2016 deposition. He testified:

Question: The other thing that was in those packets, those dossiers that were delivered to the Council, was information that was printed out from CourtNet, from an authorized account. Do you remember seeing some CourtNet documents?

Mayor Royalty: I don't know what they look like, but I'll take your word for it.

¹³⁴ Copy of November 2, 2016 Open Records Request filed by Councilmember Copeland regarding CourtNet account records (Exhibit 64).

¹³⁵ Email from Clerk Bryant to Police Department on November 3, 2016 regarding CourtNet account and attaching copy of Councilmember Copeland's request (Exhibit 65).

¹³⁶ Email from Cpt. Mattingly to Clerk Bryant on November 3, 2016 regarding access to CourtNet account information (Exhibit 66).

¹³⁷ Letter from AOC dated January 31, 2017 responding to Open Records Request (Exhibit 67).

Question: Did you authorize someone to use a City computer to print out those—to use CourtNet to print those documents?

Mayor Royalty: **I don't recall.**

Question: Is there anything impairing your memory at this moment?

Mayor Royalty: Nothing.

Rip-Off Report

The document titled Rip-Off Report is a copy of an internet blog posting from an anonymous source on Sunday, February 5, 2012. Copies of this blog posting were included in the anonymous packets distributed to the City Council. The 2012 post makes unsubstantiated, spurious allegations about Kecia Copeland. The unknown source posted the statement several years prior to Councilmember Copeland election to the Bardstown City Council. There is no requirement for visitors to this internet site, www.ripoffreport.com to reveal or confirm their identity when posting statements. The site does not monitor or confirm the accuracy of the posts.

On Sunday, October 16, 2016 at 10:40 p.m., Mayor Royalty, using his City email account, emailed jroyalty@bardstowncable.net¹³⁸, Kathy Graham¹³⁹ and Councilmember Bill Buckman. The email was sent from Mayor Royalty's iPad to the City email account of Kathy Graham.

The email¹⁴⁰ states:

From: Mayor Royalty
Sent: Sunday, October 16, 2016 10:40 PM
To: jroyalty@bardstowncable.net; Kathy Graham; billbuckman27@yahoo.com
Subject: Ripoff Report | Kecia Copelan Complaint Review Bardstown, Kentucky 834412

<http://m.ripoffreport.com/r/kecia-copelan/bardstown-kentucky-40001/kecia-copelan-kecia-copeland-is-a-fraud-to-small-business-and-has-been-prove-not-credita-834412>

Sent from my iPad¹⁴¹

¹³⁸ Note: Investigators were unable to verify whether this email address represents a third email account used by Mayor Royalty in communications with City employees and officials.

¹³⁹ Note: Kathy Graham any knowledge concerning the identity responsible for preparing the packets. This email was discovered in the records produced from Kathy Graham's City email account. The originating record sent from Mayor John Royalty was not produced in response to the request for Mayor Royalty's email communications.

¹⁴⁰ Email from Mayor Royalty sent to Kathy Graham and Councilmember Bill Buckman on October 16, 2016 with link to the Rip-Off Report blog posting discovered in the packets (Exhibit 68).

¹⁴¹ Investigators were unable to confirm whether Mayor Royalty used his assigned City iPad to forward his research to Kathy Graham and Bill Buckman.

F. Phase Six: Cover Up and Continued Monitoring of Emails

Mayor Testifies Under Oath

During a December 12, 2016 deposition where Mayor Royalty provided sworn testimony¹⁴², he was asked several questions regarding the November 1, 2016 Council Meeting.

Question: *At a November 1st Council meeting this year, McKenzie Mattingly appeared and stated that he was there in his personal capacity and—and began to tell the councilmen about an open records request he made into Kecia Copeland's iPad. Do you remember that matter?*

Mayor Royalty: Uh-huh.

Question: *Okay. Had you discussed and planned this discussion about Kecia Copeland's email prior to that meeting? Had you discussed that with anyone?*

Mayor Royalty: **No.** And we can't discuss that because have an investigation going on at the City through the KRS 83. The Council wants to investigate everybody in the City, so—

Question: *Had you discussed and planned—had you discussed Kecia Copeland's iPad use with anyone prior to that meeting?*

Mayor Royalty: **No.**

Question: *Is it your testimony that you did not have any discussion with McKenzie Mattingly about what he planned to do?*

Mayor Royalty: **No.**¹⁴³

Question: *Okay.*

Mayor Royalty: Let me take that back. He had come to me and asked me if he could come to city council—

Question: *Uh-huh.*

Mayor Royalty: --and voice is opinion about a situation. And I advised him, "If you come, you do not come in uniform. You do not drive a City vehicle." So that—

Question: *Did he—did he discuss what matter he wanted to talk to the city council about?*

Mayor Royalty: **No.**

Question: *So you didn't know what he wanted to talk to them about?*

¹⁴² Transcript from December 12, 2016 deposition of Mayor John Royalty. Pages 314-319. (Exhibit 69).

¹⁴³ Note: Mayor Royalty's personal assistant, Kathy Graham, prepared and sent the October 31, 2016 letter to Cpt. Mattingly. For unknown reasons, she was represented herself as the Acting Clerk in responding to Cpt. Mattingly's request.

Mayor Royalty: **Huh-uh** [negative]

Question: *He didn't mention Kecia Copeland's iPad?*

Mayor Royalty: **No**. He – come wanted to know if he could address the council.

Question: *Didn't you ask him what about?*

Mayor Royalty: **Nope**. Not supposed to. If you put it on the agenda, but he came in as a civilian where in the very beginning you stand up and you say, you call on— if anybody—any public wants to make a statement or ask questions or whatever.

Question: *So he just came to you in a general way and said, "I've got something I want to talk about," but he didn't tell you what it was?*

Mayor Royalty: **Nope**.

Later in the December 12, 2016, additional questions were asked of Mayor Royalty. Still under oath, he testified:

Question: So it's your testimony that before he [Mattingly] gave his presentation [November 1, 2016 Council Meeting], you didn't know what he was going to testify or what he was going to say?

Mayor Royalty: **Yes**. I'm sorry.

Question: Okay. Now, you said you were going to refer the matter—and we're talking about Kecia Copeland was given and iPad along with all the other council members were given iPads, correct?

Mayor Royalty: Uh-huh.

Question: And McKenzie Mattingly found out that she, along with all the other council members, were using those for both personal and business related functions. Is that the matter we're talking about?

Mayor Royalty: What do you mean that he found out?

Question: Well, he—how did he find out?

Mayor Royalty: Just wanting to know.

Question: Okay. So he just wondered—

Mayor Royalty: **I have no idea**.

Question: --"Wonder what Kecia Copeland is doing with her iPad?"

Mayor Royalty: McKenzie is very inquisitive, a very good investigator.

Question: Okay.

Mayor Royalty: Very good.

Question: Any reason why he would have just thought, "I want to see what Kecia Copeland's doing with her iPad"?

Mayor Royalty: **Don't have a clue.**

Question: You didn't direct that, did you?

Mayor Royalty: **Nope.**

In the same December 12, 2016 deposition, Mayor Royalty was asked about his knowledge concerning the preparation and delivery of the packets.¹⁴⁴ Still under oath, Mayor Royalty testified:

Question: So it's your testimony here today under oath and subject to perjury charges, that you had nothing to do with putting that—

Mayor Royalty: **Didn't do it.**

Question: --envelope together?

Mayor Royalty: **Didn't do it.**

Question: Is it your testimony that you had nothing to do with it?

Mayor Royalty: **I had nothing to do with that envelope.**

Question: Did you know about it prior to the meeting?

Mayor Royalty: **No.**¹⁴⁵

Question: Do you know who put it together?

Mayor Royalty: **No.**

Later in the deposition, Mayor Royalty was asked again about his knowledge of the packets before those were distributed to the Councilmembers and news media. Mayor Royalty testified:

Question: Did you know about that envelope or the contents of that envelope before you claimed it was found by Barbie Bryant, sitting outside the doorsteps?

Mayor Royalty: **Do not recall.**¹⁴⁶

Question: You don't recall?

Mayor Royalty: I don't know. **I don't know nothing about it.** I don't recall.

¹⁴⁴ See Exhibit 59. Transcript from December 12, 2016 deposition of Mayor John Royalty. Pages 314-319.

¹⁴⁵ Note: Kathy Graham told investigators Mayor Royalty notified her by telephone about "stuff" sitting on Council stairs prior to meeting and before picked up by Larry Green. Larry Green testified Kathy Graham referred to the items on the stairwell as "packets" before walking over to Council Chamber's stairwell.

¹⁴⁶ Note: Mayor Royalty's deposition was taken approximately 45 days after delivery of the anonymous packets and two months after the incident reports were printed by Capt. Todd Spalding.

Question: Now, you do not recall is different than "No, I didn't know anything about it."

Mayor Royalty: **No, I didn't.**

Question: So it's your sworn statement under penalty of perjury—

Mayor Royalty: **No, I did not.**

Question: --that you didn't know anything—let me finish my question. It's your sworn statement under penalty of perjury that you didn't know anything about that political attack that was made on Kecia Copeland before the start of the Council meeting on November 1st?

Mayor Royalty: **No.**

Question: You didn't know anything about it, correct?

Mayor Royalty: **Didn't know anything about it.**

Question: Do you have any idea who put together the envelope?

Mayor Royalty: **No, I do not.**

Mayor Royalty's testimony was offered in litigation wherein the City is facing significant liability exposure.

Mayor Royalty's personal email account and playing by his own rules

On November 17, 2016, Mayor Royalty emailed the Council. He gives them his interpretation of the application of the City's Ethics Ordinance in relation to use of private email accounts for City communications. He opines:

All council members will receive a city email address in order that we are not in violation of Ethics Code 43, use of government property. Those will be issued hopefully by the first of next week. If you have any questions, please do not hesitate to call me on my cell (502) ###-#### (Emphasis and redaction added).

John ¹⁴⁷

On November 28, 2016, Mayor Royalty emailed Brandon Brewer copying all department heads. He orders all City employees to use only official government email accounts when communicating about City business. The email advised:

All city council members that have other e-mails other than bardstowncable.net assigned to them must be discontinued for city business asap. No official city e-mail shall be sent to any-other e-mail except to city official e-mail (emphasis added).

¹⁴⁷ Email from Mayor Royalty to all Councilmembers (and Councilmember Copeland's response) on November 17, 2016 regarding email addresses (Exhibit 70).

While publicly maintaining that Councilmembers' use of personal email accounts to communicate on matters about the City was unethical or improper, Mayor Royalty privately used multiple accounts. Investigators determined Mayor Royalty routinely communicated with the City Attorney, Clerk Bryant, Kathy Graham, Larry Green and other Councilmembers about City matters using his personal Gmail account, jroyaltyhk@gmail.com.¹⁴⁹ ¹⁵⁰ He used the account in dozens of communications throughout 2016. Mayor Royalty continued to use the account in 2017 for communicating on matters relating to City operations. Based upon the recipient address identified in the email forwarding the link of the "Rip Off Report", investigators believe Mayor Royalty uses a second, personal email account. However, the City produced no other records reflecting this address during the investigation.

Mayor Royalty failed to disclose the existence of his private email account when asked about the issue a few weeks later. Mayor Royalty's sworn December 2016 Interrogatory responses in the Nelson Circuit Court lawsuit against the City and Mayor Royalty continue the pattern of deception:

INTERROGATORY NO. 29: Provide all email addresses that you have used over the past three (3) years.

ANSWER: mavorroyalty@bardstowncable.net

Councilmember Copeland issued an "Official iPad"

Clerk Bryant emailed Councilmember Copeland on December 7, 2016.¹⁵¹ The email is copied to Mayor Royalty. She wrote:

Councilman Copeland:

Your official iPad is available. Please return the "extra" iPad you are currently using and pick-up your "official" one. I have it at my desk.

Barbie Bryant, CKCM

¹⁴⁸ Email from Mayor Royalty to Brandon Brewer on November 28, 2016 concerning City Council email addresses (Exhibit 71).

¹⁴⁹ Email from Kathy Graham to Mayor Royalty on July 1, 2016 sent to his personal email account (For illustrative purposes) (Exhibit 72).

¹⁵⁰ Note: In this investigation, Matt Miller Crosbie directed specific requests for Open Records concerning communications to/ from Mayor John Royalty. No documents originating from Mayor Royalty's personal Gmail account were produced. The treatment of investigators' request by Clerk Bryant and City officials in comparison to the McKenzie Mattingly's October 26, 2016 request for Councilmember Copeland's email records is instructive.

¹⁵¹ Emails from Clerk Bryant to Councilmember Copeland on December 7, 2016 and December 12, 2016 (Exhibit 73).

Councilmember Copeland never requested a new iPad—only that Mayor Royalty quit accessing her current one. Clerk Bryant sent a follow-up email to Councilmember Copeland on December 12, 2016 and copying Mayor Royalty. The email subject line was “FW: Council iPad-Second Request.”¹⁵²

Mayor Royalty continues to access Councilmember Copeland's emails

During investigators review of Open Records produced by the City, an email dated Thursday, December 22, 2016 was discovered causing alarm.¹⁵³ Investigators recognized the email. The email was sent to Mayor Royalty's official City email account from citycouncil.5@icloud.com—an account IT assigned to Councilmember Copeland.¹⁵⁴ The address corresponds with her iCloud account citycouncil.5@icloud.com.¹⁵⁵ Documents confirmed this was the same account.¹⁵⁶

The December 22nd email forwards a December 19, 2016 email from a Nelson County resident. The citizen wrote Councilmember Copeland to offer advice about the City Council investigation and identifies possible violations of federal and state laws involving the packets. Councilmember Copeland passed the information to investigators in early January 2017.

Investigators confirmed with Councilmember Copeland she did not forward this email correspondence to Mayor Royalty. Brandon Brewer told investigators he did not have Councilmembers iPads until the end of December and those were returned on or about January 4, 2017. In early December, Clerk Bryant asked Councilmember Copeland to come to her office to exchange her iPad for a new, “official” iPad. Brandon Brewer told investigators he did not know of the old iPad whereabouts on December 22nd. Regardless of who possessed the iPad, Mayor Royalty was privately monitoring Councilmember Copeland's emails after the Council voted to investigate possible unauthorized access to her communications. He continued the conduct after Councilmember Copeland's civil attorney sent a cease and desist letter on November 3, 2016.¹⁵⁷

Investigators notified Councilmembers of the discovery to warn them Mayor Royalty may be secretly monitoring the entire Council's private and City communications. At the February 28, 2017 City Council Meeting, Councilmember John Kelley pointedly asked Mayor Royalty whether *he had any knowledge* about whether Councilmember's emails were accessed or reviewed without their authority, consent or an Open Records Request. Mayor Royalty responded:

¹⁵² Id.

¹⁵³ Email from citycouncil.5@icloud.com sent to Mayor Royalty's city email account on December 22, 2016 (Exhibit 74).

¹⁵⁴ List of iPad Names and iCloud Accounts for City Council (Exhibit 75).

¹⁵⁵ See Exhibit 54. Attachment to February 26, 2016 email from Barbie Bryant to Brandon Brewer.

¹⁵⁶ See Exhibit 27. List of all City iPads assigned to Bardstown employees and officials.

¹⁵⁷ Forrest Berkshire. *Copeland attorney sends cease and desist letter, request investigation*, The Kentucky Standard, November 3, 2016 (Exhibit 76).

"I don't have any idea what you are talking about."¹⁵⁸

Obstruction / Interference with Investigation

Following the decision of the Bardstown City Council to undertake an investigation in accordance with KRS 83A.130 (13), Mayor Royalty issued a Memorandum to all City Employees on November 23, 2016, commonly called "the Gag Order."¹⁵⁹ The Memorandum ordered:

Therefore, until further notice, any questions from City Council members, or investigators to any City of Bardstown employee should be referred to the Mayor's office. *If you are approached by a councilman and asked questions about any city business, you are to politely tell them that you have been instructed not to answer, and that they should contact the Mayor's office with their questions. Please instruct your employees of this situation.* [Emphasis added].

The Mayor's Gag Order was in direct conflict with City of Bardstown's Adopted Policies and Procedures.¹⁶⁰ The policies apply to all employees¹⁶¹. Section P, *Cooperation with Investigations and Searches*, provides:

The City requires all employees to cooperate fully and, when requested, to participate in City investigations. This includes but is not limited to being totally honest and forthright when responding to City inquiries, as well as completing documents and statements requested by the City.

On January 25, 2017, investigators met with Larry Green at his office in Bardstown City Hall. The upper half of Green's office door is frosted glass. As their discussion ensued with Mr. Green, investigator Carl Christiansen noticed the shadow of a male figure on the other side of the glass. The figure then moved close to the glass to the point the person's head was pressed against the glass. Mr. Christiansen waited several seconds to see if the person would leave. When the figure remained, Mr. Christiansen stood-up and walked towards the door. As he approached, the person moved. When Christiansen opened the door Mayor Royalty was standing about two feet to the right of the door behind his secretary/ assistant. About the same time, Mr. Christiansen received a text message from a City employee which stated, "The mayor is standing right outside Larry Green's Door trying to listen". Mr. Christiansen subsequently spoke with this employee who confirmed their personal observations of Mayor Royalty's actions.

ADDITIONAL CITY ISSUES EXAMINED DURING INVESTIGATION

FINANCIAL IRREGULARITIES

¹⁵⁸ Regular City Council Meeting Minutes, February 28, 2017 (Exhibit 77).

¹⁵⁹ Memorandum from Mayor Royalty issued to all City Department Heads on November 23, 2016 (Exhibit 78).

¹⁶⁰ See Exhibit 52. Policies and Procedures. Section P. Page 24. *Cooperation with Investigations and Searches*.

¹⁶¹ Policies and Procedures. Section A. Page 1. *Scope of Coverage* (Exhibit 79).

Investigators reviewed hundreds of documents, conducted interviews and examined the documentation concerning certain City financial and management activities.

Budgetary Overspending During 2016 Fiscal Year

Councilmembers and investigators received additional information from sources familiar with the City financial condition. The recent audit and subsequent questions about overspending and neglectful oversight received considerable attention in FY 2016.

Investigators interviewed CFO, Tracy Hudson, former CFO, Mike Abell, and Linda Gray of Peercy and Gray, PSC, whose firm serves as the City's independent auditor. Former Police Chief Rick McCubbin was also interviewed about the financial issues affecting the Police Department during his employment with the City.

The release of the 2016 FY City audit identified overspending across several City departments.¹⁶² The City overspent the General Fund by \$233,805. The audit identified other issues.¹⁶³ ¹⁶⁴ Mayor Royalty was unable or unwilling to respond to Councilmember's questions about these issues.¹⁶⁵

Ms. Gray was asked by investigators about the City's budget issues for the fiscal year ending June 30, 2016. She advised the net amount overspent by the City was \$123,352. Gray explained the City could have transferred money from the Utility fund account and then allocated the transfer in to the overspent General Fund categories. This would have avoided the overspending of the allocated budget amounts at the end of the year. She stated budget amendments and budget transfers require approval by the City Council. Ms. Gray told investigators she did not know why the overspending occurred. If a City determines before the end of the fiscal year that less revenue is received than anticipated, the City must spend accordingly.

Former City CFO, Mike Abell, expressed serious concerns about the exhaustion of approximately \$10 million in utility reserves during Mayor Royalty two-year tenure. Mr. Abell retired from the City in April 2015 and worked under Mayor Royalty during the first four months of his administration. Mr. Abell considers Mayor Royalty's failure to submit a budget amendment for FY 2016 spending as serious malfeasance.

CFO Hudson stated Mayor Royalty often fails to provide her with input or direction on the Budget or department spending. CFO Hudson stated she prepared a budget amendment in February 2016 to address the FY 2016 overspending which was placed on the Council's agenda. However, the budget amendment was removed from the agenda a

¹⁶² Jim Brooks. *New council questions budget overspending in city's 2015-2016 audit*, Nelson County Gazette (January 3, 2017).

¹⁶³ Randy Patrick. *Auditor shares concerns about negative general fund balance: CPA calls doubling jobs tax a 'wise decision'*, The Kentucky Standard (January 3, 2017).

¹⁶⁴ Jim Brooks. *Bardstown City Council grills Royalty over city budget overspending*, Nelson County Gazette (January 24, 2017).

¹⁶⁵ *Id.*

few days later.¹⁶⁶ ¹⁶⁷CFO Hudson stated the Mayor wanted the budget amendment removed because it would create negative publicity surrounding the dissolution of the county-city recreation agreement. The cancellation of the agreement resulted in the loss of \$100,000 in City revenue anticipated in the FY 2016 Budget.

CFO Hudson stated Mayor Royalty does not include her on decisions or request input on the City's financial issues. Former Police Chief Rick McCubbin described monthly meetings with department heads, but Mayor Royalty never seemed engaged in the financial operations of running the City. When problems arose during FY 2016, Royalty's offered no direction to McCubbin. He was told to "do nothing" on the budget.¹⁶⁸ Chief McCubbin described Mayor Royalty as "totally uninvolved in financial matters" regarding the Police Department.

Investigators asked Ms. Gray about the \$853,983 decrease in the Utility fund account between fiscal years 2015 and 2016. The Utility fund account balance at the end of the 2015 fiscal year was \$1,152,428. Per her 2016 audit, the Utility fund account balance decreased from \$1,152,428 to \$298,445 as of June 30, 2016. Ms. Gray acknowledged the funds should not have been spent without City Council approval.

Ms. Gray stated to the best of her knowledge Mayor Royalty has never called her since he's been mayor and doubts he knows her name. During the September audit period where she spends three to four weeks at the City, she occasionally sees the mayor when they exchange pleasantries in the hallway. Mayor Royalty has never conferred with her or sought guidance or advice.

Police Department Overtime/ Time Cards

Overtime overspending in the Police Department during 2016 FY was one reason for the City's overspending the General Fund.¹⁶⁹ ¹⁷⁰ Mayor Royalty acknowledged the overtime spending in FY 2016 was not in the City budget, but deflected responsibility for overspending on Rick McCubbin, Bardstown's former Police Chief. He publicly explained these budget problems were "a department head issue."¹⁷¹

However, the worrisome trend accelerated early in the current fiscal year during the tenure of Interim Chief Mattingly. The Council addressed this issue in October.¹⁷² CFO

¹⁶⁶ Email from Tracy Hudson to City Council on February 15, 2016 re: FY 16 Budget Amendment (Exhibit 80).

¹⁶⁷ Email from Clerk Bryant to City Councilmembers removing the FY 16 Budget Amendment (Exhibit 81).

¹⁶⁸ Randy Patrick. *It's on you, Mayor: Hagan calls Royalty out on police overtime; mayor blames former chief, finance director.* The Kentucky Standard (October 27, 2016)

¹⁶⁹ Jim Brooks. *Bardstown City Council grills Royalty over city budget overspending.* Nelson County Gazette (January 24, 2017).

¹⁷⁰ Jim Brooks. *Former Chief: Mayor directed him to quit work on police budget in April.* Nelson County Gazette (October 26, 2016).

¹⁷¹ Jim Brooks. *Police overtime, fire department.* Nelson County Gazette (October 25, 2016).

¹⁷² Jim Brooks. *Safety Committee discusses ways to reduce police dept. overtime.* Nelson County Gazette (October 13, 2016).

Tracy Hudson noted to investigators the Police Department spent 47% of its annual FY 2017 allotment for overtime during the first 3 months. CFO Hudson advised Mattingly and Royalty that the police department's payment of overtime was exceeding its budget.¹⁷³ Less than two months after the start of the FY 2017, CFO Hudson notified Mayor Royalty on August 19, 2016 that "...all departments, except the Police Department are living in their means".¹⁷⁴ She advised overtime was up 27.28% in the first month of the new budget cycle. CFO Hudson emailed Mayor Royalty again on September 27, 2016 warning overtime expenditures had exhausted 47% of the annual budgeted amount for FY 2017.¹⁷⁵

Investigators were made aware that Police Department timesheets during April 2016-October 2016 appear to reflect discrepancies and unusual amounts of overtime. Among the Police Department timesheets obtained through Open Records' requests and reviewed by investigators, the time-frame of August 15-18, 2016 received closer examination. Two police officers, Sgt. Tom Blair and Michael Medley, attended training in Illinois. Investigators were advised Sgt. Tom Blair is Mayor Royalty's brother-in-law. Timesheets reflect significant differences in the overtime amounts paid to Officer Medley and Sgt. Blair during the period. Sgt. Blair's overtime hours were significantly higher. The justification for the overtime was out-of-state professional training and included travel time. The reasons for this apparent overtime discrepancy is not understood or known to investigators.

In another instance, the legality of Interim Chief McKenzie Mattingly receiving overtime compensation was questioned. CFO Hudson advised investigators Interim Chief Mattingly submitted time cards reflecting 25 hours of overtime. The Chief is an exempt-position not eligible for overtime compensation.¹⁷⁶ CFO Hudson raised those concerns directly with Mayor Royalty in an email on August 19, 2016.¹⁷⁷ She wrote:

McKenzie had 25 hours of overtime in the pay period ending 8-13-16. As Interim Chief, he has been given job duties, the hourly rate, and therefore, should be subject to a salary. When the City had an Interim Fire Chief, this employee was given the salary of a Fire Chief and he was not allowed any overtime.

¹⁷³ Jim Brooks. *New Chief updates council on measures to cut over tie, training costs*, Nelson County Gazette (November 22, 2016).

¹⁷⁴ Email from CFO Hudson to Mayor Royalty on August 19, 2016 regarding McKenzie Mattingly receiving overtime pay and excessive overtime expenditures (Exhibit 82).

¹⁷⁵ Email from Tracy Hudson to Mayor Royalty on September 27, 2016 warning of gross overspending on Police Department overtime compensation (Exhibit 83).

¹⁷⁶ City of Bardstow Policies and Procedures, Section V: Compensation Plan (C) Overtime. p.29 (Exhibit 84).

¹⁷⁷ See Exhibit 82. Email from CFO Hudson to Mayor Royalty on August 19, 2016 regarding McKenzie Mattingly receiving overtime pay and excessive overtime expenditures.

DISCUSSION

ELECTION INTERFERENCE - IMPROPER CONDUCT SCOPE OF INVESTIGATION

Mayor John Royalty's sworn deposition testimony and interrogatory responses, acquired from a pending Nelson Circuit Court case concerning the 2016 termination of a Bardstown police officer contradicts evidence obtained by investigators. Notwithstanding the potential civil liability and exposure in the underlying litigation, the sworn statements related to Mayor Royalty's knowledge and involvement with this investigation.

KRS 523.020 Perjury in the First Degree.

- (1) A person is guilty of perjury in the first degree when makes a material false statement, which he does not believe, in any official proceeding under an oath required or authorized by law; or
- (3) Perjury in the first degree is a Class D felony

Investigators uncovered compelling evidence of Mayor Royalty's direct involvement with the preparation and, likely, distribution of the packets to the City Council. The facts show Mayor Royalty engaged in various conduct, including, but not limited to, directing a City employee to lie to the City Council, using the employee to obtain Councilmember's iPad devices under false pretenses and reviewing, printing and disseminating private, personal email correspondence unrelated to official City business. Given the time-frame and circumstances, investigators concluded these actions were intentional and undertaken to interfere with the November 8, 2016 City Council elections.

Investigators believe Mayor Royalty's conduct may have violated or implicated:

KRS 522.030 Official Misconduct in the Second Degree.

- (1) A public servant is guilty of official misconduct in the second degree when he knowingly:
 - (a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions; or
 - (b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or
 - (c) Violates any statute or lawfully adopted rule or regulation relating to his office.
- (2) Official misconduct in the second degree is a Class B misdemeanor.

KRS 434.853 Unlawful Access in the Fourth Degree.

- (1) A person is guilty of unlawful access in the fourth degree when he or she without the effective consent of the owner, knowingly and willfully, directly or indirectly accesses, causes to be accessed, or attempts to access any computer, software, computer program, data, computer, computer system, computer network, or any part thereof, which does not result in loss or damage.
- (2) Official misconduct in the second degree is a Class B misdemeanor.

Bardstown—Code of Ethics

§ 43.13 Use of City/ County Property, Equipment and Personnel

No officer or employee of the city/county shall use or permit the use of any city/county time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

- (A) The use is specifically authorized by a stated city/ county policy.
- (B) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

The Federal Hatch Act

5 U.S.C.A § 1502(a)(1) and (3):

State and local employees, working for the executive branch of government, whose work has a nexus to federal funding fall within the coverage of the Hatch Act and are proscribed by that Act from participating in certain types of political activities. A state or local officer or employee covered by the civil restrictions of the Hatch Act may not “use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office”. The Hatch Act prohibitions applicable to state and local government employees are not limited to federal elections or politics.

**Bardstown City Charter
Chapter 31: Mayor**

§ 31.03 Duties and Powers of Mayor

- (A) The Mayor shall see that the laws and ordinances of the city are enforced and observed.

FINANCIAL SCOPE OF INVESTIGATION

During the City Council investigation relating to distributing the packets, investigators were made aware of certain financial irregularities and management issues during witness interviews, document examination and news media accounts. Evidence obtained early in the investigation established Mayor Royalty's acquired certain records in the packets before their distribution. The scope of the investigation expanded, with approval by the City Council, to also examine certain financial and budget concerns.

After the scope of the investigation broadened, investigators determined certain facts supporting the concerns identified. However, after several weeks of examining these issues and after consultation with City Councilmember John Kelley, the decision was made to include the preliminary findings in the report, discontinue further examination of the financial and budgetary issues and advise the City Council they may request an examination by Kentucky Auditor of Public Accounts.

The preliminary findings discovered during the investigation may implicate these laws and ordinances:

Bardstown City Charter Chapter 38: Taxation and Finance

§ 38.22 Annual Budget

(A) The city shall operate under an annual budget ordinance adopted and administered in accordance with the provisions of this section. Notwithstanding any other provisions of law, the city shall not expend any money from a governmental or proprietary fund, except in accordance with a budget ordinance adopted pursuant to this section.

(K) Administration and implementation of an adopted budget ordinance shall be the responsibility of the Mayor.

(M) No city agency or member, director, officer, or employee of a city agency may bind the city in any way or to any extent beyond the amount of money at that time appropriated for the purpose of the agency. All contracts, agreements, obligations, express or implied, beyond existing appropriations are void. No city officer shall issue any bond, certificate or warrant for the payment of money by the city in any way to any extent beyond the unexpended balance of any appropriation made for the purpose (KRS 91A.030).

KRS 92.340 Liability of city of home rule class for violation of KRS 92.330 or 91A.030(13)

If, any city of the home rule class, any city tax revenue is expended for a purpose other than that for which the tax was levied or the license fee imposed, each officer, agent or employee who, by a refusal to act, could have prevented the expenditure, and the members of the city legislative body voted for the expenditure, shall be jointly and severally liable to the city for the amount so expended. The amount may be recovered of them in an action upon their bonds, or personally. The city attorney shall prosecute to recovery all such actions. If he fails to do so for six (6) months after the money has been expended, any taxpayer may prosecute such action for the use and benefit of the city. A recovery under this subsection shall not bar a criminal prosecution. Any indebtedness contracted by a city of the home rule class in violation of this subsection or of KRS 92.330 or 91A.030(13) shall be void, the contract shall not be enforceable by the person with whom made, the city shall never assume the same, and money paid under any such contract may be recovered back by the city.

INTENTIONALLY LEFT BLANK

POTENTIAL COUNCIL ACTIONS

A) The City Council may authorize and schedule a full public hearing to determine whether there is enough evidence to remove Mayor John Royalty from office for misconduct, incapacity or willful neglect.

KRS 83A.040(9) Removal of Elected Officers

Except in cities of the first class, any elected officer, in case of misconduct, incapacity, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the Circuit Court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.

B) The City Council may refer evidence obtained during this investigation, or discovered at any public hearing on Mayor John Royalty's removal from office, to the following for further consideration and examination:

Nelson County Attorney
Hon. Matthew Hite
602 Bloomfield Rd
Bardstown, Kentucky 40004

Commonwealth's Attorney
10th Circuit: Hart, Larue, Nelson
Hon. Terry Geoghegan
116 East Stephen Foster Ave.
Bardstown, KY 40004

Commonwealth of Kentucky Office of Attorney General
Hon. Andrew Beshear
Criminal Branch
Cyber Crimes Unit
Office of the Attorney General
700 Capitol Avenue, Suite 118
Frankfort, Kentucky 40601-3449

(Continued)

Commonwealth of Kentucky Office of Attorney General

Hon. Andrew Beshear

Criminal Branch

Public Integrity/ Special Investigations

Office of the Attorney General

700 Capitol Avenue, Suite 118

Frankfort, Kentucky 40601-3449

United States' Attorney's Office

Western District of Kentucky

717 W Broadway

Louisville, Kentucky 40202

C) The City Council may refer to financial and budgetary issues identified during the investigation to the Kentucky Auditor of Public Accounts and request an examination of the City's policies, procedures, controls and financial activities for further review and recommendations.

Commonwealth of Kentucky Auditor of Public Accounts

Mr. Michael Harmon, State Auditor

209 St. Clair Street

Frankfort, Kentucky 40601-1817