

CONFIDENTIAL

WORKPLACE INVESTIGATION REPORT

for

City of Roseburg

Date

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EXHIBITS

Policy XX

Policy XX

I. INTRODUCTION

The City of Roseburg (City) retained Beery, Elsner & Hammond, LLP (BEH) to conduct an independent investigation into the following allegations and whether they violated the Roseburg Municipal Code (RMC), Charter, Council Rules of Procedure, or any other applicable policy:

(1) Was City business conducted privately in violation of the open public meeting laws? (2) Were Councilors intimidated or pressured¹ into voting certain ways? (3) Were daytime jobs threatened as a way of keeping Councilors in line? and/or (4) Was the City Manager denied a proper job evaluation because certain Councilors wanted to fire the City Manager and replace her with one of their own?

This is the Confidential Investigative Report (Report) of the investigator's findings. It contains detailed information, witness accounts, relevant documentation, analyses, and findings related to the allegations. The investigator anticipates that City will keep this Report confidential, and it will not be disseminated except as required by law or as City determines necessary. To the extent the City wants to notify the parties of the results of the investigation, it should prepare a separate report with a summary of the findings in order to protect the confidentiality of this Report.

II. INVESTIGATION BACKGROUND

A. Allegations

On Friday, January 24, 2025 at 5:06 pm, then-City Councilor Kylee Rummel sent the following email to City Manager Nicole (Nikki) Messenger, City Recorder Amy Nytes, Mayor Larry Rich, and Council President Ruth Smith:

Good evening,

Due to personal circumstances, I am resigning from City Council. I have the utmost respect for City staff and admire the hard and thankless work that you all do. It has been an honor to know you and I hope that I see you often throughout the community.

Best Regards,

Kylee

Exhibit WD932272. That weekend, Rummel posted the following to her personal Facebook account:

¹ The investigator interpreted this issue as "intimidated or pressured [*by fellow Councilors*] into voting certain ways" and addresses that issue in this Report.

I have debated sharing this information, but because there are voices that will speak loudly in the days to follow, I want to be the one writing my own narrative.

After 2.5 years of service, I have decided to resign from City Council. I first threw my hat in the ring when a vacancy opened, seeing it as part of doing my civic duty and an opportunity to give back to the community I love and have called home my entire life. This position has never been about status, power, or the ability to influence others or push a hidden agenda. During my time of service, I have carefully weighed every decision, acting in what I believe is in the best interest of the community, and I have stood for ethics, truth and love.

I do not believe in airing dirty laundry or pointing fingers, so I will not be doing that now. I will say though, that lines were crossed by certain members of Council, trying to use me to push their own agendas and even going as far to try to intimidate and influence my vote by threatening my job.

I have never been one to quit, but this is a volunteer position, and the personal sacrifices have been too great. I will not continue to work against those who oppose progress when my time is better spent elsewhere.

I have the utmost respect for those on Council who serve with love for the community and for the very passionate and talented City employees who continue to strive to make this community a better place to live.

Exhibit WD932271.

During a subsequent City Council meeting on Monday, January 27, 2025, Mayor Rich announced this investigation and identified the following issues:

1. Was City business conducted privately in direct violation of the open public meetings laws?
2. Were Councilors intimidated or pressured into voting certain ways?
3. Were daytime jobs threatened as a way of keeping Councilors in line?
4. Was the City Manager denied a proper job evaluation because certain Councilors wanted to fire the City Manager and replace the City Manager with one of their own?

B. Witness List

The investigator interviewed 14 witnesses via recorded teleconference meetings, interviewing several witnesses twice. The investigator advised all witnesses of the purpose of the investigation; the role of the investigator; confidentiality and public records; and retaliation.

Name	Position	Representative	Date(s)
Larry Rich	Mayor		2-12-2025

Kylee Rummel	Former City Council Member		2-17-2025; 4-30-2025
Shelley Briggs Loosley	City Council Member		2-18-2025; 4-20-2025
Andrea Zielinski	City Council Member		2-18-2025; 4-20-2025
Gary Klopfenstein	Police Chief		2-20-2025
Stuart Cowie	Comm. Dev. Director		2-21-2025
Nikki Messenger	City Manager	Shawn O'Neil	2-24-2025
Zack Weiss	City Council Member		3-4-2025
Katie Williams	City Council Member		3-4-2025
Ruth Smith	City Council President		3-6-2025
Tom Michalek	City Council Member		3-25-2025
Brian Prawitz	Former City Council Member		3-26-2025
Ellen Porter ²	City Council Member		4-12-2025; 5-6-2025
David Mohr	Former City Council Member		5-7-2025

The investigator scheduled an interview with former City Councilor Patrice Sipos for March 19, 2025, however Sipos canceled the interview the night before, stating “I do not wish to reschedule.” Exhibit WD937811.

C. Documentation

The investigator requested, received, and reviewed documentation from individual witnesses and the City. The relevant documents attached as exhibits support the investigator’s findings.

D. Relevant Policies

The City policies under consideration are:

1. Roseburg City Charter 6.5 – Oath of Office;
2. Roseburg City Charter 6.9 – State Ethics Laws;
3. RMC 2.34.010 – Laws, rules, and policies governing meetings of the Council;
4. RMC 2.34.020(B)(7) – Annual Evaluation of the City Manager; and
5. City of Roseburg City Council and Administrative Policy – City Manager’s Annual Performance Evaluation Process.

Full copies of these policies are included as Exhibits **ONLINE**, WD 932378.

² Porter and Mohr also submitted written statements prior to their interviews, which the investigator used in the interviews and references in this report.

E. Standard for Evidentiary and Policy Findings

The investigator will make findings of fact and policy using a preponderance of the evidence standard.

III. FACTUAL BACKGROUND

Rummel was appointed to the City Council in May of 2022, and subsequently was elected in the November 2022 general election. She has worked as a financial controller for a Roseburg area non-profit, United Community Action Network (UCAN), for approximately five years, including during her time on the City Council. Porter and Smith were also elected in the November 2022 election and Mohr was appointed in late 2022, so Mohr, Porter, and Smith all started on the Council in January of 2023. They joined Councilors Rummel, Briggs Loosley, Prawitz, Sipos, and Zielinski, as well as Mayor Rich.

Midway through 2023, Prawitz was hired by Umpqua Economic Development Partnership and resigned his position as Councilor. After an application and interview process, the Council appointed Michalek to fill Prawitz's vacancy. In the 2024 general election, Williams defeated Mohr, and Weiss was elected to the position held by Sipos, who did not run.

A. "Factions" on Council

Throughout the investigation, witnesses described a division among Council Members. By 2024, Porter and Smith were friendly with Mohr and Sipos, with Briggs Loosley and Zielinski in the opposing "faction" (a term used by Rummel during her interview). Although Rummel felt aligned with Mohr, Porter, Sipos, and Smith on some issues, she did not feel completely part of their group. Michalek appeared to talk more with Porter and Smith than with Briggs Loosley and Zielinski, but was not squarely within one group or the other. Likewise, Briggs Loosley and Zielinski were closer with Mayor Rich and City Manager Messenger than Mohr, Porter, Sipos, and Smith. Weiss and Williams did not appear to be firmly within one faction or the other at the time of their interviews.

Both groups distrusted the other and during the investigation members of both groups made allegations of perceived slights against the members of the opposing group. Both groups suspected without evidence that the other engaged in nefarious private meetings, and viewed the actions of the other in the most negative light. Likewise, members of both groups believed the other group did not respect or follow the rule of law. Several current Councilors expressed a desire to resign from office due to these and other frustrations.

The investigator notes this division because the environment is relevant to the issues raised in this investigation. The Council is and has been acrimonious, and members of the Council are particularly sensitive to perceived slights from the other "faction." Moreover, the tension among Councilors contributed in no small part to the resignation of Rummel, a Councilor the witnesses nearly unanimously respected.

B. City Manager Evaluation and Agenda Item on Termination

During the “Items from Mayor, City Council and City Manager” portion of the agenda at the October 14, 2024 City Council meeting (from which Messenger was absent), Mohr made a motion for “Council to consider placing termination of the City Manager on the next meeting agenda.” Michalek, Mohr, Porter, and Smith voted yes; Briggs Loosley, Rummel, and Zielinski voted no; and Sipos was absent from the meeting.

At the next meeting on October 28, 2024, Mayor Rich announced that the Council would not be discussing Messenger’s termination that evening “after receiving legal advice that steps should be taken prior to any termination discussion.” However, the Mayor added an item to the Mayor’s Report titled “Public Input, City Manager,” and many members of the public appeared and spoke in support of Messenger, with one speaking critically of her. After the regular Council meeting concluded, Council conducted its annual evaluation of Messenger in an executive session as planned.

IV. FINDINGS OF FACT AND POLICY VIOLATIONS

The investigator analyzed the issues identified by the Mayor and made findings using the preponderance of the evidence standard. “Preponderance of the evidence” for this Report means that the evidence on one side outweighs the evidence on the other. The investigator notes that these are not legal findings but findings based specifically on the facts and policies. In the following sections, the investigator summarizes the allegations, the City policies implicated by the allegations, and the relevant facts uncovered in the investigation. Then, the investigator determines whether the facts substantiate the allegations. The investigator lastly determines whether any substantiated allegations constitute a violation of any City policy.

A. Issue Identified: Was City business conducted privately in direct violation of the open meetings laws?

The first issue the Mayor identified for the investigation was “Was City business conducted privately in direct violation of the open meetings laws?”

1. Allegations and Relevant Facts

Councilors described regular conversations, in person as well as by phone and text messages, with fellow Councilors. Throughout 2023, Mohr, Porter, Rummel, Sipos, and Smith began meeting up socially in groups of three and, on at least one occasion, four. For instance, Rummel and Smith went to Porter’s house together on several occasions in 2023, and Rummel, Smith and Sipos all went to Porter’s house once. According to Rummel, Councilors also sometimes met at Sipos’s house: Rummel and Smith once, and Rummel and Mohr once. Mohr likewise hosted Rummel at his house on at least one occasion, and stated he met up with Michalek at Michalek’s house on another. For their part, Briggs Loosley and Zielinski also spoke regularly and occasionally spent time together.

Councilors generally limited conversation to only a couple of other Councilors; apart from the one meeting with Rummel, Smith, Sipos, and Porter, there is no evidence that Councilors gathered in a group of more than three at any one time. In addition, by all accounts, when Councilors met socially they generally avoided discussing “City business” (which the investigator defined as issues that may come before them for a vote), instead discussing interpersonal matters or past events. During the investigation, it became clear that at least five Councilors (which represents a quorum; more on this below) privately discussed two specific matters of City business: the annual Council President election and the potential termination of the City Manager.

a. Council President Vote

Section 3.8 of the Charter provides, in relevant part, “At the first meeting of the Council each year or as soon thereafter as practical, the Council shall choose one of its members to preside over the Council and perform the duties of mayor in the absence of the mayor from the City or in case of the mayor's inability to act as such.” Practically speaking, this is accomplished by a Councilor nominating a Council Member to be Council President and the full Council discussing then voting on it.

There is evidence that, for the 2023 Council President vote, Zielinski talked to Sipos while Briggs Loosley talked to Porter and Smith. In addition, Porter provided a text message thread with Briggs Loosley where she offers to make the motion to nominate Briggs Loosley and Briggs Loosley replies that Mohr already offered, which demonstrates that Briggs Loosley also spoke to Mohr. Exhibit WD 945041 p.1. For 2024, there is evidence that Zielinski talked to Briggs Loosley, Michalek, Rummel, Sipos, and Smith, and that Porter and Mohr discussed the 2024 Council President election. In addition, Briggs Loosley and Zielinski attended a Roseburg Library celebration on Saturday, January 6, 2024 and met up with Messenger. Briggs Loosley remembered knowing Mohr would become Council President on that day, but Zielinski remembered being blind-sided by it at the January 8, 2024 Council Meeting. Exhibit Here and 1/8/24 minutes. Messenger corroborated that she, Briggs Loosley and Zielinski knew Mohr “had the votes” on January 6, and believed Zielinski heard it from the Councilors she called to express her interest in remaining Council President. Zielinski did not remember knowing Mohr would be 2024 Council President before the vote at all, and stated that none of the Councilors she spoke to told her who they were planning to vote for.

For 2025, Briggs Loosley discussed the Council President vote with Williams and Zielinski, and Rummel discussed it with Porter and Smith. Porter and Rummel discussed whether Zielinski was open to being Council President again. Porter stated Rummel told her she believed Smith would be good for the job and Rummel stated Smith told Rummel that Smith believed Rummel would be good for the job. Weiss, who had not yet been sworn in, heard that Smith would be nominated, but could not remember how he heard. Despite a lot of conversation among Council members, apart from Briggs Loosley informing Porter that Mohr would make the motion to

nominate her in 2023 and knowing Mohr “had the votes” for 2024, there is no evidence for any year that opinions about the Council President vote was shared among Councilors.

b. Terminating Messenger

Before Mohr’s October 14, 2024 motion to add an agenda item to discuss terminating³ the City Manager, every member of the Council had discussed the issue with at least one other Councilor or the Mayor. Moreover, there is significant evidence that information was shared among the Councilors about terminating Messenger. Rummel stated Smith told her that Sipos was “on board” with terminating Messenger (though Smith did not remember telling Rummel that), and also that Smith and Sipos spoke with Michalek, who ultimately agreed that Messenger should be terminated. While Smith denied talking to Michalek, Michalek corroborated Rummel’s account that Smith raised the subject of Messenger’s handling of a cybersecurity breach, though Michalek denied that they discussed termination. The investigator finds it more likely than not that Smith told Rummel that Sipos and Michalek supported terminating Messenger. First, Smith did not deny telling Rummel that Sipos supported terminating Messenger but rather did not remember doing so, while Rummel had a clear memory of the conversation. In addition, Michalek corroborated that he and Smith discussed Messenger’s performance with respect to the cybersecurity breach, which indicates Smith either forgot or lied about talking with Michalek. It is just as likely Smith forgot or lied about telling Rummel that Michalek told her that Messenger should be terminated (regardless whether Michalek actually told Smith that).

Rummel also stated Smith told her on the drive to the October 14, 2024 Council meeting that Mohr was planning to make a motion to add an item to discuss terminating the City Manager. Smith only remembered one conversation with Rummel about Messenger’s performance, which she stated occurred long before October and did not include discussion about any other Councilors. The investigator finds it more likely than not that Smith told Rummel about Mohr’s motion immediately before the meeting because it resulted in Rummel not being surprised when Mohr ultimately made the motion at the meeting. For Smith, the conversation may not have been as memorable because she already was aware Mohr was making the motion.

Both Rummel and Smith stated that Mohr informed them that he had been approached by four other Councilors regarding terminating Messenger. Rummel further remembered Mohr specifically stating that “he had been approached by every single Council Member, with the exception of Andrea [Zielinski] and Shelley [Briggs Loosley]” on the subject, and that Mohr specifically told her that Porter, Sipos, and Smith supported termination.

Mohr did not remember telling Rummel that he was approached by every Councilor except Zielinski and Briggs Loosley, and stated “I don’t think that’s something I would say, so I don’t

³ Although the investigator attempted to separate the issues of adding an agenda item to discuss terminating the City manager from the question of actually terminating the City manager, most witnesses collapsed their discussions on these issues. In addition, as described below, Mohr differentiated between terminating Messenger’s contract with terminating her employment, though that is a distinction without a difference for purposes of this investigation.

know.” Mohr continued, “It would not have been unusual for me to mention other Councilors raised a concern and I did.” Mohr appeared to be acknowledging that he spoke generally about the number of Councilors that had discussed a topic with him, but stated he avoided naming which specific Councilor reached out. Moreover, during his interview Mohr stated that the Councilors were sharing their concerns about Messenger with him, but claimed that only Michalek and Sipos mentioned wanting to terminate Messenger. Mohr implied and Porter outright stated that terminating Messenger only became part of the conversation when City Attorney James (Jim) Forrester suggested the motion Mohr eventually made on October 14.

The investigator finds it more likely than not that Mohr shared with Rummel and Smith that he was approached by multiple Councilors generally, and also that in his conversation with Rummel, Mohr named specific Councilors that did and did not approach him and/or support terminating Messenger. Mohr admitted it was common for him to inform Councilors that other Councilors—without specifically naming them—raised concerns with him. Furthermore, Rummel clearly remembered Mohr specifically stating he was approached by every Councilor *except Zielinski and Briggs Loosley* and that Porter, Sipos, and Smith supported termination, while Mohr spoke in generalizations and was unsure.

Likewise, the investigator finds Mohr’s claim that neither he nor the majority of Councilors discussed terminating Messenger (and rather that they just discussed concerns with Messenger’s performance) lacks credibility for several reasons. Both Rummel and Smith described discussing terminating Messenger with Mohr, and Mohr’s motion on October 14, 2024, was for “Council to consider placing *termination of the City Manager* on the next meeting agenda.” (Emphasis added.) Moreover, at the time of Mohr’s motion, Messenger’s annual performance evaluation—where Council gets together to discuss Messenger’s performance, including the Council’s concerns—was already scheduled for the very next meeting. Mohr did not have a satisfactory answer when the investigator probed Mohr about this, as evidenced by the following exchange:

Emily Matasar: So, I understand that maybe when you started having the conversation with the mayor, and when Kylee [Rummel] approached you, that was before the evaluation process started, but when you actually made the motion, it was the meeting immediately before her performance review was scheduled.

David Mohr: That was completely, yeah, I don’t know where that came from. So that was interesting. That was interesting.

Emily Matasar: I’m trying to understand then, if your purpose in making the motion was just to have a conversation . . .

David Mohr: A hundred percent there.

Emily Matasar: And you were going to have a conversation anyway about the city manager's performance at the very next meeting, you see why I don't understand that?

David Mohr: Yeah, no, I'm a hundred percent there.

Mohr then encouraged the investigator to review his emails with Mayor Rich and Forrester, and stated they would reflect Mohr's intent, which he stated was not to terminate Messenger, but rather to "get the Council together to even have a conversation" and "figure out what they want to do." However, it is clear from the emails both that Mohr's conversations with Councilors included terminating Messenger and that Mohr expressly wanted to add Messenger's termination to the agenda.

First, on September 23, 2024, Mayor Rich emailed Mohr and Forrester stating that Forrester "is going to put together what the process is sometime this week." Exhibit WD 947624 at 2. There is no additional detail about what "process" they are referring to in this email thread. On September 26, 2024, Forrester starts a new email thread, titled "Process for dismissal of employee" to Mayor Rich and Mohr. *Id.* at 4. Forrester advises:

According to the Roseburg City Charter, the City Manager can be removed at any time with or without cause by a two-thirds vote of the entire Council. The current City Manager contract provides additional guidelines for the termination process. If the proposed termination is for cause, the Council must provide notice of the reason for the proposed termination, allow the City Manager to respond, and hold a hearing that complies with due process guarantees. If the proposed termination is without cause, no notice of reason is required, and no hearing is necessary.

Id. If Mohr's purpose in reaching out to Forrester was not related to "dismissal of employee" or removing the City Manager, then presumably he would have replied to Forrester's email to correct him. Instead, the next day, Mohr replied, "Thanks Jim. I've had 5 councilors individually approach me, *requesting to dismiss the contract without cause*. Let's get it scheduled, so we can move forward." *Id.* at 5 (emphasis added). Later in the thread on that same day, Mohr emailed Forrester stating he was concerned about risk to the City, "[w]hich is why I was reaching out to [Mayor Rich] and saying 'what do we do, half our councilors *want to terminate the CM[.]*'" *Id.* at 15 (emphasis added). The emails corroborate Rummel's account that Mohr was discussing terminating Messenger, and directly contradict Mohr's and Porter's claims that it was Forrester who first raised the issue of termination or that Mohr's purpose was simply to get Council together to voice their concerns.

Mohr also kept Mayor Rich looped on which Councilors supported termination, and Zielinski recounted that, prior to the October 14, 2024 meeting, Mayor Rich informed her that Mohr was making his motion and that all Councilors except Briggs Loosley supported the motion.

2. Findings of Fact: Allegations Substantiated

The investigator finds, by a preponderance of the evidence, that Councilors privately discussed⁴ the Council President election and the possibility of terminating Messenger.

3. Findings of Policy: No Clear Policy Violation

The allegations implicate the following policies:

- Roseburg City Charter 6.5 – Oath of Office; and
- RMC 2.34.010 – Laws, rules and policies governing meetings of the Council.

Roseburg City Charter 6.5 states, “Each elective officer, the city manager and municipal judge before entering upon the duties of office shall take an oath or affirmation to support the constitution and laws of the United States and of the State of Oregon and to faithfully perform the duties of their office.” RMC 2.34.010(A) states, in relevant part:

The Public Meetings Law shall govern all meetings of the Council. Unless exempted by state law, all official meetings of the Council, for which a quorum is present, shall be open to the public. The quorum requirement for the conduct of Council business is five Council members. Public notice, as specified in Section 2.34.020 of this Chapter, shall be given of all meetings of the Council.

The Public Meetings Law generally requires that a governing body’s meetings and deliberations are open to the public and that the public has notice of the time and place of such meetings. ORS 192.630(2) states, “A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to 192.705.” “Meeting” is defined as “the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.” ORS 192.610(7)(a). A quorum of a governing body convenes a meeting in four different ways: (1) when they gather in a physical location; (2) when they use electronic, video, or telephonic technology to be able to communicate contemporaneously among participants; (3) when they use serial electronic communications among participants; or (4) when they use an intermediary to communicate among participants. ORS 192.610(1). This means that members of a governing body may “convene” a meeting—purposely or inadvertently—even if a quorum never gather together contemporaneously.

Roseburg City Council is a governing body for purposes of the Public Meetings Law. “Eight councilors constitute the Council of the City[.]” per Roseburg City Charter Section 3.1, and “A majority of the Council members is a quorum to conduct business[.]” per Roseburg City Charter

⁴ See policy finding immediately below regarding whether these discussions constituted conducting City business “privately in direct violation of the open meetings laws[.]”

Section 3.5. Thus, as echoed in RMC 2.34.010(A), five Councilors constitute a quorum of the Council.

It is an open question under Oregon law whether information must flow in both directions to be considered communications “among participants” for purposes of convening a meeting.⁵ In other words, the information flows only one direction if Member A speaks to a quorum of members, each of whom shares their opinion with Member A, but Member A does not share those opinions with any other member, who likewise do not discuss the matter with any other member. Under this scenario, although a majority of the members have discussed the subject, only Member A knows the opinions of the other members, thus the opinions of a quorum are not shared “among” a quorum. By contrast, information flows in both directions if Member A discusses Member B’s opinion with Member C and Member C’s opinion with Member B. If information flows in both directions with a quorum of members of a governing body, it unquestionably violates the Public Meetings Law.

Here, although the factual allegations were substantiated, information regarding the annual Council President vote and terminating Messenger flowed in only one direction among a quorum of participants. Because the law is not settled, there is insufficient evidence to establish a clear violation of the Public Meetings Law.⁶

With respect to the 2023 Council President vote, there is evidence that a quorum of Councilors (Briggs Loosley, Porter, Sipos, Smith, and Zielinski) separately discussed the Council President vote, however there is no evidence that information flowed in both directions among a quorum. The only evidence that information was shared “among” Councilors was when Briggs Loosley told Porter that Mohr would nominate her for Council President. There is no evidence that Mohr knew Porter’s views, or that any other Councilors shared opinions among themselves.

For 2024, there is evidence that all eight Councilors discussed the Council President vote with at least one other Councilor (Zielinski spoke to Briggs Loosley, Michalek, Rummel, Sipos, and Smith, and Porter and Mohr spoke). There is also evidence that Briggs Loosley (and Messenger) knew Mohr would be Council President for 2024 at the Library celebration which occurred prior to the Council President vote, however there is still no evidence that information about the 2024 vote flowed in both directions among five Councilors. The same is true for 2025, where at least Briggs Loosley, Porter, Rummel, Smith, Weiss, Williams, and Zielinski separately discussed the Council President vote, but there is no evidence any information or opinions were shared among Councilors, much less a quorum. As a result, there is no evidence that a quorum of the Council

⁵ See, e.g., Sophie Peel, *League of Oregon Cities Says Ethics Commission Has Distorted Public Meetings Law*, Willamette Week (May 8, 2025), <https://www.wweek.com/news/city/2025/05/08/league-of-oregon-cities-says-ethics-commission-has-distorted-public-meetings-law/>.

⁶ However, because of the current ambiguity in the law, it is possible that if a complaint were filed with the Oregon Government Ethics Commission, the Commission could conclude a violation has occurred.

“convened” a meeting, for purposes of the Public Meetings Law, regarding the Council President vote.

While the question of whether a quorum of the Council convened a meeting to discuss termination of Messenger is closer, there is insufficient evidence to establish a clear violation of the Public Meetings Law. Mohr discussed the topic with Michalek, Porter, Rummel, Sipos, and Smith. Porter and Smith discussed it with Rummel. Smith also discussed it with Michalek and Sipos. Moreover, Smith shared Michalek and Sipos’ opinions with Rummel, and Mohr shared specific information about other Councilors views on the subject with at least Rummel and Smith. In addition, prior to the October 14, 2024 meeting, Mayor Rich informed Zielinski that Mohr was making a motion on the subject and that all Councilors except Briggs Loosley supported the motion.

Thus, while there is evidence that Mohr and Smith shared information about the opinions of fellow Councilors with Rummel and that Mayor Rich informed Zielinski that all Councilors except Briggs Loosley would support Mohr’s motion, there is no evidence of a two-way flow of information among a quorum of Councilors. For instance, while Zielinski was made aware of the opinions of all Councilors, there is no evidence Zielinski shared her views with any other Councilors. Likewise, while Michalek discussed the issue with Mohr and Smith, there is no evidence Michalek learned of any other Councilors’ views in those conversations. Briggs Loosley did not discuss the issue at all. Sipos refused to participate in the investigation, so it is impossible to know who she spoke to and what they discussed. However, even if Sipos shared information in both directions, it would not result in a clear violation because including Sipos “among” the Councilors that shared opinions both ways would still not constitute a quorum of Councilors sharing information in both directions on the subject of terminating Messenger.

B. Issue Identified: Were Councilors intimidated or pressured into voting certain ways?

The next issue the Mayor identified was: “Were Councilors intimidated or pressured into voting certain ways?”

1. Allegations and Relevant Facts

Witnesses alleged feeling intimidated or pressured by their fellow Councilors to vote certain ways on the following issues.

a. Surplus Property

Prawitz and Zielinski described being pressured by Porter to inventory, rather than dispose of, surplus real property in February of 2023. At the February 13, 2023 City Council meeting, Resolution 2023-06 came before the Council “Declaring Certain City of Roseburg Real Property as Surplus.” Exhibit 2023 synopsis at 3. Both Porter and Prawitz stated that Porter called Prawitz before the meeting to discuss her idea of inventorying surplus property to eventually support an urban campground, an issue about which Porter is very passionate. Although Porter

did not intend to intimidate or pressure, Prawitz nevertheless felt that Porter was pressuring him to vote with her to inventory the property rather than dispose of it during the February 13 meeting.

Both Prawitz and Zielinski also alleged that Porter pressured them after the February 13 vote. Prawitz stated that immediately after the February 13 meeting, before the Council members had left the Council Chambers, Porter called Prawitz a “traitor,” which Prawitz believed related to his vote to dispose of the property rather than go with Porter’s idea to inventory it. In addition, Zielinski stated Porter called her the day after the vote to discuss her idea to inventory the property. Porter did not affirmatively deny either of these allegations. She stated, “I don’t think I called him a traitor,” and though she did not recall calling Zielinski after the vote, she admitted it would not have been “out of the ordinary[.]” Prawitz and Zielinski remembered these incidents clearly and described them specifically; by contrast, Porter was unsure and/or did not recall the incidents, but in both instances stated it sounded like something she might do. As a result, the investigator finds it more likely than not that Porter called Prawitz a “traitor” and called Zielinski to discuss surplus property after the February 13, 2023 Council meeting.

Although Porter stated her intent was not to intimidate or pressure Prawitz or Zielinski, the investigator finds it reasonable that Prawitz and Zielinski felt intimidated or pressured by Porter’s phone calls to vote to inventory the surplus property as well as calling Prawitz a “traitor.” Calling someone a “traitor” for voting against your desired outcome implies that they should have voted with you, and therefore pressures them to vote that way, especially when combined with a phone call prior to the vote. Likewise, Zielinski described Porter calling her “to give me an earful on how strongly she felt that the City needed to do inventory.” Zielinski recounted that Porter said something along the lines of, “I want you to be on board on this and support it . . . so maybe bring it up in another meeting.” When asked how Porter intimidated and pressured her, Zielinski responded that Porter was “so adamant and pushy” about this issue (and other issues she supports), and that Porter “just won’t back down.” Zielinski felt “bullied” by Porter during the conversation.

Moreover, although behaviors *after* a specific vote could not reasonably be found to intimidate or pressure a Councilor to vote a certain way on that vote, the issue of how to dispose of surplus property comes before the City Council on a somewhat regular basis. For instance, Council considered how to dispose of another surplus property on April 10, 2023, less than two months after the February 13, 2023 vote. Exhibit 2023 synopsis at 5.

b. Urban Campground

Prawitz and Zielinski also felt that Porter pressured them regarding establishing an urban campground. Both told similar stories about Porter stating she would move and/or leave her husband if she did not “fix homelessness” (per Prawitz) or “get this urban campground” (per Zielinski) in the City. Porter denied saying she would leave her husband, but admitted that she had told “a lot of people that if we can’t get the homeless situation under control, as it now

surrounds my neighborhood, that I probably will move.” First, it is more likely than not that Porter referenced her husband in her conversations with Prawitz and Zielinski regarding addressing homelessness in the City. Prawitz and Zielinski both recall Porter specifically referencing her husband; though Porter states she did not, she admits to saying she will “move” (with the implication being that her husband will not). Prawitz and Zielinski’s consistent statements that Porter said she would leave or move away *from her husband* outweigh Porter’s account that she merely said she would move.

Furthermore, the investigator finds Prawitz and Zielinski felt pressure from Porter to vote with her on issues related to homelessness and urban campgrounds based on these statements. Although neither Prawitz nor Zielinski were particularly close to Porter, they felt Porter was using the potential dissolution of her marriage (or, according to Porter’s account, her living separately from her husband) to pressure them into supporting her on issues related to homelessness.

c. Michalek Appointment

Briggs Loosley felt that Porter intimidated or pressured her to appoint Michalek to Prawitz’s vacancy on the Council when Porter called her before the interviews. Porter admitted to calling Briggs Loosley, and left open the possibility that “I told [her] I’d been asked several times to vote for Tom [Michalek.]” Because Briggs Loosley clearly remembers Porter mentioning Michalek and Porter is unsure but leaves open the possibility that she did, the investigator finds it more likely than not that Porter did reference Michalek and at least imply to Briggs Loosley that she should consider voting for him, and also that Briggs Loosley reasonably felt that was pressure to vote to appoint Michalek.

d. Adding Items to Agenda

Rummel and Weiss described Smith requesting that they add an item to the agenda. Rummel and Smith both stated that Smith left Rummel a voicemail asking Rummel to add an item related to Thrive Umpqua to the agenda. Rummel said that in the voicemail, Smith stated she was asking Rummel because staff “like[s] you and they’ll listen to you[.]” Smith was Council President and therefore had more opportunities to discuss adding items to the agenda with the City Manager and Mayor, yet she nevertheless asked Rummel. Because Rummel had felt ignored and steamrolled by fellow Councilors including Smith in the recent past, especially with respect to them continually raising the issue of terminating Messenger despite Rummel’s consistent response that it should be a last resort (see below), Rummel felt pressured and used when Smith left this voicemail, so much so that it served as the last straw leading to her resignation from Council. Smith believed she asked Rummel to raise the Thrive Umpqua agenda item because Smith was going to be absent from Council. Either way, the investigator finds Rummel reasonably felt pressured by Smith to add an item related to Thrive Umpqua to the agenda.

Weiss also recounted a situation where Smith called him to ask him to support an issue, though he could not remember whether it was adding an item to the agenda for her or supporting an item that was on the agenda. Although Weiss could not remember specific details, he remembered he “didn’t feel comfortable” with the conversation. Weiss stated he called Smith back to tell her to raise the issue herself, and Smith was receptive and understanding in that second conversation. Smith recalled asking Weiss to ask a question of Messenger when an issue arose at a meeting because, in Smith’s view, Messenger was more receptive to questions from certain Councilors, such as Weiss, than others. Because Weiss could not remember the issue and because he stated he “didn’t feel comfortable” but also did not feel intimidated or pressured to vote a certain way, the investigator finds Smith did not intimidate or pressure Weiss in this instance.

e. Terminating City Manager

Rummel felt Mohr, Porter, and Smith intimidated and pressured her to support terminating the City Manager. Rummel recounted Smith raising the issue with her multiple times despite Smith appearing to agree when Rummel repeatedly said that termination was not an appropriate action. In addition, Rummel stated that, during one conversation Smith initiated about terminating Messenger, Smith asked Rummel if she was concerned for her job. When Rummel asked Smith why she would be, Rummel stated Smith replied “Well, because you work at UCAN and UCAN’s executive director Shaun Pritchard and Nikki Messenger are very close. . . . If you voted to terminate Nikki, then you could lose your job.” Rummel stated Smith then suggested that Rummel abstain from the vote. Smith admits to one conversation on the subject with Rummel, but denied bringing it up repeatedly, denied ever expressing a concern to Rummel that a vote she made as a Councilor could affect her job with UCAN, denied ever discussing a friendship between Pritchard and Messenger, and denied ever suggesting any Councilor abstain from voting.

Nevertheless, the investigator finds Rummel reasonably felt intimidated or pressured by Smith on the issue of terminating Messenger. First, Rummel could have felt intimidation or pressure based on the single conversation Smith admitted to having with her on the subject. Smith stated she told Rummel, during a “bitch session,” that she believed Porter would be a “good city manager.” This demonstrated, or at the very least implied, a viewpoint that Messenger should no longer be City Manager.

Moreover, the investigator finds it more likely than not that Smith brought up the issue with Rummel on more than one occasion, and that Smith referenced Rummel’s job with UCAN. Rummel was feeling pressured from multiple Councilors on this issue, and was primed to remember each and every conversation. Moreover, when Mohr also raised her job security with UCAN related to this issue (discussed below), Rummel was particularly upset because Smith had already raised it. By contrast, Smith was less invested in the issue or how it affected her personally. Rummel and Smith were social together, and talked regularly, so Smith simply may not have remembered every time she raised the issue with Rummel.

Likewise, Rummel stated she felt pressured by Porter. According to Rummel, Porter called her in August 2024 and brought up terminating Messenger, and Rummel replied similarly to how she replied to Smith. Rummel said that Porter replied that she did not believe Messenger “is open to changing her ways” and that Porter “didn’t see any other option than to, you know, get a different City Manager.” Porter did not remember a conversation with Rummel regarding terminating Messenger, but left open the possibility that it occurred, stating further that Rummel’s account of the conversation “sounds like something I would say, but I don’t recall saying it.” Porter believed the only possible time the conversation with Rummel could have taken place was after the October 14, 2024 meeting where Mohr motioned to add the discussion to the agenda. Even if the conversation occurred after the October 14 meeting, at that point Councilors believed the ultimate issue of whether to terminate Messenger was coming before Council for a vote (and it still could in the future), so Rummel could have reasonably felt intimidated or pressured on the issue by Porter after October 14.

Rummel also felt Mohr was intimidating or pressuring her into supporting Messenger’s termination. She indicated that, even after telling Mohr she “wasn’t in support of termination,” Mohr told her “he didn’t think there was any way around terminating the City Manager and that he supported the termination of the City Manager.” In addition, Rummel felt pressured when Mohr sent her a text message after the October 14, 2024 meeting, stating her job with UCAN could be at risk if she supported terminating Messenger, which she took as “intimidating me or trying to intimidate me, trying to grow this, to plant this seed of doubt or fear and then seeing if we can grow that.”

Mohr’s own description of his conversations with Rummel was unreliable and the investigator therefore gives it less weight. While Mohr initially stated Rummel told him she did not want to terminate Messenger, he later stated “There wasn’t anything about termination specifically[]” in their conversation. Yet later in the interview Mohr again stated Rummel told him she believed some action was appropriate, but “doesn’t want to terminate” Messenger. Mohr thus contradicted his own account that his conversation with Rummel did not include “termination specifically” when he stated twice that Rummel told him she did not support terminating Messenger. As a result, the investigator finds it more likely than not that the conversation occurred as Rummel described.

The investigator further finds that Rummel reasonably felt that Mohr was intimidating or pressuring her to vote to support terminating Messenger in their conversations. Rummel and Mohr both recounted that Rummel did not believe termination was appropriate, yet Mohr nevertheless told her there was no other option. And according to Mohr’s own account, within days of his conversation with Rummel, he reached out to the Mayor and City Attorney to start the process to get the issue before the Council (although, see above, the process Mohr actually reached out about was to terminate Messenger). Mohr ignored Rummel’s stated opinion that termination was not appropriate, which Rummel reasonably felt as intimidation or pressure to support termination.

The investigator does not find it plausible that Mohr's and Smith's references to Rummel's job at UCAN constituted intimidation or pressure to vote a certain way. First, according to Rummel's account and a preponderance of the evidence, Mohr and Smith both supported terminating Messenger, so it is unclear how Rummel felt intimidated or pressured to vote *to support* terminating when Mohr and Smith expressed to her that doing so might get her fired. That also is inconsistent with Rummel's own account that Mohr and Smith intimidated or pressured her to support terminating Messenger.

On this matter Rummel stated, "I was worried that if I voted against termination, those City Council members would come back and say, 'The reason that Kylee [Rummel] voted the way that she did was because she was afraid for her job.'" The investigator also asked Rummel how her abstention would help Mohr, Smith, and the other Councilors who supported terminating Messenger, and Rummel replied, "If they could have had seven voting and it still would've had a majority, then they... I think that that was the motive. That's just my suspicion, but I can't confirm it." In other words, Rummel believed Mohr and Smith would prefer that she abstain entirely rather than vote against termination. Neither undermining Rummel's credibility nor encouraging Rummel's abstention would actually help Mohr's and Smith's apparent cause to terminate Messenger, and the investigator finds by a preponderance of the evidence that Mohr and Smith's references to Rummel's job at UCAN did not intimidate or pressure Rummel to vote a certain way.

2. Findings of Fact: Allegations Substantiated

The investigator finds by a preponderance of the evidence that on several occasions and regarding several different issues, Councilors reasonably felt intimidated or pressured into voting certain ways, as described more fully above.

3. Findings of Policy: No Policy Violation

It is unclear what City policy is violated by Councilors intimidating or pressuring each other to vote certain ways and there is therefore no policy violation.

C. Issue Identified: Were daytime jobs threatened as a way of keeping Councilors in line?

The third issue the Mayor identified was: "Were daytime jobs threatened as a way of keeping Councilors in line?"

1. Allegations and Relevant Facts

Rummel stated and the investigator found that both Mohr and Smith expressed to her their concern that if she voted to terminate Messenger, it could put her job with UCAN at risk due to the friendship between Messenger and UCAN's executive director. However, Rummel did not believe Mohr or Smith intended or had power to actually get her fired, nor was her fear ever that she would actually lose her daytime job. Rather, Rummel understood Mohr's and Smith's

comments related to her job at UCAN as intended to undermine her credibility if she voted to terminate or to pressure her to abstain from the vote entirely.

“Threaten” is defined, in relevant part, as “to utter a threat against” whereas “threat” is defined, in relevant part, as “a declaration of an intention or determination to inflict punishment, injury, etc., in retaliation for, or conditionally upon, some action or course.”⁷ The “punishment, injury, etc.” that Rummel perceived Mohr and Smith would inflict was to her credibility and not to her job at UCAN. Besides Rummel, no other witness described any threats made to their daytime jobs.

2. Findings of Fact: Allegations Not Substantiated

Because Councilors did not “threaten” any other Councilors daytime jobs, this allegation is not substantiated.

3. Findings of Policy: No Policy Violation

The allegations were not substantiated, therefore no policy was implicated or violated.

D. Issue Identified: Was the City Manager denied a proper job evaluation because certain Councilors wanted to fire the City Manager and replace the City Manager with one of their own?

The fourth and final issue the Mayor identified was: “Was the City Manager denied a proper job evaluation because certain Councilors wanted to fire the City Manager and replace the City Manager with one of their own?”

1. Allegations and Relevant Facts

The City Council evaluates the City Manager’s performance annually, per RMC 2.34.020(B)(7), the City Council and Administrative Policy on City Manager’s Annual Performance Evaluation Process, and Messenger’s contract. RMC 2.3.020(B)(7) provides, “Annual Evaluation of the City Manager. The Council shall evaluate the City Manager in accordance with the terms of the Manager's employment agreement.”

Both the administrative policy and the section on performance evaluations in Messenger’s contract were amended in 2021. The 2021 contract amendment states, in relevant part, “City Council will review and evaluate Employee’s performance as City Manager on an annual basis with formal evaluation beginning in July of each calendar year in accordance with specific criteria adopted by City Council, which the City Council may change from time to time at its sole discretion.” Exhibit WD940799 at 4. The policy requires that the City Manager presents “a report on the accomplishments of Council Goals and Objectives adopted by the City Council” at the first meeting in July, then the Mayor and Councilors meet with the City Manager one-on-one during the remainder of July and early August. Exhibit WD932378 at 58. The Mayor and

⁷ www.dictionary.com/browse/threaten; www.dictionary.com/browse/threat.

Councilors are expected to complete evaluation forms, provided in the policy, in August so that the performance evaluation may be completed at the second meeting in August. *Id.*

The evaluation process in 2024 was different than usual. At the June 10 Council meeting, Council convened a work group to discuss the evaluation process and make recommendations for changes. The work group met on June 15, June 26, July 5, and August 8, 2024, but was unable to finalize any recommendations. As a result and after the 2024 review was already behind schedule, during the August 12, 2024 Council meeting, there was a consensus to use the current form for the 2024 evaluation. Exhibit HERE (p.16). Then at the Council meeting on August 26, 2024, Mayor Rich proposed a revised schedule for the evaluation process as follows:

Second Meeting in August: The City Manager will present a report to the City Council. (August 26, 2024 – Executive Session)

Early September: The Mayor and City Councilors meet one-on-one with the City Manager if needed to discuss the City Manager’s performance during the past year. The City Manager and the Mayor/Councilor discuss any performance issues during the one-on-one meetings. (September 3 – September 13, 2024)

Completed By September 30: The Mayor and Councilors complete an appraisal form (as approved by the Council) and submit it to the Council President in sufficient time for the information to be consolidated into one report for inclusion in executive session materials for the first meeting in October. (Evaluation forms will be distributed to Council by September 16, 2024)

Second Meeting in October: The City Manager’s performance appraisal is conducted. The City Manager has the right to choose whether this shall be done in open session or in executive session. (October 28, 2024 – Executive Session)

Exhibit HERE (p.3).

After the August 26 meeting, Councilors began completing the written appraisal forms,⁸ which contained generally positive scores as well as feedback for improvement. In addition, six Councilors met with Messenger one-on-one as contemplated in the policy: Briggs Loosley, Michalek, Rummel, Sipos, Smith, and Zielinski. Messenger refused to meet with Mohr one-on-one and refused to meet with Porter remotely while Porter was in Montana for work. Messenger had a planned vacation out of the country scheduled for early October, so Messenger’s performance appraisal was scheduled to be held in executive session on October 28, 2024.

As stated, at the October 14 Council meeting, Mohr motioned for “Council to consider placing termination of the City Manager on the next meeting agenda.” Michalek, Mohr, Porter, and

⁸ Due to ongoing confidentiality and litigation concerns, the investigator did not obtain the actual evaluation materials. As a result, the investigator relied exclusively on witness accounts to analyze this issue.

Smith voted yes; Briggs Loosley, Rummel, and Zielinski voted no; and Sipos was absent from the meeting, as was Messenger. Messenger's performance appraisal was already scheduled to be held in executive session at the next Council meeting on October 28. At the meeting on October 28, the Council received public comment about Messenger and discussed her performance evaluation in executive session under ORS 192.660(2)(i) but did not discuss termination.

Thus, in 2024, because the work group delayed the process, the City Manager did not present her report at the first meeting in July, as required by the policy. In addition, one-on-one meetings and completion of the appraisal forms did not begin until September, while the policy contemplates them occurring in late July through mid-August. Lastly, rather than holding the performance appraisal at the second meeting in August, as required by the policy, it was pushed to the second meeting in October, two months late.

Further, at the meeting immediately prior to Messenger's scheduled October 28 evaluation, Mohr made a motion for "Council to consider placing termination of the City Manager on the next meeting agenda." At this point, the evaluation was nearly complete, yet Mohr's motion passed, meaning a majority of present Councilors voted to discuss Messenger's termination at the same meeting when Messenger's performance appraisal was to be conducted.

As noted, many of the Councilors interviewed that voted "yes" to Mohr's October 14, 2024 motion stated that they did not intend to actually terminate Messenger. Michalek stated he believed Messenger was performing adequately and that he scored her high on her evaluation, but the reason he voted "yes" to Mohr's motion was to hear the other Councilors' concerns about Messenger. Michalek also stated "part of the evaluation results in termination or not termination." It appears Michalek believes discussing termination should be part of the evaluation process for an at will employee such as the City Manager. Mohr claimed his objective was to allow Council to voice their concerns about Messenger, though the investigator previously concluded that his intent was to terminate the City Manager. *See* Section IV(A)(2). Porter and Smith expressed frustration with the typical evaluation procedure and wanted more interaction from Messenger, and apparently believed that a termination executive session would encourage that. Porter specifically stated—and Mohr implied—that Forrester's advice was the first time Messenger's potential termination came up, however the investigator finds this implausible for several reasons. First, although Mohr made a similar statement, Mohr's emails reflect that it was Mohr that raised the issue of termination, not Forrester. Second, there is evidence Mohr and Porter were talking to each other during the investigation. Because the evidence reflects that it was Mohr and not Forrester who raised the issue, it is more likely that Mohr and Porter discussed an opinion or belief that Forrester raised the issue (and expressing no opinion on whether they did so with a motivation to deceive).

Likewise, although Rummel reported hearing from both Porter and Smith about Porter being City Manager or a Mayor/City Manager hybrid, that did not appear to be the driving force behind the conversation to terminate Messenger. First, Porter denied telling Rummel that "we should

just do away with the city manager position [and] just have a mayor that acts as city manager.” She also denied telling Rummel she would run for mayor if that were the case. If the conversation happened at all, by Rummel’s account it occurred roughly 18 months before Mohr’s motion to add the discussion to the agenda. Similarly, Smith did not seriously believe that Porter would actually become City Manager, and says she stated it to Rummel during a “bitch session.”

2. Findings of Fact: Allegations Partially Substantiated

The investigator finds, by a preponderance of the evidence, that Messenger’s 2024 evaluation was both (1) delayed by the work group’s unsuccessful attempt to change the evaluation process and (2) interrupted by Mohr’s motion on October 14. Although all Councilors completed the written forms (albeit later than contemplated in the policy), Messenger met with the six Councilors she was willing to meet with, and the Council did deliver her performance appraisal in executive session on October 28, 2024, the investigator nevertheless finds Messenger’s 2024 evaluation was not conducted properly due to the delay and Mohr’s October 14 motion.

There is insufficient evidence to find that the reason Messenger was denied a proper evaluation was because certain Councilors wanted to fire the City Manager and replace her with one of their own. Although Rummel stated both Porter and Smith mentioned Porter acting as either City Manager or Mayor/City Manager, there is no evidence these conversations related to or caused Mohr’s motion or the Councilors’ desire to terminate Messenger. The alleged conversation between Porter and Rummel occurred in early 2023, too long before Mohr’s October 2024 motion to reasonably be the cause of it. In addition, there is no evidence this was communicated to Mohr, who ultimately made the motion, or to any of the Councilors who discussed termination. And while Smith admitted to having a conversation with Rummel about Porter being a good City Manager, Smith never seriously believed Porter would or could be the City Manager. The other witnesses who reported hearing about replacing the City Manager with “one of their own” heard about these conversations from Rummel. For these reasons, the allegation is partially substantiated.

3. Findings of Policy: Policy Violation

The factual allegation that the City Manager was denied a proper job evaluation was substantiated. The allegations implicate the following policies:

1. RMC 2.34.020(B)(7) – Annual Evaluation of the City Manager; and
2. City of Roseburg City Council and Administrative Policy – City Manager’s Annual Performance Evaluation Process.

RMC 2.34.020(B)(7) requires the Council to “evaluate the City Manager in accordance with the terms of the Manager’s employment agreement.” The section on evaluation in Messenger’s current employment agreement states, in relevant part, “City Council will review and evaluate Employee’s performance as City Manager on an annual basis with formal evaluation beginning

in July of each calendar year in accordance with specific criteria adopted by City Council, which the City Council may change from time to time at its sole discretion.” Exhibit WD940799 at 4. The “specific criteria adopted by City Council” is the “City Manager’s Annual Performance Evaluation Process” City Council Policy, which sets out the timeline discussed in detail above, and provides the written appraisal forms. Exhibit WD932378 at 58-73.

Council’s 2024 evaluation of Messenger did not comply with the timeline described in the policy and therefore violated it. Messenger’s report on the accomplishments of Council Goals and Objectives did not occur at the first meeting in July, as required by the policy, and the performance appraisal itself did not occur at the second meeting in August, as required by the policy. RMC 2.34.020(B)(7) requires the evaluation to comply with the terms of the agreement, which references the policy, so the 2024 evaluation also violated RMC 2.34.020(B)(7).