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INSPECTOR GENERAL'S REPORT TO THE CITY COUNCIL

2021-OIG-2

I have been asked by multiple Complainants to look into the conduct of Aldermen in discussing the subject matter of an Executive Session, which occurred November 2, 2021, during open City Council meetings. I have reviewed video of the February 7, 2023 City Council meeting and the February 14, 2023 Committee of the Whole meeting. I have also reviewed an Illinois Times article titled, "Debt Disagreement" and letters to the editor appearing in the February 9-15, 2023 edition of the Illinois Times.

Executive Session is customarily used to discuss personnel matters or contract negotiations and no vote can be taken during Executive Session. The concept of Executive Session is based upon providing privacy to employee disciplinary actions and to protect strategy in contract negotiations among other things. In the normal course, the public does not ever get access to what went on in an Executive Session. In the instant matter, by reading the Illinois Times article and listening to several Aldermen arguing among themselves, it is quite clear what the Executive Session was about and the only matters left to doubt after all of the disclosures had been made were whether or not there was a consensus to take a particular action.

Questions have centered around what can be discussed about an Executive Session of the City Council outside of that Executive Session and what sanctions are available to punish alleged offenders.

I sought answers to these questions by looking within the four corners of the City Code. The only mention of City Council Executive Session appears at Section 31.24 of the Code which states:

“(a) Minutes of meetings closed to the public shall be available to the public only after the City Council determines that it is no longer necessary to

protect the public interest or the privacy of an individual by keeping them confidential.

(b) The verbatim recordings of closed meetings shall not be open for public inspection unless the City Council determines that the verbatim recording no longer requires confidential treatment or otherwise consents to its disclosure or otherwise provided in Section 2.06(e) of the Illinois Open Meetings Act.”

Section 31.24 deals only with keeping the minutes or recordings private, except by vote of the City Council to release them to the public. This section is silent as to whether or not it is improper to discuss the subject matter of the Executive Session outside of the Executive Session, nor does it deal with any consequence of failure to keep the Executive Session Meeting Minutes or recordings confidential. While common sense should prohibit such discussions, this lack of guidance clouds the issue.

I searched again within the four corners of the City Code for the consequence of Aldermen or Executive Branch Elected Officials violating any provisions of the City Code and found but one scant section at 31.03 titled “Rules; expulsion”. This section reads:

“The City Council shall determine its own rules of proceeding and punish its members for disorderly conduct with the concurrence of two-thirds of the Aldermen elected, it may expel an Alderman, but not a second time for the same offense.”

Again, this section is worded in a confusing manner. It would seem that expulsion would just be for a single meeting based upon the language that an Alderman may not be expelled a second time for the same offense. The section is also silent as to when the expulsion would occur but again common sense would dictate that if an Alderman was disorderly during a meeting the remaining Aldermen could vote on expulsion from that meeting. There is nothing to state that the expulsion could occur at a subsequent meeting and such late punishment would not have the effect of calming and returning a council meeting to normalcy by the immediate expulsion of the disorderly Alderman.

I commend the City Council’s actions taken in adopting Ordinance 2023-050, which is a Resolution to release the record of what occurred during the November 2, 2021 Executive Session.

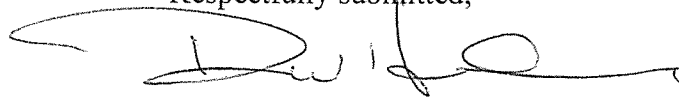
Because there is no clear definition in the City Code as to the consequence of participants in an Executive Session who release information about the session in articles, letters to the editor or open discussion during a council meeting and because there is no punishment other than expulsion during a single council meeting to enforce violations of the City Code, there is little that the Inspector General can do to resolve this situation.

The participants who have disclosed bits and pieces of the meeting have made this a political, election year dispute. By the Council releasing the recordings of the Executive Session, this dispute can be decided in the most democratic fashion, which is by allowing the

public to form its own opinions and respond at the ballot box as all political issues are ultimately decided.

It is my recommendation as Inspector General, that the City Council review the City Code to add more definition to the description of Executive Session in Section 31.24 to specify the consequences of breaching the confidential nature of the Executive Session and by revising Section 31.03 to bring clarity to whether or not the expulsion process contemplates removal from a single meeting or a more permanent action. There is nothing in the City Code which deals in any way with an impeachment or permanent removal of a City Council member and what level of violation of rules is necessary to support such an action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Holmes", written over a horizontal line.

Roger W. Holmes, Inspector General