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May 22, 2025

Via Email:

Gregory Moredock
Gregory.Moredock@springfield.il.us

Matt Scherer
matthewjscherer@yahoo.com

Jason Brokaw
JBrokaw@gwcblaw.com

Gentlemen:

Attached is my final report concerning the complaint filed with the Inspector General Office by Matt Scherer. According to City Code, Mr. Moredock and Mr. Scherer were both given an opportunity to supply a written response to the report. No written responses were received.

Thank you for the opportunity to investigate this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Mahrt', with a long horizontal line extending to the right.

Steven D. Mahrt

Enclosure

4913-9117-9078, v. 1



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MEMORANDUM

To: Gregory Moredock -Corporation Counsel
Gregory.Moredock@springfield.il.us

Matt Scherer
matthewjscherer@yahoo.com

Jason Brokaw – Inspector General
JBrokaw@gwcbllaw.com

CC:

From: Steven D. Mahrt

Subject: Matt Scherer Complaint

Date: May 22, 2025

This report is presented in our capacity as Special Inspector General for the City of Springfield. We are serving due to a conflict involving the incumbent Inspector General, Mr. Jason Brokaw, attorney with Giffin Winning Kohen & Bodewes, P.C.

This matter was assigned to us on February 27, 2025.

This report is the culmination of an investigation into a complaint filed by Mr. Matt Scherer.

On April 29, 2022, Mr. Scherer received a small business loan of \$27,986.00 from the Justine Peterson Housing and Reinvestment Corporation. As explained later in this report, the City contracted with Justine Peterson Housing and Reinvestment Corporation to provide small business loans in Springfield. The City appropriated three hundred thousand dollars (\$300,000.00) in city funds to Justine Petersen Housing and Reinvestment Corporation for this purpose. Mr. Scherer used his loan proceeds to purchase two electric surfboards (approximately \$13,000.00 each). His business plan was to teach individuals how to operate the electric surfboards. He intended to give lessons at Lake Springfield. Mr. Scherer disclosed his business plan to city representatives, city elected officials and to Justine Petersen representatives prior to receiving his loan. At no time did anyone raise concern about his business plan.

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Upon purchasing the two electric surfboards, Mr. Scherer began operating the boards at Lake Springfield. At the time there was no prohibition on operation of this type of watercraft at Lake Springfield.

In January 2023, Ward 1 Alderman Chuck Redpath introduced an Ordinance to ban electric surfboards at Lake Springfield. The Ordinance was withdrawn and not considered by the City Council. At the time Mr. Redpath told the Illinois Times “We’ve had a lot of calls from homeowners and from homeowners’ associations who are obviously opposed to them. I’ve also had calls from people that are in the council of clubs out at the lake who believe this is a too dangerous situation.”

Mr. Scherer offered to meet with city officials to discuss operation of the surfboards at Lake Springfield. Mr. Scherer said he was “perplexed as to why the city would have provided him a low interest loan to start a business if it did not want him to operate the watercraft on the lake.”

On March 10, 2023, the general manager of public utilities City Water, Light & Power, formally prohibited motorized surfboards, known as E-Foils or Lift-Foils on Lake Springfield. The prohibition specifically stated that this type of personal watercraft could not be operated on the lake for “training or rental” purposes. Under Section 96.004 and 96.039(b)(18) of the City of Springfield Code of Ordinances, the city has authority to establish rules and regulations to prohibit any watercraft from operation in the reservoir in the interest of public health and safety. These code sections are discussed on Exhibit A.

The prohibition issued by City Water, Light & Power essentially made Mr. Scherer’s business plan illegal at Lake Springfield.

In November 2023, Mr. Scherer met with Doug Brown, the Mayor and the Corporation Counsel, to discuss relief from the March 10, 2023, prohibition on electric surfboards. Mr. Scherer suggested he be able to teach lessons at the lake at specified locations, at specified times and at specified speeds. He expressed a willingness to abide by any reasonable regulation on use of the boards at the lake. No relief or modification of the March 10, 2023, order was made.

As a result of his inability to give surfboard lessons at Lake Springfield, Mr. Scherer filed this complaint, alleging the city should not have given him a small business loan and then prohibited operation of the surfboards at the lake.

The funding for Mr. Scherer’s business loan came from City of Springfield funds, which were given to the Justine Petersen Housing & Reinvestment Corporation. The

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City of Springfield authorized a supplemental appropriation in the amount of \$300,000 to assist in a Small Business Recovery Loan Program, administered by Justine Petersen Housing & Reinvestment Corporation. This supplemental appropriation was dated July 22, 2021. Although the City anticipated that this appropriation of funds “may be covered by the American Rescue Plan Act of 2021, under revenue replacement provisions”, these funds were in fact city funds received through federal Community Development Block Grant funding.

Mayor Jim Langfelder explained this funding arrangement in a letter to the editor of the Illinois Times, dated February 9, 2023. Mayor Langfelder wrote that the funding for Mr. Scherer’s business was provided through Justine Petersen, the largest micro business lender in the country. The City of Springfield, along with local banks, partnered with Justine Petersen to create a \$2,000,000.00 Springfield business loan pool. The City Council approved the city’s \$300,000 loan participation that is operated by Justine Petersen and just like a bank, all loan applications, underwriting and approvals are done by the staff at Justine Petersen. The Mayor explained at that time Justine Petersen had a satellite office within the city’s office of Planning and Economic Development, making it convenient for staff to refer businesses and individuals who need funding but are unable to get assistance from a bank or the city. Mr. Scherer availed himself of this funding opportunity.

Mr. Scherer’s complaint is that by prohibiting the use of electric surfboards at Lake Springfield, the city wasted city funds. He believes the purpose of the small business loan was to encourage and enable residents to start a small business. Knowing his business plan, the city supported his loan request but then prohibited him from operating his business when it enacted the electric surfboard ban at Lake Springfield.

Mr. Scherer is now faced with abandoning his business plan and selling his business assets to repay the loan he received. Mr. Scherer does not believe the sale of assets will be sufficient to repay the loan, so he is will use his own funds to satisfy his loan obligations.

The City of Springfield Ordinance creating the Office of Inspector General states that the purpose of the office is to “establish a program of investigation and inspections to provide increased accountability and oversight of entities in city government, or entities receiving funds through the city, and to deter and identify fraud, waste, abuse and illegal acts.”

There is no allegation of fraud, abuse or illegal acts in the complaint filed by Mr. Scherer. Mr. Scherer suggests that the City is engaged in waste by providing him a loan and subsequently banning operation of his business at Lake Springfield.

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Mr. Scherer maintains that at no time was he made aware prior to receiving the loan, of any desire, attempts or efforts by the City of Springfield or Springfield Water Light & Power, to prohibit electric surfboard devices used in his business at Lake Springfield. The surfboards he purchased with the loan are currently being used at another location in another state. Mr. Scherer is not using the boards in Illinois or giving lessons in Illinois.

Under city Ordinances, the Inspector General may prepare a report concerning the complaint. The Ordinance provides that such report shall be provided to the persons involved in the subject matter, prior to publishing or issuing the report. Recipients of the report have thirty (30) days to respond. Any response will be attached to the Inspector General report. The Inspector General also has authority to refer matters for criminal prosecution. As previously indicated, there is no evidence of fraud, abuse or illegal acts in the loan made to Mr. Scherer, and the subsequent prohibition of the electric surfboards at Lake Springfield.

Under Illinois law, the fact that a business operation is subsequently prohibited by legislative action does not give rise to a cause of action against the legislative body, or in this case, provide a defense for repayment of the small business loan received by Mr. Scherer. The legality of a business operation is subject to change, based on new legislation, and a business must comply with such changes.

In this case, the complainant acknowledges that he is free to use the equipment he purchased with his loan at other locations throughout the State of Illinois and the United States. It is a personal inconvenience for him to operate his business if he cannot do so at Lake Springfield because he resides near Lake Springfield. Mr. Scherer also indicated that his cost of doing business will significantly increase if he is forced to give lessons at Lake Decatur or Clinton Lake. As a result of the City prohibition on operation of his surfboards at Lake Springfield, he may be forced to liquidate his business assets in an attempt to satisfy his loan obligations.

As indicated earlier, there is no evidence of fraud, abuse or illegal acts involved in the particular transaction that is the subject of this investigation. Some may argue that it is a waste of city resources to provide a small business loan to a local business and then prohibit the business operator from conducting his business by adopting a rule or regulation prohibiting operation of the surfboards at Lake Springfield. This is the opinion of Mr. Scherer.

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At the time the loan was made, the operation of electric surfboards at Lake Springfield was allowed. Only after Mr. Scherer began operation on the lake did the city take action to prohibit electric surfboards. This prohibition arose in part from complaints and safety concerns. The city is within its authority to regulate watercraft at Lake Springfield. Unfortunately, the complete ban on electric surfboards has a disastrous effect on Mr. Scherer's business: A business encouraged and supported a few months earlier by the city.

In retrospect, perhaps city officials and loan officers at Justine Petersen should have viewed a demonstration of an electric surfboard before loaning money for the purpose of giving surfboard lessons at Lake Springfield. Perhaps city officials may still consider allowing limited use of these surfboards at the lake under reasonable restrictions, to minimize noise impact on nearby residents and protect the boating public. Absent some relief Mr. Scherer will be faced with a difficult business decision.

Based on the investigation of this matter, it is our conclusion that there is no basis to refer this matter for criminal prosecution and there is no basis to refer a report to the City of Springfield City Council concluding that there was fraud, waste or abuse in the issuance of this loan by the city through the Justine Petersen Housing & Reinvestment Corporation. The loan was legal at the time. And operation of the electric surfboard at Lake Springfield was legal at the time of the loan. The loan must be repaid so there is no waste of city funds. The repaid loan funds can be used to finance other small businesses in Springfield.

This report may be referred to city council for the purpose of providing a history of this loan and reconsideration by city officials of the total ban on electric surfboards at Lake Springfield. The ban has created significant hardship on Mr. Scherer and frustrates a goal of the loan program to support local small business initiatives.


Steven D. Mahrt

Date: May 22, 2025.

EXHIBIT A

The Director of City Water, Light and Power identified the following city code sections as authority for him to prohibit motorized surf boards at Lake Springfield.

96.004

Rules and regulations.

The general manager of public utilities shall have power to establish general rules and regulations for the administration of this chapter and such other rules and regulations as may be deemed advisable or necessary to make, in giving full force and effect to the carrying out of the provisions of this chapter and may amend and repeal any such rules and regulations.

96.039(b)(18).

Reservation of rights of city.

The city shall at all times have power and authority to prohibit, restrict, or otherwise limit or regulate the keeping, maintenance, or operation of any or all watercraft on the waters of the reservoir should it become necessary to do so in the interest of the public health and safety, or for the protection or improvement of the reservoir or other cause.

Generally, authority to issue rules and regulations for administration of a code or statute or ordinance is granted to administrative agencies as a means of providing some discretion in addressing substantive matters delegated to the agency. This same authority may be granted to a public official. The administrative agency or official's authority is sourced and tied to the substantive law the agency or official is to enforce. An official or agency may be tasked with giving meaning to a particular statutory term or tasked with issuing rules to fill-in the details in the statutory scheme or regulate a particular subject matter. Administrative authority is not the same as authority to legislate, although rulemaking may have an effect substantially similar to legislating. Legislative authority is reserved to the legislative body that delegates rule making authority to the administrative officer or agency.

In the case at hand, the administrative official issued a "rule" prohibiting a particular type of watercraft at Lake Springfield. He did so under section 96.039(b)(18) of the city code. This section appears to reserve the power and authority to prohibit ...watercraft ...at the reservoir to "the city." There does not appear to be a grant of authority to the General Manager of public utilities to prohibit or restrict ...watercraft, unless the word "city" is interpreted to mean General Manager. There does not appear to be any provision making the general manager equivalent to the city. The rules are

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ambiguous and subject to interpretation. Although opinions may vary, it appears only the city council may legislate the type of watercraft allowed or prohibited at Lake Springfield. Or the city council could grant this authority to the General Manager subject to appropriate standards to guide such discretion.

This section is added as an Exhibit given the ambiguity in the city code concerning the authority of the Director.

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