Atoka Ethics Investigation Report

November 20, 2026

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Abbreviations

This report uses the following abbreviated terms:

Term	Meaning
Board	The Atoka Board of Mayor and Aldermen
Charter	The Charter of the Town of Atoka
Chief Scott	Atoka Fire Chief Bill Scott
Code	The Town of Atoka Code of Ethics, Atoka Municipal Code Title 1, Chapter 4
Detje Text	Alderman Harber's text message to Alderman Chris Detje on June 12, 2026 at 11:26 p.m.
EDA	Economic Development Advisors, LLC, the IDB's economic development consultant
EDA Contract	The consultant contract between the IDB and EDA, approved by the IDB on November 20, 2025
Mayor's Forum	The mayoral candidate forum held October 5, 2026
IDB	The Atoka Industrial Development Board
January 2026 Emails	The emails Alderman Harber sent from his Town of Atoka account on January 16, 17 and 30, 2026 regarding the Roland Posts
June Facebook Post	Alderman Harber's comment about Amanda Faurbo in the Fans of Atoka, TN Facebook group, and Ms. Faurbo's June 12, 2026 post on her personal Facebook page sharing a screenshot of that comment with her response
MTAS	The University of Tennessee Municipal Technical Advisory Service
November 10 Meeting	The Board's regular meeting on November 10, 2026
October 8 Meeting	The Board's regular meeting on October 8, 2026
October 13 Meeting	The Board's special called meeting on October 13, 2026
Open Meetings Act	The Tennessee Open Meetings Act, Tenn. Code Ann. § 8-44-101 et seq.

Planning Commission	The Atoka Municipal-Regional Planning Commission
Resolution	Resolution 23-08-02, the Town's resolution on broadcasting public meetings and the public comment period
Roland Posts	Posts on Terry Roland's personal Facebook page that Alderman Harber sent to Town officials, IDB members, Ms. Taylor and others
Scott Message	Alderman Harber's Facebook Messenger message to Chief Scott on June 12, 2026 at 11:31 p.m.
Skinner Email	Tipton County Commissioner Jason R. Skinner's October 10, 2026 email to Mayor Akin titled "Citizens response to the 10/8/26 BOA meeting," which Alderman Harber asked to have added to his complaint
Taylor Message	Alderman Harber's Facebook Messenger message to Brook Taylor on October 7, 2026 at 7:17 p.m. and the six images sent with it
Town	The Town of Atoka, Tennessee
Town Attorney	Amber Shaw

Introduction

On October 13, 2026, the Atoka Board of Mayor and Aldermen voted to retain me as outside special counsel to conduct an ethics investigation under the Town of Atoka Code of Ethics. The investigation grew out of the October 8 Meeting, at which six citizens addressed the Board during the public comment period. Two of them, Krista Scott and Brook Taylor, addressed Alderman John Harber directly about his conduct toward them. Five written complaints followed between October 9 and October 13: three concerning Alderman Harber, and two filed by Alderman Harber concerning Mayor Barry Akin and the October 8 Meeting.

The Code designates the Town Attorney as the Town's ethics officer and describes how ethics complaints are reviewed and investigated. The Code also provides that the Town Attorney "may request that the governing body hire another attorney . . . to act as ethics officer when she has or will have a conflict of interest in a particular matter."[1] Town Attorney Amber Shaw did exactly that. She advised the Board that she had previously advised Alderman Harber on the subjects raised in Complaint 1 and that it would be improper for her to investigate them.[2] She also pointed out that attorneys have a code of ethics of their own, the Rules of Professional Conduct, which she described as "a lot longer" than the Town's Code. That is an understatement.[3]

At the October 13 Meeting, Alderman Harber himself made the motion: "I will proudly make a motion that I approve the town attorney's request to hire outside counsel to conduct an ethics investigation." Alderman Poole seconded, and at his request the motion also covered every complaint the Town Attorney had received to that date, with the results to be reported to the Board at its next scheduled meeting. The Board voted 5–0 to retain me. Alderman Harber abstained, on the Town Attorney's recommendation.[4] I was asked to investigate the complaints and to report to the Board whether the conduct complained of violated the Code or the Charter. I met with the Town Attorney on October 19, 2026, to receive the complaints directly from her to begin this investigation.

I spent a significant amount of time on this investigation. No member of my staff worked on any part of this investigation or preparation of this report. I took this appointment very seriously, because local government matters. It has far more impact on the citizens it serves, and is far more responsive to them, than any other level of government. More important still is what is at stake in an ethics investigation: the public trust. An elected office is held for the people it serves, not for the person who holds it. Maintaining that trust is the obligation of every elected official, and it is the first thing that suffers when officials fall short of it. It matters to every person in this Town and to every member of this Board.

The Town of Atoka has had a difficult year. Since October, this ethics investigation has been a bruising issue for the Town and the subject of significant online debate that has often been unhelpful and unproductive, and sometimes simply wrong. It did not come out of nowhere.

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[1] Code § 1-410(2)(b).
[2] Code § 1-410(1), (2)(b).
[3] Video of the October 13 Meeting at 23:30.
[4] Exhibit 7; video of the October 13 Meeting at 29:05–29:30.

Before it, the Town's purchase of a new fire engine was a contentious and ongoing fight, and it was drawn into the campaign. The IDB and its consultant have been a continuing source of tension and concern, and of legal exposure for the Town, since late 2025. In the middle of the summer, as the election season began, the Board worked through the budget for fiscal year 2027. The record suggests that the budget itself was contentious, but the budget is the most important work the Mayor and Board do each year. It is how they spend the taxpayers' money, and it is busy, detailed and difficult work. This year, it coincided with the start of the campaign. The campaign that followed was, in Alderman Harber's own words, heated. People were divided, everyone had an opinion, and much of the discussion took place online, which tends to deepen divisions rather than bridge them.

Rules without enforcement lose their force, and enforcement means little if the public cannot see how it was done. That is why this report sets out everything I did in this investigation: every person I spoke with, every record I reviewed, what each complaint alleged, the law each complaint implicated, what I found and why, and what the evidence supports and what it does not. Because participation in this investigation was voluntary, the report also states, in full transparency, what I was not able to do and what I was not able to determine. For each allegation, I state whether the conduct constitutes a violation of the Charter or the Code of Ethics, and why.

My specific findings and conclusions are detailed in this report, but I also reached a broader conclusion that everyone should consider. This investigation was avoidable. Some of the conduct that gave rise to this investigation was careless, and some of it was foolish, even undignified. Elected officials should know better, and the citizens they represent deserve better. They are obligated to represent the citizens of this Town in an honest and forthright manner.

The members of this Board, and especially those who will take the oath of office next month to represent the citizens of this Town, should take the lessons of this investigation with them into office. Whether or not each of these actions violated the Charter, the Code of Ethics or any other law, it is my conclusion that every one of them was, unequivocally, a mistake that no one should repeat.

Scrutiny and accountability lead to better government. An investigation matters not only for what it finds about the conduct under review, but also for what it reveals about the rules themselves. It can identify where they are silent, where they are unclear, and where the means of enforcing them fall short. That has been true at every level of government. The investigations that followed Watergate led to the Ethics in Government Act of 1978, and the congressional investigations of Enron's collapse led to federal law protecting investors from corporate fraud.[5] The same is true, on a much smaller scale, in Atoka. This investigation revealed gaps in the Code and in how the Town enforces it. The Code says nothing about how officials use social media. It does not require officials to be trained on their ethical obligations when they take office. And it says nothing about complaints filed in the final weeks of an election. I close this report with recommendations to close those gaps.

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[5] Ethics in Government Act of 1978, Pub. L. No. 95-521, 92 Stat. 1824; Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745.

I. The Complaints

The Board referred five written complaints to this investigation. In the order they were received, they are:

Complaint 1. Alderman Chris Detje, October 9, 2026 (asking that the claims citizens raised about Alderman Harber during public comment at the October 8 Meeting be investigated).[6]

Complaint 2. Krista Scott, October 9, 2026 (concerning Alderman Harber's June 12, 2026 message to her husband, Fire Chief Bill Scott, asking that she remove her reaction to the June Facebook Post).[7]

Complaint 3. Alderman John Harber, October 10 and 12, 2026 (concerning Mayor Akin's extension of the public comment time at the October 8 Meeting).[8]

Complaint 4. Alderman John Harber, October 12, 2026 (asking whether the October 8 Meeting was "contrived to discredit a local candidate," based on the Skinner Email).[9]

Complaint 5. Planning Commission Chairman Stephen Shopher, October 13, 2026 (concerning Alderman Harber's call asking him to lobby the Planning Commission to approve the Kroger expansion, and reports that aldermen discussed voting matters after Board meetings).[10]

Complaints 1 and 2 overlap, so I address them together. The full text of each complaint, with its attachments, is in the exhibit cited.

II. What This Investigation Decides

This investigation decides one question: whether the conduct complained of violated the Code or the Charter. It does not decide whether anyone committed a crime.[11] That is a question for law enforcement, prosecutors and the courts. It does not decide whether anyone's constitutional rights were violated. I considered the First Amendment in weighing the facts, but whether anyone's rights were violated is also a question for the courts. And it makes no findings under the Open Meetings Act. That is state law outside the Code, the Charter and the scope of this investigation.

Town of Atoka Charter and Code of Ethics

Atoka Charter

Atoka Charter § 12 governs how individual aldermen deal with the Town's officers and

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[6] Exhibit 1.
[7] Exhibit 2.
[8] Exhibits 3 and 4.
[9] Exhibit 5.
[10] Exhibit 6.
[11] Tenn. Code Ann. § 39-16-402.

employees. It provides in full:

> The Aldermen shall act on all matters as a body, and no member shall seek individually to influence the official acts of any officer or employee of the Town, or to direct or request the appointment of any person to, or his removal from, any office or position of employment, or to interfere in any way with the performance of duties by any officer or employee. The Board shall deal with the various agencies, officers and employees of the Town, through the Town Administrator, and shall not give orders to any subordinates of the Town Administrator, either publicly or privately. Nothing herein contained shall prevent the Board from conducting such inquiries into the operation of the Town government and the conduct of the Town's affairs as it may deem necessary.

Code of Ethics

The Code of Ethics applies to every full-time and part-time elected or appointed official and employee of the Town, whether paid or not. It also applies to the members of any separate board, commission, committee, authority, corporation or other instrumentality the Town appoints or creates, including the IDB and the Planning Commission.[12]

The Code does not prohibit every kind of conduct the public might consider wrong. A violation occurs only when conduct falls within one of its specific provisions. The provisions I applied in this investigation provide in full:

> § 1-403. *Disclosure of personal interest by official with vote.* An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure.
>
> § 1-407. *Use of municipal time, facilities, et cetera.* (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.
>
> § 1-408. *Use of position or authority.* . . . (2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality.

The Code's rules of interpretation are critically important. Code § 1-410(3) says "the interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics." In deciding whether the conduct in this investigation violated the Code, I considered it as a reasonable person would in those

[12] Code § 1-401.

circumstances.

Also critically important is how the Code handles conduct that also violates a Town policy or rule. Under Code § 1-410(4), when conduct that violates the Code also violates a personnel policy, rule or regulation, it is dealt with as a violation of that policy, rule or regulation, not as a violation of the Code.

Other Legal Authorities

- Resolution 23-08-02 (public comment)
- Tennessee Open Meetings Act, Tenn. Code Ann. § 8-44-101 et seq.
- Removal of officers, Tenn. Code Ann. § 8-47-101 et seq.
- Tennessee Rules of Professional Conduct, Tenn. Sup. Ct. R. 8, RPC 1.18
- U.S. Constitution, First Amendment
- *Lindke v. Freed*, 601 U.S. 187 (2024)
- *Nat'l Rifle Ass'n of Am. v. Vullo*, 602 U.S. 175 (2024)
- *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963)
- *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968)
- *Rankin v. McPherson*, 483 U.S. 378 (1987)
- MTAS guidance on municipal ethics and ethics investigations

Standards of Proof and Analysis

Two standards governed my analysis. The first is the Code's own rule of interpretation: "The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics."[13] I applied it both to the meaning of each provision and to the conduct. The question is *not* what an official intended or how a complainant felt, but how a reasonable person who knew the circumstances would understand the provision and the conduct.

The second is the amount of evidence required. Neither the Code nor the Charter prescribes a burden of proof for violations, so I chose a standard before reaching any conclusion: the preponderance of the evidence. I concluded that a violation occurred only if the evidence showed it was more likely true than not. I chose preponderance of evidence for two reasons. It is the basic burden of proof in most civil litigation in Tennessee, and a court that applies it has coercive authority that I did not have. Courts can compel participation and subpoena records. Participation in this investigation was strictly voluntary for everyone, and I had no subpoena power to obtain records that are not public records. A higher standard would have demanded more of a voluntary record than a court demands of a compelled one. The burden was on the allegation, and no one had to prove they did nothing wrong.

[13] Code § 1-410(3).

Report on Investigation

This part of the report addresses each complaint in the order the Town Attorney received it. Complaints 1 and 2 overlap in the underlying facts, and the analysis of the two is merged. For each complaint, I summarize the allegations, describe the investigative steps I took, and set out my findings and conclusions. The findings separate what the documented record shows from what I found based on the investigation and interviews. The investigative steps common to every complaint are described first.

Investigative Process

This section describes how I conducted the investigation as a whole; the steps I took on each complaint are described with that complaint. I worked in five stages: confirming the scope; planning; collecting the records and evidence, documents first and interviews last; analysis; and this report.

Confirming the Scope. Before any substantive work, I confirmed which complaints the Board had referred and what each alleged, the authority under which I was acting, and the law I would apply: the Code, the Charter, the Town's ordinances and policies, and applicable state and federal law. Scope defines both my authority and my obligation. An investigation that reaches beyond its scope exceeds what the Board authorized, and one that falls short leaves allegations unanswered. Settling the scope at the outset meant that every allegation within it would be investigated and resolved, and that nothing outside it would be.

Planning. For each allegation, I identified the information needed to resolve it, the records to obtain and study, whom to interview and what I needed to learn from each person, and whom I would interview if time permitted. For each potential witness, I considered whether the information could be obtained from another source. Where a document, recording or other record could supply it, I relied on the record first. A record made at the time of the events is more reliable than a later recollection, and anyone who reads this report can check it. Relying on the record also limits the burden on witnesses and saves interviews for information only a witness can provide.

Records First, Interviews Last. I collected documents and records first and conducted interviews last, so that I went into each interview knowing as much as possible about the substance, context and background of the matters it would cover, and could address every question I had for that witness in a single, more complete conversation. That order served three further purposes. First, it protected the integrity of the evidence. Contacting the subject of an investigation too early alerts that person to the details of the inquiry and increases the risk that information will be deleted, that other witnesses will be influenced, or that someone will be retaliated against. Second, it let me test each account against the record as I heard it and ask about any inconsistency on the spot.

Third, and most important, it protected the process from selective public disclosure. This matter has drawn intense public interest, much of it on social media. Had selected information been made public before the investigation was complete and this report reached the Board, the

allegations would have been debated without context or investigation, and conclusions would have been reached before any facts were established. A partial account, once public, cannot be called back, and selective release would have undermined the credibility of the outcome and shaped how the public received the findings. The Board engaged me to conduct a fair, impartial and thorough investigation. Meeting that obligation requires not only sound conclusions but findings that reach the Board and the public complete, in context and at the same time. Holding the interviews until the end kept the details of the inquiry within the smallest possible circle for the shortest possible time.

Records and Research. I reviewed the written complaints and their attachments; correspondence provided by the Town Attorney and by witnesses; the agendas, meeting packets and minutes of the Board (2024–2026), the IDB (2025–2026) and the Planning Commission (January 23, 2024); video recordings of the October 8, October 13 and November 10 Meetings, the Mayor's Forum and the Planning Commission's January 23, 2024 meeting; the social media posts and comments provided to me; the Charter, the Code and the Resolution; MTAS guidance on municipal ethics and ethics investigations; and case law on the First Amendment and public officials' use of social media. I reviewed earlier IDB and Board records from 2024 and 2025 for context and background only. The records this report relies on are attached as Exhibits 1 through 27 and cited where they are discussed. Privileged records are identified as Privileged Exhibits and are not public unless the Board waives the privilege.

Witness Interviews and Written Questions. I interviewed Mayor Barry Akin (November 7), Krista Scott (November 8), Alderman Chris Detje (November 11) and Sandy Styer (November 16), and spoke with Brook Taylor (November 13). On November 15, I sent the same written questions, with the same instructions, to Aldermen Detje, Giannini, Lightsey, Poole and Schaeffer, and a parallel set to Town Administrator Marc Woerner and Town Recorder Rachel Covarrubias, with responses due November 17. The questions asked about the October 8 Meeting and about any request by Alderman Harber that someone remove a reaction or comment on social media. Answering was voluntary.[14]

Two of the seven responded. Alderman Poole answered "No" to every question about the October 8 Meeting, including whether he had any evidence that the meeting was contrived or coordinated, and wrote that the view that it was contrived rests on "perception." To each question about social media, he answered that he has no social media. Alderman Giannini declined to answer the questions, but said he believed this entire episode was about the mayoral election. He believes Alderman Harber did something "unadvisable" but does not think it was unethical, and he feels the same about Mayor Akin: that he "made a poor decision violating the resolution," but he does not believe Mayor Akin's "intent was to give the commenters more time to criticize Harber." Alderman Detje, whom I had already interviewed, did not respond to the written questions, nor did Aldermen Lightsey and Schaeffer, Town Administrator Woerner or Town Recorder Covarrubias.[15]

Notice to and Interview of Mayor Akin. On November 6, I notified Mayor Akin in writing of the

[14] Privileged Exhibit 4.
[15] Privileged Exhibit 4.

complaints concerning him and asked to interview him, and I interviewed him the next day.[16] I interviewed him only as the subject of those complaints and did not ask him about the allegations against Alderman Harber. On November 17, I emailed him two written follow-up questions about the IDB's February 19, 2026 meeting, which he answered the same day.[17]

Notice to Alderman Harber and His Decision Not to Participate. Alderman Harber is the subject or the complainant in every complaint within the scope of this investigation, so I made his interview the last step, to be taken with the full record in hand. On November 6, I sent him written notice of the complaints concerning him, with copies of each, and asked to interview him. I told him participation was voluntary and that I would draw no adverse inference if he declined. That evening, he replied that he had met with my law partner, David Owen, in June 2026, and asked whether that created a conflict. I told him I would not ask to meet with him until the question was resolved, conducted a limited conflicts inquiry, put a screen in place, and on November 9 gave him written notice under Rule 1.18 of the Tennessee Rules of Professional Conduct, asking for his written consent or objection. That evening, I also notified the Town Attorney and asked for the Town's informed consent. On November 10, Alderman Harber responded in writing that he had no objection to my continuing the investigation and that, based on the information I provided, it appeared no conflict existed. The full conflict inquiry is documented in Privileged Exhibit 6.

At 1:55 p.m. that day, Alderman Harber wrote that he had hired David Pickler as counsel and that "[w]e are declining any further participation in this investigation."[18] From then on, I directed all contact to Mr. Pickler. On November 11, I offered Mr. Pickler times to interview Alderman Harber, or alternatively to send him written questions, and asked Mr. Pickler to confirm in writing that Alderman Harber declined to participate. I received no response.[19] On November 17, I sent Mr. Pickler written questions for Alderman Harber, told him that Alderman Harber could answer any or none of them or submit his own written statement in any form, and set a response deadline of 12:00 noon on November 18.[20] Mr. Pickler did not respond.

Analysis and This Report. Once the evidence was collected, I weighed each item, separating what is documented and established from what is corroborated by other information, and both from what rests on a single, uncorroborated account. From that, I determined the facts and applied the Code and the Charter to reach a result on each allegation, under the standards described in Standards of Proof and Analysis. This report is delivered to the Board as a whole, at one time, before any of its findings are released. Each factual statement in it is tied to a document, a recording or an interview, and the documents are attached as exhibits so that any reader can check the report against its sources.

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[16] Exhibit 21.
[17] Privileged Exhibit 4, pp. 32–33.
[18] Exhibit 8.
[19] Exhibit 26.
[20] Exhibit 27.

Complaints 1 and 2

I. The Allegations

Alderman Chris Detje and Krista Scott filed separate complaints, independently, on the morning of October 9, 2026. I investigated both. Because Alderman Detje's complaint includes Ms. Scott's claims, the two overlap, and I present the findings and conclusions for them together.[21]

Complaint 1. On October 9, 2026, Alderman Detje asked the Town Attorney to investigate the claims citizens raised at the October 8 Meeting concerning "alleged actions on Facebook, including the sending of messages of support, the distribution of objectionable images, the removal of posts, and related public online postings." He cited no provision of the Code or Charter.[22]

Based on the language of Alderman Detje's complaint and the video of the October 8 Meeting, I included the comments of Krista Scott and Brook Taylor in this investigation. Capt. Andrew Stroud of the Atoka Fire Department also addressed Alderman Harber during public comment, but by his own words he was responding to remarks Alderman Harber made at the Mayor's Forum. His comments did not concern anything described in Alderman Detje's complaint and did not allege or suggest an ethical violation, so I did not include them. Amanda Faurbo spoke next. She made one remark to Alderman Harber, also about his remarks at the Mayor's Forum, and the rest of her comments did not concern him, so I did not include her comments either. No other speaker addressed Alderman Harber.

Krista Scott's comments. Ms. Scott spoke during public comment (video at 33:02). She told the Board she is married to Fire Chief Bill Scott, and that he did not know she planned to speak. In June, she said, Alderman Harber accused the former Town planning director, Amanda Faurbo, of lying about the status of the new apartment complex in a post in the Fans of Atoka Facebook group. On Friday, June 12, Ms. Faurbo posted a screenshot of his accusation, with her response, on her own Facebook page, the June Facebook Post.[23] Ms. Scott reacted to that post with a "like." She did not comment. She left town that night for a weekend with friends. Early the next morning, Chief Scott called and asked her to remove her reaction, because Alderman Harber had messaged him asking that she remove her "post." She removed it, and she told Alderman Harber why: "Because you decide whether or not he has a job."

Ms. Scott said she had been a journalist for nearly 30 years, had researched the question, and had concluded that Alderman Harber's conduct was illegal. She said it violated her constitutional right to free speech. She said it was official misconduct,[24] a Class E felony, because he was "attempting to use my husband's employment status as leverage to silence me." And she said it violated Charter § 12, which she said bars individual aldermen from going around the chain of command to direct Town staff, at the risk of censure and possible ouster. She said an attorney had told her she had the right to sue, but that what she wanted was for Alderman Harber to publicly

[21] Exhibits 1 and 2.
[22] Exhibit 1.
[23] Exhibit 13.
[24] Tenn. Code Ann. § 39-16-402.

admit that what he did was illegal and to apologize. She said she had attended every Board meeting since June to give him the chance to talk with her privately. He never did, so she asked him to do it publicly.

Brook Taylor's comments. Ms. Taylor spoke during public comment (video at 43:37). She was appointed to the IDB in August 2026. She said that at the Mayor's Forum Alderman Harber criticized the IDB more than once, and that as a new member she was troubled by it. She raised her concern with a mutual friend, who passed it on to Alderman Harber. He tried to call her, but she was in a meeting and could not answer, and she did not get the chance to call him back.

On the evening of October 7, she received seven Facebook Messenger messages from Alderman Harber, which this report calls the Taylor Message.[25] The first was a typed message explaining that at the Mayor's Forum he was referring not to the IDB, but to issues he had with Terry Roland from before she joined the board. The other six were images taken from Mr. Roland's Facebook page. She told the Board: "Not only am I hurt that an alderman for our town would say that the board I'm a member of is not equipped with the right people, I am highly offended that he thought it was appropriate to send me these images." (Video at 45:19.) She described the images as including "Nazis, Jews, Democrats, pro-hate, rednecks, rag heads, butt plugs, gays, Muslims, Iranians, liberals, and the one that really bothered me the most is a comparison of a colostomy bag to an older African-American lady." She said the images did nothing to explain what Alderman Harber had said about the IDB at the Mayor's Forum: "It was disgusting and very insulting to me as a professional woman that is a representative of this town." (Video at 46:23.) She said she and Alderman Harber had never had a face-to-face conversation.

Complaint 2. Ms. Scott's written complaint, sent to the Town Attorney on October 9, repeats what she said at the October 8 Meeting. She attached three screenshots to her written complaint: the Scott Message; a second message, with the recipient cropped; and the June Facebook Post.[26] She alleges violations of Charter § 12, of her First Amendment rights, and of the official-misconduct statute.[27]

II. Investigative Steps

I reviewed both written complaints and their attachments, and the video recordings and approved minutes of the October 8 and October 13 Meetings.[28] I obtained a copy of the Scott Message, which Alderman Harber himself had provided to the Town Attorney on October 9.[29] I interviewed Ms. Scott on November 8, 2026.[30] I interviewed Alderman Detje on November 11, and on November 12 he sent me his own screenshot of the Detje Text.[31] I spoke with Ms. Taylor on November 13. She provided the complete message thread and all six images, and agreed that

[25] Exhibit 12; the six images are in Privileged Exhibit 5.
[26] Exhibit 2.
[27] Tenn. Code Ann. § 39-16-402.
[28] Exhibits 1, 2, 7 and 9.
[29] Exhibit 10.
[30] Exhibit 23.
[31] Exhibit 11.

the Taylor Message could be included in this report.[32] At her request, I agreed to keep the substance of our conversation confidential, and to name her in this report no more than her public comments already require. She did agree that I could disclose one thing: the backlash she received on social media after she spoke at the October 8 Meeting, which she described as "devastating" and which was very difficult for her. I agreed to these conditions. She is a private citizen and a volunteer, appointed to the IDB by this Board on August 11, 2026, by a unanimous vote that included Alderman Harber.[33] Private citizens who volunteer to serve this Town do not deserve that kind of public scrutiny, least of all for exercising their right to address their government. I interviewed Sandy Styer on November 16, after she left a voicemail on my personal cell phone asking to speak with me.

I reviewed the June Facebook Post, its comments and its 34 reactions, and checked the people who reacted against Town records for connections to the Town.[34] For context and background, I reviewed IDB and Board records, including the IDB minutes that discuss the EDA Contract, the January 2026 Emails and the Roland Posts. I did not review the EDA Contract itself, which is outside my scope.[35] I reviewed Alderman Harber's public statements on Facebook about these matters, including his November 2026 comment that he had shared the information privately with a new IDB board member.[36] I sent written questions to Aldermen Detje, Giannini, Lightsey, Poole and Schaeffer, Town Administrator Woerner and Town Recorder Covarrubias asking whether Alderman Harber had asked them, members of their families or anyone else to remove a reaction, comment or share on social media, and whether anyone had discussed such a request with them. Only Aldermen Poole and Giannini responded. Alderman Poole answered that he has no social media, and Alderman Giannini declined to answer.[37] I researched the First Amendment authority listed under Other Legal Authorities. In written questions sent through his counsel, I asked Alderman Harber about each of these matters and asked him to produce every request of this kind he made. He did not respond.[38]

Steps I decided not to take. I did not interview Fire Chief Bill Scott. He is a Town employee and a public safety department head, and his wife is the complainant. Questioning him about his wife's complaint would have put him in an impossible position: his job against his wife. That is the same position the conduct under investigation put him in, and it is part of what led to this investigation. It was not necessary for me to put him there a second time. There was no information I needed for this report that I could get only from Chief Scott. I relied instead on the documents: Alderman Harber's message to him, his replies and his compliance within hours.[39] I did not search social media for officials' posts. I evaluated only the posts provided to me, and to treat every official the same way, I asked every recipient of the written questions the same questions. I did not contact the people who reacted to the June Facebook Post, or other Town employees, to ask whether Alderman Harber had contacted them. They know this investigation is

[32] Exhibit 12; Privileged Exhibit 5.
[33] Exhibit 25 (Board minutes, August 11, 2026).
[34] Exhibit 13.
[35] Exhibits 15–17; Privileged Exhibit 5.
[36] Exhibit 14.
[37] Privileged Exhibit 4.
[38] Exhibit 27.
[39] Exhibit 10.

under way, and I did not want to involve private citizens or Town employees in it for their personal conduct. I could have contacted every one of them, and many more, but it would not have changed the conclusion. What Alderman Harber himself admitted, and the messages I do have, are enough to decide the question. I did not investigate any allegation that criminal law was violated.

III. Findings

The Roland Posts. The Roland Posts have been discussed so often, and so obliquely, that I address them once, here, and not again. Terry Roland is a private citizen who does not live in Atoka or Tipton County. He is the founder and principal of EDA, a Tennessee limited liability company that, according to its website, youreda.com, advises local governments on economic development.[40] By public accounts, he served two terms on the Shelby County Board of Commissioners, including as its chairman, has served as Executive Director of the Millington Area Chamber of Commerce, and has been active in state politics. I do not know Mr. Roland, and I did not review his Facebook page. The only posts I reviewed are the ones Alderman Harber shared with the Board and others or sent to Ms. Taylor.[41] Yes, they are offensive, and in my view they would offend any reasonable person. But they are irrelevant to this investigation, and I do not reproduce them in this report or its public appendix, because publishing them would only start a debate that distracts from the questions before the Board. They are filed with the Board as Privileged Exhibit 5, and their release is the Board's decision. Mr. Roland is not under investigation. Neither the Charter nor the Code applies to him, and whether he has violated Article 34 of the EDA Contract is outside my scope. The Board has already addressed the posts. On February 19, 2026, Mayor Akin, with the Town Administrator, the Police and Fire Chiefs and other department heads beside him, delivered the Board's letter telling the IDB it was "disappointed in the social media activities and content that has appeared and could be associated with the Town of Atoka."[42] That is the end of the inquiry for me. Mr. Roland has threatened legal action against Alderman Harber,[43] and the best thing anyone can do now, for the Town and for the IDB, is to stop talking about these posts.

A. The Documented Record

The Scott Message. At 11:31 p.m. on Friday, June 12, 2026, Alderman Harber sent Chief Scott a Facebook Messenger message, from what appears to be his campaign page, "Harber for Mayor of Atoka": "*I am going to kindly ask that your wife remove the like on Amanda's post on Facebook. She has me blocked so I can't defend myself.*" At 7:30 the next morning Chief Scott replied, "*She is out of town, let me see whats going on and I will have it removed,*" and then, "*Done.*" Alderman Harber thanked him at 8:35 a.m.[44]

The Detje Text. Five minutes earlier, at 11:26 p.m., Alderman Harber texted Alderman Detje: "*I am going to kindly ask you to remove your like from Amandas post or unfriend me. Ball is in*

[40] Exhibit 24.
[41] Exhibits 12 and 15.
[42] Exhibit 17; Privileged Exhibit 4, pp. 32–33.
[43] Exhibit 12.
[44] Exhibit 10.

your court. She has me blocked so I can't see the post."[45]

The Taylor Message. At 7:17 p.m. on October 7, 2026, Alderman Harber sent Ms. Taylor a Facebook Messenger message, from what appears to be his personal Facebook account: a typed message followed by six images from Mr. Roland's Facebook page. It arrived as a message request, because the two had no prior Messenger connection, and Ms. Taylor never accepted it. In the typed message, Alderman Harber said he disliked that she had been put in the "IDB cross fire," described his objection to the IDB's hiring of Mr. Roland, and invited her to meet and discuss it.[46] In November, he acknowledged publicly on Facebook that he had shared the information "privately, out of concern for our citizens, with a new IDB board member who was previously unaware of it."[47]

What Alderman Harber said about the requests. At the October 8 Meeting, Alderman Harber said, "It wasn't just your husband that I reached out to. There was actually multiple town employees." He said his request "clearly stated, in light of this heated political climate I would appreciate it if you would remain neutral." (Video at approximately 35:25 and 35:50.) In his November 7 email to me, he wrote: "Several Town employees had liked, loved, commented on, or shared the Facebook post. Given that we were in the middle of an election campaign, my intent was simply to ask whether Town employees could remain neutral in their public engagement with campaign-related social media posts." Neither the Scott Message nor the Detje Text contains "remain neutral" or anything like it. No message I reviewed does.

The June Facebook Post. The post discussed Town business. The people who reacted to it include current and former Town employees **and, it appears, some family members of Town officials and employees.**[48]

B. Findings Based on the Investigation and Interviews

Krista Scott. Ms. Scott's account has been the same each time she has given it: in June, at the October 8 Meeting, in her written complaint the next morning, and in her interview with me. Each material fact she gave me is supported by a document, by Alderman Harber's own statements on the record, or both. She said she knows Alderman Harber only through his office and has no personal relationship with him. She said she removed her reaction immediately, without hesitating, because she believed Alderman Harber controls her husband's job, and that she spent the rest of the weekend worried that something she had done would affect it. She said no message she saw from Alderman Harber said anything about remaining neutral. She also told me that Chief Scott took the matter to the Town Administrator within days. That part of her account is secondhand, and I did not confirm it.

Alderman Detje. Alderman Detje confirmed that he received the Detje Text. He said he laughed at it, did not respond, and did not remove his reaction, which remains on the post. He did not recall Alderman Harber ever saying anything to him about remaining neutral, and he did not

[45] Exhibit 11.
[46] Exhibit 12.
[47] Exhibit 14.
[48] Exhibit 13.

know of any other Town employee who received a similar request.

Brook Taylor. At the October 8 Meeting, Ms. Taylor said she and Alderman Harber had never had a face-to-face conversation, and that she spoke because of his remarks about the IDB at the Mayor's Forum and the messages he sent her the night before.[49] She had no role in the IDB's retention of EDA. The IDB approved that contract on November 20, 2025, nine months before the Board appointed her.[50]

Sandy Styer. Ms. Styer, an Atoka resident, told me that during the 2026 election season she commented on a Facebook post by Alderman Harber to contradict a statement in it. She said Alderman Harber then called her husband, not her. Her husband declined to ask her to remove the post. Ms. Styer's account is outside the five complaints and is a single, uncorroborated account, and I rest no finding on it. I include it because it describes the same pattern: responding to online criticism of Alderman Harber by contacting someone other than the person who made it. Ms. Styer described it as "voter intimidation."

What I don't know. I do not know who the other "multiple town employees" were. I do have a list of people who may have been contacted. In his November 7 email to me, Alderman Harber tied his requests to the Town employees who had "liked, loved, commented on, or shared" the June Facebook Post, and the people who reacted to that post include current and former Town employees **and, it appears, some family members of Town officials and employees.** But I do not know which of them, if any, he contacted. Alderman Detje could not identify any, and Alderman Harber did not respond to my questions.

What is reasonable. Department heads are appointed and terminated only by the Board.[51] A reasonable person in Chief Scott's position, receiving a late-night message from a sitting alderman during that alderman's campaign for mayor, sent from what appears to be his campaign page, "Harber for Mayor of Atoka," asking that his wife remove her reaction to a post critical of the alderman, would understand that the request came from a member of the body that hired him and that he ultimately answers to. Chief Scott complied within hours. Context matters. We do not read a message like this in a vacuum. The Scott Message came in the middle of the ongoing debate over the Fire Department's new fire engine. On December 11, 2025, the Board approved the purchase of a new fire apparatus.[52] The Board approved the financing in January 2026, and in March it amended the fiscal year 2026 budget to pay for the purchase.[53] The purchase had been approved, but the debate about it was ongoing, and it became a campaign issue.[54] Put yourself in his place, or in the place of anyone who received a request like this. The question is how a reasonable person responds when a sitting alderman, running for mayor, asks that a reaction critical of him be taken down during the election. Put plainly, the request is to be silent. The

[49] October 8 Meeting video at 43:37–47:17.
[50] Exhibit 16.
[51] Code § 1-502(2).
[52] Board minutes, December 11, 2025 (January 13, 2026 Board packet, Exhibit A), Resolution 25-12-03 (Aldermen Giannini, Poole and Schaeffer, yes; Alderman Harber, nay; Alderman Detje, absent); January 13, 2026 Board packet, Exhibit B (total cost of $998,221).
[53] Board minutes, January 13, 2026 (February 17, 2026 Board packet), Resolution 26-01-03; March 10, 2026 Board packet, Exhibit O (Fire Apparatus Debt Report) and Exhibit P (FY 2026 budget amendment).
[54] Exhibit 9 (Board minutes, October 8, 2026, public comment of Capt. Stroud); Exhibit 5 (Skinner Email).

same reasoning applies to Ms. Taylor. A reasonable person in her position, a newly appointed IDB member receiving an unsolicited message from a sitting alderman she had never met, criticizing the board she had just joined and attaching six offensive images, would understand that the message came from a member of the body that appoints the members of the IDB.

Statements in the Taylor Message. Several statements in the Taylor Message are incomplete. Alderman Harber wrote that Mr. Roland "was awarded a $40k contract with no other bidders." The IDB approached two other economic consultants, Mark Herbison and Charles Gullatta, and both declined; no request for proposals is required for professional services.[55] He described IDB Chairman Jim Craig as "chairman of deacons for Cary Vaughn." One statement in the message is borne out by the record. Alderman Harber wrote that Mr. Roland "threatened to sue me."[56]

IV. Conclusions

Charter § 12 is the Charter's only express limit on what an individual alderman does on his own. It contains three separate prohibitions, and a single course of conduct may violate one, two or all three. No member may:

1) seek individually to influence the official acts of any officer or employee of the Town;
2) direct or request the appointment of any person to, or the removal of any person from, any office or position of employment; or
3) interfere in any way with the performance of duties by any officer or employee.

The first applies only if the act the member seeks to influence is an official act; a request that an employee do something in a private capacity does not fit it. The second requires no coercion, leverage or success; a request is enough. The third is the broadest, and it requires neither any particular means nor success.

Section 12 protects "any officer or employee of the Town." Section 18(b) defines terms used in the Charter, "unless the context otherwise requires," and defines "Officer" to mean "the Mayor, Alderman, Town Attorney and Town Judge." Read as written, a member of a separate board, such as the IDB, the Planning Commission or the Board of Zoning Appeals, is neither an officer nor an employee, and § 12 does not reach an alderman's dealings with that person at all. However, a broader reading is possible. Section 12's evident purpose is to keep individual aldermen out of the administration of Town business, and that purpose is defeated if a member may lawfully pressure a planning commissioner while being forbidden to pressure the building inspector, for example. On a broad reading, "officer" carries its ordinary meaning and reaches anyone holding a municipal office or appointment.

I applied the narrow reading. I do not have the authority to expand the Charter beyond its stated words. The Charter defines "officer" itself, and a violation of § 12 means forfeiture of office, a consequence that should rest only on the plain language. If the Board wants § 12's prohibitions to reach members of the IDB or other separate boards, it can seek to amend the Charter to say so. For purposes of this investigation, I read the Charter as written, based on its plain language and

[55] Exhibit 16, IDB minutes of October 28, 2025.
[56] Exhibit 12.

its own definitions. However, because of what § 12 is intended to do, and as a matter of public interest and information, I also state my conclusions if the Charter applied to members of independent bodies like the IDB. (See The Taylor Message, below.)

On the narrow reading, the Scott Message does not violate § 12. Alderman Harber did individually seek to influence an Atoka department head, but not his official acts as a Town employee. He asked Chief Scott to have his wife, a private citizen, remove a reaction from her personal Facebook page. The message did not request anyone's appointment or removal, and nothing in the record shows that it interfered with Chief Scott's performance of his duties. Alderman Harber also admitted contacting "multiple town employees" to influence, at a minimum, their personal social media activity. Section 12 does not reach that either, and it does not reach the Taylor Message, because Ms. Taylor is an appointed member of a separate board. In my judgment, asking Town employees to remove expressions of opinion from their personal social media raises more serious ethical questions, because it implicates their First Amendment rights.

The timing of these requests is what brings them within the Code. Section 1-408(2) provides that an official "may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality."

Alderman Harber offered his own explanation of the requests. At the October 8 Meeting he said: "In my request, it was not a demand. It said . . . it clearly stated, in light of this heated political climate I would appreciate it if you would remain neutral. That was my . . . request." No message I reviewed says anything like that. Every witness I asked said they received nothing similar and that Alderman Harber never said it to them. I asked Alderman Harber to provide any message he sent, in any form, to anyone, that included that language or anything like it.[57]

That leaves the question why Alderman Harber would concern himself with any individual's activity on social media, which the law protects as speech. He says himself that he wanted the recipients to "remain neutral" during a heated election. Put differently, he did not want them to choose a side, or to agree with or support statements criticizing him, during an election in which he was a candidate for mayor. In an election, voters, including Town employees acting as private citizens, may participate fully in the democratic process. They may support or oppose a candidate and be vocal about it, including on social media. Why would a candidate want anyone to remain neutral during an election? The whole point of an election is for voters to *choose* their representatives.

I cannot identify any reasonable purpose, unrelated to the election, for asking multiple people to remove their reactions to a post critical of him during an election in which he was a candidate for mayor. In my judgment, by attempting to influence the speech of others about statements critical of him, in the manner described in this report, Alderman Harber was attempting to preempt negative narratives about himself during the election. There may be a reasonable argument otherwise, but I only have his public statement at the October 8 Meeting that he wanted the recipients to remain neutral in the election. That request benefited him, at a minimum because it

[57] Exhibits 8 and 27.

asked them not to take his opponent's side. It benefited him further if he also intended to suppress speech that was critical of him during an election.

Result. **In requesting the removal of speech critical of him, Alderman Harber sought a privilege, in violation of Code § 1-408(2).** Put plainly, the privilege Alderman Harber sought was to limit criticism of himself and improve his chances in the election: the removal, at his request and through a department head whose job the Board controls, of a private citizen's expression critical of him during his own campaign. No charter provision, general law, ordinance or policy authorizes that. The Scott Message, and Alderman Harber's admitted requests to other Town employees, were attempts to secure that privilege for himself. Particularly in the context of an election, this violates Code § 1-408(2).

The Detje Text. The Detje Text is not a separate violation. Alderman Detje is a fellow alderman, not a Town employee. Alderman Harber has no authority over him; they are equals. Alderman Detje did not comply, and his reaction remains on the post. But the Detje Text is part of the same course of conduct, and it is telling. Five minutes before he messaged Chief Scott, Alderman Harber told a fellow member of this Board to remove his "like" from the same post "or unfriend me," and added, "Ball is in your court."[58] It says nothing about remaining neutral. Frankly, I cannot think of a legitimate reason for a sitting alderman and candidate for mayor to send a colleague that ultimatum at 11:26 at night over a single reaction to a Facebook post. It shows what Alderman Harber was trying to accomplish that night, and it undercuts his explanation that he only asked people to remain neutral.

The Taylor Message. Under the narrow reading I applied, § 12 does not reach the Taylor Message, because Ms. Taylor is an appointed member of the IDB, a separate board, and is neither an officer nor an employee of the Town as the Charter defines those terms. The Board should see the other side of that argument, because under the broad reading the answer is not close.

First, a broad reading is the standard Alderman Harber himself applies to his conduct. His problem with the IDB is the Roland Posts, which Mr. Roland made on his personal Facebook page. Alderman Harber has objected to them since at least November 2025.[59] Mr. Roland is not a member of the IDB, and he is not an officer or employee of the Town. He is one step further removed from the Town than Ms. Taylor. Yet in Alderman Harber's view, Mr. Roland is a representative of the Town of Atoka. That is not an unreasonable view. As I said in the Findings, the Roland Posts are offensive, but they are not the question here. If the IDB's contractor answers to the Town for what he posts on his own Facebook page, then an alderman answers for what he sends to a member of the IDB itself. That is the same standard Alderman Harber wants applied to Mr. Roland.

Read broadly, "officer" in § 12 reaches an appointed member of the IDB, and Ms. Taylor is covered. On that reading, Alderman Harber plainly violated § 12's express prohibitions. He individually sought to influence the official business of an independent board, and attempted to interfere with the performance of Ms. Taylor's duties. He sent a newly appointed IDB member

[58] Exhibit 11.

[59] Exhibit 16 (IDB minutes, November 20, 2025); Exhibit 15; Privileged Exhibit 5.

he had never met a message objecting to the IDB's hiring of Mr. Roland, six images from Mr. Roland's personal Facebook page, and an invitation to meet and discuss it.[60] The subject of that message was the IDB's contract with EDA, which the IDB had approved nearly a year earlier, on November 20, 2025.[61] Ms. Taylor has no connection to that contract except as a member of the IDB. In plain terms, Alderman Harber was trying to interfere in an independent body's business relationship with a private company.

Alderman Harber knew the IDB is independent of this Board. If he did not know, he should have. On February 17, 2026, with Alderman Harber present, the Board voted unanimously to have the Mayor draft a letter to the IDB stating the Board's "grievances."[62] Mayor Akin delivered the letter at the IDB's meeting two days later, accompanied by the Town Administrator, the Police Chief, the Fire Chief and other department heads and Town employees.[63] That was not an accident. The letter says, clearly and up front: "*We are of the unified opinion that the Industrial Development Board is its own entity, separate and apart from the Mayor and Board of Aldermen, and it is our position that we should collaborate with the Industrial Development Board at every opportunity.*"[64] That was the Board's position, and Alderman Harber voted for it.

Yet Alderman Harber continued. Weeks after that letter, he shared another post about Mr. Roland on his own Facebook page. At that time the Town Attorney advised him in writing that the Board cannot control the IDB because it is independent, that he had already received a notice from Mr. Roland to preserve his communications, and that his posts were creating litigation exposure for the Town. That was the right advice. The IDB is independent, and the Board has absolutely no authority over it other than to appoint its members. Then, on October 7, he sent the Taylor Message. In it, in his own words, Mr. Roland "threatened to sue me."[65]

Read broadly, then, § 12 was violated, and a Board member who violates an express prohibition of the Charter forfeits his office.[66] Alderman Harber's term as alderman expires when the new Board is sworn in at its December meeting, and he will no longer hold that office. Under the broad reading, forfeiture is a moot point, and the Town need not go down that path. An election took place, the citizens of Atoka cast their votes, and a new Board has been elected. It is in the best interests of everyone, especially the Town, to move on.

Whichever way the Charter is read, one thing is not in question. This Board has no authority over the IDB, and Alderman Harber did not appear to accept that as a fact. The Board said so itself in its February 19 letter, and committed to work with the IDB collaboratively. No alderman, mayor or Town official should make any attempt whatsoever to influence the opinions of IDB members or the IDB's private contractual relationship with a business. It is not appropriate, and it exposes the Town to significant liability. I point this out not because it changes the result here, but because the Town should not have to address it again.

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[60] Exhibit 12; Privileged Exhibit 5.
[61] Exhibit 16.
[62] Exhibit 17.
[63] Exhibit 17; Privileged Exhibit 4, pp. 32–33.
[64] Exhibit 17.
[65] Exhibit 12.
[66] Charter § 10(b)(2).

Complaint 3

I. The Allegation

On October 10, 2026, at 9:54 p.m., Alderman Harber emailed the Town Attorney a complaint that Mayor Akin violated § 2.B of the Resolution by extending each speaker's public comment time from two minutes to three at the October 8 Meeting. He wrote that all of the speakers spoke against him and that he was concerned the meeting was a coordinated attack during a heated election season.[67] On October 12, at 11:49 a.m., he restated the complaint to the Mayor, the aldermen, the Town Administrator and the Town Attorney. He asked that it be formally recorded, that the extension be reviewed, that the authority for it be documented, and that the matter be placed on the next meeting agenda.[68] He cited the resolution as 23-07-02, but the copy he attached was Resolution 23-08-02.[69] He cited no provision of the Code or Charter.

II. Investigative Steps

I reviewed the Resolution; the video recordings of the October 8, October 13 and November 10 Meetings; the minutes of the October 8 and October 13 Meetings; and the agenda and packet for the November 10 Meeting.[70] I interviewed Mayor Akin on November 7, 2026.[71] I asked every witness I interviewed, and, in written questions, every alderman, the Town Administrator and the Town Recorder, whether they had any evidence that Mayor Akin extended the time knowing who would speak or what they would say.[72]

Step I decided not to take. I interviewed Mayor Akin only as the subject of the complaints concerning him. I did not ask him about the allegations against Alderman Harber. Any account he gave of his opponent would have been colored by the election and by the documented tension between them, and I did not need it to complete the investigation.

III. Findings

A. The Documented Record

October 8. Before public comment, Mayor Akin told the audience that after the Mayor's Forum, Pam Givens had told him, "Mayor, now you know how it feels. Sometimes two minutes ain't enough." He then said, "it is my prerogative, I'm going to change that and we're going to allow three minutes for public comments." (Video at 19:34–20:24.) No speaker had asked for more time.[73]

October 13. At the special called meeting, Mayor Akin said the Board had "called me out on it

[67] Exhibit 3.
[68] Exhibit 4.
[69] Exhibit 18.
[70] Exhibits 7, 9, 18 and 19.
[71] Exhibit 21.
[72] Privileged Exhibit 4.
[73] Exhibit 9.

and basically told me I had exceeded my authority." He said the Resolution provides two minutes, with more time at his discretion when a speaker asks, and that a resolution making the limit three minutes would be on the November agenda.[74]

November 10. Mayor Akin announced two minutes for public comment, with more time on request. (Part 1, video at 2:45.) The amended resolution was on the agenda.[75] Mayor Akin explained that he had believed the extension was within his discretion. He said, "I stand by what I did," and that he "was not aware that it was actually stated two minutes." (Part 2, video at 3:16–4:48.) On Alderman Harber's motion, the Board postponed the resolution to its December 8 meeting.

B. Findings Based on the Investigation and Interviews

Mayor Akin did not have the authority to extend the public comment time on his own prerogative. The plain language of the Resolution is clear.[76] He acknowledged that, corrected the record, and put the matter before the Board for a vote. I do not know what more he could have done to remedy the error, which he publicly admitted. That is also what Alderman Harber asked for. His fourth request was "[t]hat this matter be placed on the agenda for the next Town meeting, whether a regularly scheduled meeting or a special-called meeting, so the concern can be addressed through the appropriate public process."[77]

I asked every witness I interviewed, every alderman, the Town Administrator and the Town Recorder whether they had any evidence that Mayor Akin extended the time knowing who would speak or what they would say.[78] I found no evidence that he extended the public comment period with malicious or self-serving intent. Every witness flatly denied any coordination with or from Mayor Akin.

I credit Mayor Akin's account that he did not remember the details of one sentence in a resolution adopted about three years earlier. The spirit of § 2.D is that the Chair may extend the time. However, the plain language allows an extension only when a speaker asks for one. Details matter in government.

It is reasonable that Mayor Akin thought he could extend the speaking time; the Resolution says he can, under certain conditions. However, he was careless to do so without reviewing the Resolution first. He told me he initiated the Resolution because he wants the Board to be transparent and the public to be engaged. Had he reviewed it, he would have known the limits of his authority over the public comment time. This is important because, while Mayor Akin did so with a good-faith belief he could and his stated reasons for doing so are believable, he was wrong about his authority, and it was certainly a contributing factor in the public's perception that the October 8 Meeting was a coordinated attack on Alderman Harber, which is the subject of

[74] Exhibit 7; video at 1:10–1:59.
[75] Exhibit 19.
[76] Exhibit 18.
[77] Exhibit 4.
[78] Privileged Exhibit 4.

Complaint 4.

IV. Conclusions

The extension violated the Resolution. Resolution 23-08-02 approves a Town policy, and a policy is a rule. I found no evidence, at all, that Mayor Akin extended the public comment period in order to secure a privilege for himself or that he knew who would speak at the meeting or what they would say. Mayor Akin acknowledged the error publicly, reversed his decision, and placed an amended resolution on the agenda for public debate and a vote. Those were the right steps. They resolve the matter under the Resolution, and no further action is warranted under the Code or the Resolution.

Alderman Harber wrote in his complaint that he was "asking that the rules adopted by the Town be followed consistently, fairly, and without favoritism, regardless of the subject being discussed or the individuals involved," and that "public trust depends on consistent procedures, transparency, and accountability. These standards are especially important during an election season, when public confidence in local government must be preserved."[79] I agree with him, and I have applied those standards to Mayor Akin here. They apply equally to every official, including Alderman Harber.

Complaint 4

I. The Allegation

Alderman Harber filed two written complaints about the October 8 Meeting. In the first, on October 10, 2026, he wrote: "All of the speakers spoke out against me. My concern this was a coordinated attack on me during a heated election season."[80]

In the second, on October 12, 2026, he wrote: "During the recent meeting, that limit was extended to three minutes. I am requesting clarification regarding the authority under which this change was made and whether the extension was consistent with the adopted resolution. I am particularly concerned about the circumstances surrounding this incident. All of the speakers spoke out against me during what has become a heated election season." He added: "While I respect every citizen's right to express an opinion, the circumstances raise concerns about whether the meeting procedures were applied consistently and whether the proceedings were used in a coordinated effort to target me personally."[81]

In the same complaint, Alderman Harber wrote, "I am asking that the rules adopted by the Town be followed consistently, fairly, and without favoritism, regardless of the subject being discussed or the individuals involved." His fourth request was "[t]hat this matter be placed on the agenda for the next Town meeting, whether a regularly scheduled meeting or a special-called meeting, so the concern can be addressed through the appropriate public process." He closed: "I believe public trust depends on consistent procedures, transparency, and accountability. These standards

[79] Exhibit 4.
[80] Exhibit 3.
[81] Exhibit 4, p. 1.

are especially important during an election season, when public confidence in local government must be preserved."[82]

Jason R. Skinner, recently elected to represent Atoka on the Tipton County Commission, sent Mayor Akin the Skinner Email at 3:41 p.m. on October 10, 2026, and asked that it be forwarded to all current aldermen. Mayor Akin forwarded it to the aldermen at 5:18 p.m. that day. At 12:38 p.m. on October 12, Alderman Harber forwarded the email to the Town Attorney and asked that the "letter" be added to his ethics complaint. When the Town Attorney asked him to clarify, Alderman Harber confirmed in writing that his complaints raised two issues: first, the extension of the public comment time, and second, "whether the 'meeting was contrived to discredit a local candidate'."[83] The first issue is Complaint 3. The second is this complaint.

In the Skinner Email, Commissioner Skinner wrote, "This email serves as notice of the disapproval of actions and comments made during the October 2026 BOA meeting." He said he had received "numerous" calls, emails and text messages from "residents in District 4" about the meeting, and that one resident "made it a point to reveal they felt it was no coincidence this particular meeting included an extension of time for public comment." He wrote, "The meeting was perceived as contrived to discredit a mayoral candidate." He closed by saying, "We're all adults."[84]

Taken together, and stated plainly, I read the allegation in this complaint to be this: it was not a coincidence that Mayor Akin extended the public comment period on his own and that three of the six citizens who then spoke were critical of Alderman Harber, because Alderman Harber was running against Mayor Akin, the sitting Mayor. All of it was coordinated by Mayor Akin to help himself in the election. None of the written complaints says it in those words or that plainly, but that is the allegation.

It is the reverse of Complaints 1 and 2. There, Alderman Harber is accused of trying to suppress the speech of citizens who were critical of him on Facebook. Here, he accuses the Mayor of arranging for citizens to speak against him, coupled with Mayor Akin extending the public comment time for them to do so.

Neither Alderman Harber nor Commissioner Skinner cited a provision of the Code or the Charter. If the allegation were true, it would implicate the same provision as Complaint 3, Code § 1-408(2), which prohibits an official from using his position to secure a privilege for himself or others that is not authorized by the Charter, general law, or ordinance or policy of the Town. It would also implicate Code § 1-407(1), which prohibits an official from using municipal time or facilities "for private gain or advantage to himself." A presiding officer who arranged a public meeting to damage his opponent in an election would be using a meeting of the Board for his own advantage. I found no other provision of the Charter or the Code that applies.

[82] Exhibit 4, pp. 1–2.
[83] Exhibit 5.
[84] Exhibit 5.

II. Investigative Steps

I asked about this allegation in every interview and in every set of written questions, pointedly and directly, in no uncertain terms. I asked each person whether anyone asked them to speak, whether they told anyone they were going to speak or on what subject, whether they knew who would speak or what they would say, whether Mayor Akin knew, and whether they had any evidence of coordination.

Mayor Akin (interviewed November 7, 2026). He did not know before the meeting who would speak or what they would say, including Ms. Scott and Ms. Taylor. He had no conversation with anyone before the meeting about who would or could speak or what they would say. He does not know who will speak until the meeting is called to order and the public comment sheet is brought to him, and the sheet does not show the subject a speaker will address. No one asked him to extend the time, apart from Ms. Givens's remark after the Mayor's Forum, which he disclosed on the record before public comment began. He did not ask anyone to encourage any speaker, and as far as he knows, no one did.

Krista Scott (interviewed November 8, 2026). Before the meeting, she had no communication about speaking with Mayor Akin, with anyone connected to him, with Capt. Stroud, with Ms. Taylor or with Ms. Faurbo. She learned Capt. Stroud was speaking when she signed the public comment sheet and saw his name already on it. She did not know Ms. Taylor before the meeting. The only people who knew she planned to speak were her two best friends, who she asked for advice about her comments. Her husband did not know. She spoke because she was angry after watching the Mayor's Forum on October 5, and because Alderman Harber had not apologized to her personally or publicly, as he had told Chief Scott he would.

Alderman Detje (interviewed November 11, 2026). He denied speaking with anyone before the meeting, including Ms. Scott, Ms. Taylor, Capt. Stroud and Ms. Faurbo, about appearing at the meeting or what they would say. He has no evidence of Mayor Akin doing so and did not think the Mayor would do such a thing. He volunteered that he had no knowledge of any arrangement to discredit a candidate. He called the timing of the comments "peculiar," but did not think they were planned for that day and said events had been building to that point.

Brook Taylor (spoke with her November 13, 2026). At her request, the substance of our conversation is confidential. Her public comments at the October 8 Meeting state why she spoke: Alderman Harber's remarks about the IDB at the Mayor's Forum, and the messages he sent her the night before, which she provided to me and said I could include in this report.

Written questions (sent November 15, 2026). I sent written questions on this subject to the five aldermen other than Alderman Harber, the Town Administrator and the Town Recorder. I asked whether they knew before the meeting that anyone intended to speak about Alderman Harber, whether they asked, encouraged or helped anyone to speak, whether they knew of anyone who did, whether they knew Mayor Akin would extend the time, and whether they had any evidence, beyond perception, that the meeting was contrived. Alderman Poole answered "No" to each of these questions, and wrote that the view that the meeting was contrived rests on "perception." Alderman Giannini declined to answer the questions, but wrote of Mayor Akin, "He made a poor

decision violating the resolution but I don't think his intent was to give the commenters more time to criticize Harber." No one else responded.[85]

Alderman Harber. I asked Alderman Harber the same questions in writing, through his counsel, on November 17, 2026, including what evidence he had for the allegation. Neither Alderman Harber nor his counsel responded.[86]

Public comment on social media. I reviewed hundreds of comments on social media posts about this investigation and the circumstances that gave rise to it. Many came from people who do not live in Atoka, but who are nonetheless members of the public.

Research. I researched academic studies and expert opinion on public trust, on how individuals form perceptions regardless of what may be true, on confirmation bias and motivated reasoning, and on related questions of sociology and psychology, to understand why this perception exists. The perception is real and it is not unreasonable, and it has to be addressed on its own. Throughout this investigation I tested the perception against the evidence and the facts.

III. Findings

A. The Documented Record

The extension. Before public comment at the October 8 Meeting, Mayor Akin said that after the Mayor's Forum, Ms. Givens had told him, "Mayor, now you know how it feels. Sometimes two minutes ain't enough." He then said, "it is my prerogative, I'm going to change that and we're going to allow three minutes for public comments and uh for the future." (Video at 19:34–20:24.) He announced the change before anyone spoke, and he announced it for that meeting and all future meetings.

The speakers. Six people spoke during public comment: Capt. Andrew Stroud, Amanda Faurbo, Krista Scott, Juanita Ayers, Wanda Bates and Brook Taylor.[87] Capt. Stroud, Ms. Scott and Ms. Taylor addressed Alderman Harber. Ms. Faurbo made one brief remark about him and spent the rest of her time on a Keep Tipton Beautiful cleanup. Ms. Ayers spoke in support of the Town Administrator. Ms. Bates spoke about early voting and election workers. Half of the speakers did not address Alderman Harber at all. His statement that "[a]ll of the speakers spoke out against me" is not accurate.

What the speakers said about why they came. At the Mayor's Forum on October 5, Alderman Harber said that he is faced with conflict "when Captain Stroud came in or Amanda came in in the meeting and attacked me." (Mayor's Forum video at 27:41.) Capt. Stroud opened his comment on October 8: "Alderman Harber, during the debate, you named me as someone who came to a meeting and attacked you. I did not attack you." (Video at 25:03.) Ms. Faurbo opened hers: "you definitely called me out in that forum as well, as if I attacked you, and — and I don't think that's appropriate." (Video at 27:45.) Ms. Scott spoke about Alderman Harber's request,

[85] Privileged Exhibit 4.
[86] Exhibit 27.
[87] Exhibit 9.

through her husband, that she remove her reaction to the June Facebook Post. (Video at 33:02.) Ms. Taylor said she came because of what Alderman Harber said about the IDB at the Mayor's Forum and because of the messages he sent her the night before. (Video at 43:37–47:17.)

Capt. Stroud's public post. Two days after the meeting, Capt. Stroud posted publicly on Facebook that he wanted to explain "why I've spoken publicly, and why this has never been about a political campaign or a personal disagreement."[88] Capt. Stroud's comments at the meeting and his public post speak for themselves about his motivation, and I offer no further analysis in this report.

B. Findings Based on the Investigation and Interviews

I found no evidence that the speakers were coordinated. Mayor Akin extended the time for the reasons he stated, and he stated them on the record before anyone spoke. Taken as true, his explanation about Ms. Givens, given before he extended the time, cuts against coordination. Mayor Akin said the three minutes would apply to that meeting and to every meeting going forward, and that cuts against it too. If Mayor Akin's stated reasons were pretext, and there *was* coordination, the speakers didn't get the memo. Two of the three speakers who addressed Alderman Harber finished within about 15 seconds of the two-minute limit, as the times below show.

I asked everyone I could who would know whether they had any evidence at all that would support the allegation of a coordinated effort. No one provided any, including Alderman Harber. I asked every person I interviewed whether anyone asked them to speak, whether they told anyone they were going to speak and on what subject, and whether Mayor Akin knew who would speak. Every one of them unequivocally said no. There is no contrary evidence. The sequence of events was a coincidence, and the coincidence contributed to the public's perception.

The evidence shows that Alderman Harber's own conduct and statements motivated Ms. Scott and Ms. Taylor to speak during the time set aside for citizens.

Yes, Mayor Akin extended the time when he did not have the authority to do so. That is Complaint 3. But for that separate issue to connect to the speakers, the speakers would have had to know that Mayor Akin was going to extend the time and prepare their comments accordingly. It does not appear to me that they did. I watched the October 8 Meeting video in full, and the public comments many times. I tracked how long every speaker spoke in their original comments, not counting any response to an alderman's statements afterward. The speakers who addressed Alderman Harber are in bold. The times are from the October 8 Meeting video on YouTube:

Andrew Stroud: 2:15; spoke from 25:03 to 27:18.

Amanda Faurbo: 3:05 including questions from the Board; spoke from 27:45 to 30:50.

Krista Scott: 2:11, including a pause for an apology; spoke from 33:02 to 35:13.

[88] Exhibit 22.

Juanita Ayers: 2:56; spoke from 37:23 to 40:19.

Wanda Bates: 0:52; spoke from 40:54 to 41:46.

Brook Taylor: 3:40; spoke from 43:37 to 47:17.

In his email Commissioner Skinner closes by saying, "We're all adults." Indeed we are. Adults are responsible for what they say and do, and adults who hold public office should expect citizens to come to the podium and respond to it. On October 8, three citizens did exactly that, and each of them responded to something Alderman Harber himself had said or done.

IV. Conclusions

Neither the extension of the public comment time nor the citizens who spoke at the October 8 Meeting were coordinated or contrived by anyone. The speakers who addressed Alderman Harber were an organic response to his own statements and conduct. They said so on the record that night, and they confirmed it to me directly. The evidence does not support the allegation, and I find no violation of Code § 1-408(2) or § 1-407(1).

Alderman Harber did not respond to me at all. All I can do is accept the written statements in his own complaint as true statements of his beliefs, opinions and intent. In that complaint he asked "that the rules adopted by the Town be followed consistently, fairly, and without favoritism, regardless of the subject being discussed or the individuals involved," and wrote that "public trust depends on consistent procedures, transparency, and accountability," standards "especially important during an election season."[89] I agree with him. Those standards apply to every official, regardless of the individuals involved, and they apply to Alderman Harber. They are the standards I have applied to Mayor Akin in Complaint 3, and to Alderman Harber in Complaints 1, 2 and 5.

The perception that the October 8 Meeting was an "inside job" is understandable. People form perceptions from the information in front of them, and they tend to fill in gaps with information in light of what they already believe. Mayor Akin did not create that perception on his own. Too many factors contributed to it to name them all, and they are different for everybody.

Extending the public comment time, in my judgment, was organic too. Ms. Givens raised the two-minute limit with Mayor Akin after the Mayor's Forum. I read the minutes of every Board meeting for the last two years. Ms. Givens addresses her government frequently and appears to be an active citizen of Atoka. It seems reasonable to me that the Mayor would give special consideration to her comment about how hard it is to get your thoughts out in two minutes. But by extending the time without confirming the limits of his authority, and contrary to the plain language of the Resolution, he contributed to the perception, and it may have reinforced the belief of people who already saw the meeting that way.

[89] Exhibit 4.

Complaint 5

I. The Allegation

Planning Commission Chairman Stephen Shopher emailed his complaint to the Town Administrator at 10:01 p.m. on October 13, 2026, and the Town Administrator forwarded it to the Town Attorney the next day.[90] Mr. Shopher makes two allegations.

Allegation 1. On the evening the Kroger expansion was on the Planning Commission's agenda for a vote, Alderman Harber called him and "instructed me to call every member of the planning commission to tell them to approve the vote," saying "we can't lose Kroger and need to give them whatever they want." Mr. Shopher says he refused, and told Alderman Harber that making the calls, and the conversation itself, was a "violation of law." He says he reported the call to the Tennessee Comptroller's office and never heard back.[91]

Allegation 2. Mr. Shopher says he has been told that Alderman Harber and three other aldermen discussed voting matters at Dairy Queen or McDonald's after Board meetings.[92]

II. Investigative Steps

I reviewed the complaint and the agenda, packet, minutes and video recording of the Planning Commission's January 23, 2024 meeting.[93] In written questions sent through his counsel on November 17, 2026, I asked Alderman Harber whether he made the call, and whether he or any business he owns had a financial interest in the Kroger expansion or had sought or performed work related to it. He did not respond.[94]

Steps I decided not to take. I did not interview Mr. Shopher. For purposes of this investigation and analysis, I took his account as true in every respect. Even taken as true, it does not establish a violation of the Code or the Charter, so my analysis rests on the statements in the complaint alone.

I considered the timing of Mr. Shopher's complaint as well. The conduct he describes occurred on January 23, 2024, more than two and a half years before he filed the complaint on October 13, 2026. He filed it three weeks before the November 3, 2026 election, in which he was a candidate for alderman. Because I accepted his account as true, I did not need to investigate the timing or his motivation further, and given the limited time I had to conduct this investigation, I did not consider it a good use of that time.

I did not investigate the second allegation. Taken as true, it raises only the possibility of an Open Meetings Act question, under a state law outside the scope of this investigation. Finding out whether any of these gatherings crossed the line would have meant investigating three officials

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[90] Exhibit 6.
[91] Exhibit 6.
[92] Exhibit 6.
[93] Exhibits 6 and 20; video at https://www.youtube.com/live/-HBeGfD6Jb0.
[94] Exhibit 27.

who had no notice of the allegation, about events that may go back almost three years. In my view that was not warranted.

III. Findings

A. The Documented Record

The Planning Commission's minutes show that approval of the site plan for Kroger's expansion was on the agenda for January 23, 2024. Seven members were present, including Chairman Shopher, Mayor Akin and Alderman Harber. Town Planner Jim Atkinson presented the staff report, and Marvin Brown, the engineer for Kroger, answered the Commission's questions. The Commission approved the site plan unanimously, with two conditions recommended by Mr. Atkinson: that Kroger submit building elevations showing that the expansion matches the design of the existing building, and that it provide an exit onto Maple Road to relieve traffic congestion.[95]

The video of the meeting shows no sign of tension from anyone. No one mentioned a telephone call, or any contact among the commissioners before the meeting. The members spoke favorably about Kroger. Chairman Shopher said, "I think the majority . . . the majority of the board is excited about this . . . we had these discussions [about the Kroger expansion] at least twice before in the past so this is the third time and I know we've had discussions of Kroger expanding and so we're excited about it we want to kind of learn more about it." (Video at 6:01–6:16.) Another member said, "We're very excited." (Video at 14:04.) Every member engaged substantively with Kroger's engineer about traffic and congestion. (Video at 8:34–17:32.) The motion, its amendment and the unanimous vote are at 17:52–19:51.

B. Findings Based on the Investigation and Interviews

Taking Mr. Shopher's account as true, Alderman Harber called him before the meeting and said exactly what the complaint quotes: that Mr. Shopher should call every member of the Commission and urge them to approve the expansion. Mr. Shopher refused. Nothing suggests that any other commissioner was contacted.

The only thing that would raise an ethical concern is if Alderman Harber or his construction company had a financial interest in the Kroger expansion and he did not disclose it publicly before the January 23, 2024 vote. No one has alleged that. I have no information that even suggests that Alderman Harber, his company or any member of his family had a financial interest in the Kroger expansion. Even if he did, the Code requires only that he disclose that interest publicly, during the meeting and before the vote.[96] On its face, then, the allegation does not describe any conduct that would violate the Code.

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[95] Exhibit 20, pp. 1–2.
[96] Code § 1-403.

IV. Conclusions

Allegation 1. Taken as true, the call raises a concern under the Open Meetings Act, and Mr. Shopher identified that concern himself on the call. Whether the call amounts to a violation of the Open Meetings Act is a question of state law, outside the Code, the Charter and the scope of this investigation, and I make no finding on it.

The Comptroller's Division of Investigations examines fraud, waste and abuse of public funds and property, including by municipalities, and its Office of Open Records Counsel handles questions and complaints about the Open Meetings Act. Mr. Shopher does not say which office he contacted, and the record does not show what became of his report. I have worked with the Comptroller's office in the past in my capacity as City Attorney for Covington, and I know that many complaints made to the Comptroller's office are evaluated on their facts but not formally investigated. Investigative reports are published. Complaints that are evaluated and not investigated are not public documents, so I could not compare the number of complaints submitted with the number of investigative reports. But the Comptroller's office is better positioned than I am to evaluate alleged violations of the Open Meetings Act. Mr. Shopher says he reported the call to that office and never heard back, and no formal investigation or response followed. That speaks for itself.

The Code does not prohibit an official from advocating for a measure, even improperly. Its conflict-of-interest provisions turn on *personal interest.* If Alderman Harber had urged approval of the expansion and voted on it while holding an undisclosed financial interest in it, for example because his company stood to be paid for work on it, that is exactly the conduct Code §§ 1-402 and 1-403 exist to prevent. No such interest is alleged or even suggested. Code § 1-408(2) does not apply, because Kroger received an approval the Commission was authorized to grant, by the Commission's own public, unanimous vote. Charter § 12 does not apply either. Alderman Harber was acting as a member of the Planning Commission, speaking to a fellow commissioner about a vote both of them would cast, and communication of that kind is governed by the Open Meetings Act, not by § 12.

Taken as true, Allegation 1 does not establish a violation of the Code of Ethics or the Charter.

Allegation 2. Taken as true, the gatherings raise only an Open Meetings Act question, and only if the aldermen were discussing Town business and deliberating toward a decision on matters before the Board outside a public meeting that they did not later fully disclose in a public meeting. That is too many "ifs." Two witnesses I interviewed also mentioned these gatherings, both secondhand. Colleagues may eat together after a meeting without violating any law, and these "Dairy Queen" meetings could be exactly that. I make no findings on Allegation 2, other than to repeat the point about public perception in Complaint 4: with limited information, people tend to fill in the gaps and reach conclusions that may or may not be correct. I refer the allegation to the Town Attorney to address as she considers appropriate.

Board's Authority

The Board Is Not Bound by This Report

This report is advisory. The Board is not bound by my findings or conclusions. I encourage each member to read the report and the appendices, test my conclusions against the record, and reach his or her own conclusions. The Board may accept the report, adopt it in whole or in part, reject it, make findings of its own, or take no action.

I investigated, gathered the evidence, and presented it to you with my findings and conclusions. The evidence is in the exhibits. My findings and conclusions are my view of what that evidence shows. You determine which accounts you accept, what weight you give each document and each statement, and what inferences you draw. You decide what you agree with and what you disagree with. You may adopt any finding, reject any finding, and make findings of your own. You also make your own conclusions, and you decide what the Code and Charter mean. That includes § 12. I read § 12 narrowly, and I also stated my conclusions under the broad reading. The Board may adopt either. The investigation and this report were my duty. What happens next is the Board's.

Available Actions Under the Charter, Code and Applicable Law

An elected official, or an appointed member of a separate board, who violates the Code "is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body."[97] An appointed official or employee who violates the Code is subject to disciplinary action.[98]

A Board member forfeits office if he violates any express prohibition of the Charter, including § 12.[99] The Charter does not say who declares a forfeiture or how. It provides only that the office becomes vacant on "forfeiture of office in any manner authorized by law."[100] Forfeiture is not accomplished by a vote of the Board. In my opinion, an elected official can only be removed from a governing body for misconduct by a court, through judicial ouster. Tennessee's ouster law [101] is the general law procedure for removing an elected official, and it applies to a municipal officer who knowingly or willfully commits misconduct in office or knowingly or willfully neglects a duty imposed by law.[102] An ouster proceeding may be brought by the Attorney General, the district attorney general or the city attorney, who must investigate a written complaint and file suit if there is reasonable cause.[103] The bar is high. Ouster requires a clear case of official dereliction, proved by clear and convincing evidence, and neither simple negligence nor a mistake in judgment is enough.[104] A complainant whose petition is withdrawn or found to

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[97] Code § 1-411.
[98] *Id.*
[99] Charter § 10(b)(2).
[100] Charter § 10(a).
[101] Tenn. Code Ann. § 8-47-101 et seq.
[102] Tenn. Code Ann. § 8-47-101.
[103] *Id.* §§ 8-47-102, -103, -110.
[104] *State ex rel. Wilson v. Bush*, 208 S.W. 607, 609 (Tenn. 1919); *McDonald v. Brooks*, 387 S.W.2d 803, 806 (Tenn.

be without merit may be taxed with costs and attorney fees.[105]

The Board may also refer matters outside the scope of this investigation, such as the Open Meetings Act allegations, to the Town Attorney or other appropriate authorities. Any action must be taken at a properly noticed public meeting, with a quorum of four members present, by a majority of the members present.[106]

Policy Recommendations

The recommendations below are for the Board to consider in the future. They do not depend on any finding in this report.

Social Media Policy for Elected Officials

Much of the conduct in this report took place on social media, and the Town has no policy on how its elected officials use it. Social media is a good tool for sharing information, but it is evident to me that social media is not where the Town's business should be debated. I recommend that the Board adopt a social media policy for elected officials by resolution. The policy must not restrict, in any way, an official's right to speak as a private citizen; officials do not give up their own First Amendment rights by taking office. It should be built on three principles of law.

Under *Lindke v. Freed*, a public official's social media post is the government's action, rather than the official's own private speech, only if the official had actual authority to speak for the government on that particular matter and purported to exercise that authority in the post.[107] When a post is the government's action, the First Amendment governs how the official manages it, including deleting comments and blocking users, and no official may use the power of his office to coerce anyone into suppressing protected speech.[108] Town employees keep their right to speak as citizens on matters of public concern, and posts and messages about Town business, on any account, may be public records under the Tennessee Public Records Act.[109]

Ethics and Open Meetings Training After Every Election

I recommend that after every municipal election, the entire Board, not only its newly elected members, complete training on the Code of Ethics, the Charter, the Open Meetings Act and the Public Records Act. The training should cover how the Board conducts its business as a body, and what an individual member is and is not allowed to do. Several of the issues in this report turn on exactly those limits. Members elected for the first time should complete it as soon as practicable after taking office, so that they know their ethical and legal obligations in their

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1965); *State ex rel. Carney v. Crosby*, 255 S.W.3d 593, 598 (Tenn. Ct. App. 2008).

[105] Tenn. Code Ann. § 8-47-122(b).

[106] Charter §§ 11, 13(a), (c).

[107] Lindke v. Freed, 601 U.S. 187, 198 (2024).

[108] See id.; Nat'l Rifle Ass'n of Am. v. Vullo, 602 U.S. 175 (2024); Bantam Books, Inc. v. Sullivan, 372 U.S. 58 (1963).

[109] Pickering v. Bd. of Educ., 391 U.S. 563 (1968); Rankin v. McPherson, 483 U.S. 378 (1987); Tenn. Code Ann. § 10-7-503.

official capacities before they act on them. MTAS offers this training through its Elected Officials Academy. Its Municipal Foundations program covers charters and codes, ethics, open meetings, public records and effective meetings, and as of this report the next session is scheduled online for January 25–27, 2027, at $185 per official, invoiced to the municipality. The Comptroller's Office of Open Records Counsel also offers free training on public records and open meetings. I recommend that the Board look into these programs, budget for them, and adopt the requirement by resolution, so that it does not depend on who sits on the Board after any given election.

Timing of Ethics Complaints Near an Election

The complaints in this investigation were filed in good faith, and the Town acted on them promptly, as it should have. However, the timing of this investigation cannot be overlooked. Town Attorney Amber Shaw shared her concerns on exactly this issue at the October 13 Meeting. She said, ". . . my greatest concern would be that there is a . . . I don't know if you guys know there's an election coming up . . . and my concern was that when people heard the word ethics complaints, that exactly what happened would happen. . . . People would start emailing me additional complaints. People would start sending me things that they wanted me to look at, and that has happened." She went on to say, "ethics investigations don't have a place in politics."[110] She is right.

This investigation began within weeks of the November 3, 2026 election, when no thorough and fair investigation could be completed before people voted. That timing raises questions about an investigation's effect on an election, however carefully it is conducted, and a later report cannot unring the bell. Federal practice recognizes the problem. For example, the Office of Congressional Conduct may not forward a referral to the House Oversight Committee within 60 days before an election in which the subject is a candidate.[111] The Department of Justice follows an unwritten "60-day rule" against overt steps toward a candidate before an election, forbids timing any action to affect an election, and directs prosecutors with timing concerns to its Public Integrity Section.[112]

I recommend that the Board consider amending the Code so that, when a complaint is made against a candidate within 60 days before a Town election, the Board's determination under Code § 1-410(2)(c), any investigation and any report are deferred until after the election, barring extenuating circumstances. The deferral cannot make the complaints confidential. They are public records unless state law provides otherwise, and a Town ordinance cannot create that exception.[113] It also would not have kept these allegations out of the campaign, because they

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[110] Video of the October 13 Meeting at 26:00.

[111] H.R. Res. 895, 110th Cong. (2008) (establishing the Office of Congressional Ethics); H.R. Res. 5, 119th Cong. § 4(d)(2) (2025) (renaming it the Office of Congressional Conduct); Office of Cong. Conduct, Rules for the Conduct of Investigations, R. 10 (Period of Suspension of Referrals) (May 2025), https://conduct.house.gov/sites/evo-subsites/oce.house.gov/files/evo-media-document/occ-rules-for-the-conduct-of-investigations_adopted-may-2025_vf.pdf.

[112] U.S. Dep't of Just., Justice Manual § 9-85.500 (Actions that May Have an Impact on an Election), https://www.justice.gov/jm/jm-9-85000-protection-government-integrity.

[113] Tenn. Code Ann. § 10-7-503(a)(2)(A).

were first aired in public comment at the October 8 Meeting, and no Board rule can or should silence public comment. What it would have done is keep the Board's October 13 vote and a pending Town investigation out of the campaign's final weeks. The amendment should allow the Board to act within the window when the alleged conduct poses a risk to the Town that cannot wait, so that no candidate can use the window as a shield. The Town Attorney should draft it, with review by MTAS.