

From: Tom Brewer <president@cffa660.org>

Sent: Monday, April 25, 2022 5:15 PM

To: DHodges@wbvt.com <DHodges@wbvt.com>; mayor@charlottenc.gov <mayor@charlottenc.gov>; Eiselt, Julie <julie.eiselt@charlottenc.gov>; Ajmera, Dimple <dimple.ajmera@charlottenc.gov>; Johnson, Renee' <Renee.Johnson@charlottenc.gov>; Watlington, Victoria <Victoria.watlington@charlottenc.gov>; Newton, Matthew <Matt.Newton@charlottenc.gov>; Egleston, Larken <Larken.Egleston@charlottenc.gov>; Phipps, Gregory <Greg.Phipps@charlottenc.gov>; Malcolm.Graham@ci.charlotte.nc.us <Malcolm.Graham@ci.charlotte.nc.us>; edriggs@charlottenc.gov <edriggs@charlottenc.gov>; Bokhari, Tariq <Tariq.Bokhari@charlottenc.gov>; Braxton.Winston@charlottenc.gov <Braxton.Winston@charlottenc.gov>; Baker, Patrick <Patrick.Baker@charlottenc.gov>; Stephanie.Kelly@charlottenc.gov <Stephanie.Kelly@charlottenc.gov>

Subject: Will there be Accountability in CLT Government?

*City Clerk Kelly could you please make sure that all CLTCC members and the Mayor get a copy of this as well as the attachment. As always, thank you!

Local 660 is committed to bringing matters of public concern to the attention of Charlotte City Council. CLTCC will need to take meaningful action to hold wrong doers accountable especially those at the highest level of city government. We have attached court ordered sanctions that the City tried to have overturned on appeal, but the judge upheld the sanctions.

Here are some of the highlights of what the courts say about the city's actions. When you read them remember that this is not coming from disgruntled employees or the Union, as Manager Jones and his staff want you to believe, these sanctions are from a judge. Also know that Manager Jones has personally failed to comply with record retention laws when it comes to turning over his own text messages and emails. How can you expect city workers to follow city rules and laws when you as CLTCC look the other way when Manager Jones fails to follow the law? As elected leaders you have a duty to hold department heads including Managers Jones accountable?

Attached is the judge's order so that you can read for yourself but here are some of the high points of what the courts have said:

- A "party's conscious dereliction of a known duty to preserve electronic data—whether passive or active—is both necessary and sufficient to find that the party acted with the intent to deprive another party of the information's use under Rule 37(e)(2)."
- The City also waited nearly two years to begin searching for potentially relevant documents after the duty to preserve arose and waited nearly a year to have its IT Department search for ESI after receiving the Plaintiffs' first discovery requests.

- The City also repeatedly failed to participate in the discovery process and failed to comply when compelled and sanctioned by the Court.
- The City's repeated derelictions of its duty to preserve highly relevant ESI over a period of years, combined with the apparent failure to issue litigation holds and follow this Court's seven orders to compel and previous sanctions, evidence an intent to deprive Plaintiffs of the information.
- The M&R found that "[n]otwithstanding these eight prior Orders, it is clear that numerous documents responsive to Plaintiffs' discovery requests and within the scope of the Court's Orders have either been lost or destroyed."
- designees for the City confirm that employees were permitted to destroy assessor notes, even though the City's own record retention policy states that "records and forms relating to the selection or non-selection, promotion" should only be "destroy[ed]"
- The City also repeatedly failed to participate in the discovery process and failed to comply when compelled and sanctioned by the Court.

Who will Manager and his Staff blame this on? The Union. Will CLTCC ever hold Manager Jones accountable for his actions?

Tom Brewer

Charlotte Firefighters Association, President