

January 25, 2021

VIA EMAIL ONLY

Charlotte Mayor and City Council Members:

Mayor Vi Alexander Lyles
mayor@charlottenc.gov

Mayor Pro Tem Julie Eiselt
julie.eiselt@charlottenc.gov

Braxton Winston, II
Braxton.Winston@charlottenc.gov

Dimple Ajmera
dimple.ajmera@charlottenc.gov

Larken Egleston
Larken.Egleston@charlottenc.gov

Malcolm Graham
Malcolm.Graham@ci.charlotte.nc.us

Victoria Watlington
Victoria.watlington@charlottenc.gov

Renee Johnson
Renee.Johnson@charlottenc.gov

Matt Newton
Matt.Newton@charlottenc.gov

Tariq Bokhari
Tariq.Bokhari@charlottenc.gov

Edmund H. Driggs
edriggs@charlottenc.gov

Re: Rule IX

Dear Mayor, Mayor Pro Tem, and City Council Members:

I understand that the City is asking you to repeal Rule IX which protects civil service employees (police and fire) and provides approvals and checks and balances on the promotional processes of police officers and firefighters.

Police and Fire are safety officers serving the public. The City and its management are responsible for providing excellence in hiring promotions and management of the Charlotte Fire Department (“CFD”). Firefighters should be hired and promoted according to a consistent objective merit-based process. When the process is not consistent, objective, and merit-based there are grievances and lawsuits. Rule IX and other checks and balances on objective consistent merit-based promotional processes should be matter of course. Rule IX should be maintained or clarified. It should not be out and out repealed.

The City Manager and City Attorney report directly to you and should be accountable for requiring HR and the Charlotte Fire Department to hold fair and merit-based promotional processes. Allowing the Fire Chief to do whatever he wants assumes that the Fire Chief meets the minimum requirements of the job and is fair and objective in choosing the most qualified candidate(s) for the job. That is not what is happening. The current Fire Chief has never been incident commander on a multiple alarm fire and has only been incident commander on a handful of single alarm fires. There are several retaliation complaints against him, and the CFD has lost several more qualified Chief officers unwilling to remain in the current environment.

The City is engineering the removal of Rule IX by getting a former City Attorney, under whom Rule IX was followed for many years, to back into an opinion for invalidating Rule IX. Conspicuously absent from that opinion is the explanation of former City Attorney Henry Underhill who wrote Rule IX and who Mac McCarley said he spoke to although former City Attorney Henry Underhill’s opinion and explanations are completely omitted from the November 12, 2020 Report by Mr. McCarley, which was issued less than a month after Mr. Underhill’s death.

City Council manages the City Manager and City Attorney and thus Council is ultimately responsible for ensuring that the citizens receive protection from a fire service with the best and the brightest and most competent managers in place who are respected by the rank and file as competent and have the knowledge, experience, and integrity to operate without intimidation and retaliation.

Council needs to set up a Personnel Committee and invite the assistance of independent advisors without conflicts of interest to meet and discuss these matters with opportunity for back and forth so that the best decisions are made. The citizens of Charlotte should expect no less.

Sincerely,

MALONEY LAW & ASSOCIATES, PLLC

Meg Maloney

Margaret B. Maloney

cc: City Attorney Patrick Baker