

**Trial of Councilor Christopher Rice
May 12, 2022
Council Chambers
6:00 PM**

COUNCILORS PRESENT

Councilor Beaudoin
Councilor Berlin
Councilor Desrochers
Councilor Fontneau
Councilor Gilman
Councilor Gray
Councilor Hainey
Councilor Hamann
Councilor Larochelle
Councilor Malone
Councilor Rice
Deputy Mayor Lachapelle
Mayor Callaghan

OTHERS PRESENT

Blaine Cox, City Manager
Katie Ambrose, Deputy City Manager
Terence O'Rourke, City Attorney
Andrea Mitrushi, Deputy City Attorney

COUNCILORS ABSENT

Minutes

1. Call to Order

Mayor Callaghan called the meeting to order at 6:00 PM. Kelly Walters, City Clerk took a silent roll call. All Councilors were present.

Mayor Callaghan asked the City Clerk to verify that Christopher Rice has received a copy of the Investigative Report and the charges shown against him. City Clerk Walters replied yes.

Mayor Callaghan introduced the Investigative Committee members: Deputy Mayor Peter Lachapelle, Councilor Amy Malone, and Councilor Skip Gilman.

Mayor Callaghan asked Councilor Rice if he is being presented by any legal Counsel this evening. Councilor Rice replied no.

Mayor Callaghan said he is limiting the timeframe for opening/closing remarks to five minutes each. He said the motion is non-debatable and called for a vote on that motion. The **MOTION CARRIED** by a majority vote, with two in opposition.

2. Reading of the Charges by the City Clerk and Pleas by Councilor Rice:

Kelly Walters, City Clerk, read the following charge:

Count I Harassment:

The Investigative Committee alleges that on or between November 13, 2021 and February 3, 2022, Christopher Rice did engage in Harassment of Ashley Desrochers in that Rice made repeated unwelcome comments toward Desrochers regarding Desrochers's body and appearance.

Mayor Callaghan asked Councilor Rice if he wished to plead true or not true. Councilor Rice pleaded not true.

Kelly Walters, City Clerk, read the following charge:

Count II – False Statements to City Staff Regarding Matters Within Their Authority

The Investigative Committee alleges that, on or about February 22, 2022 Christopher Rice did knowingly make false, fictitious, and fraudulent statements and representations to Kathryn Ambrose in the conduct of her duties and responsibilities as Acting City Manager in that Rice told Ambrose that he did not create a press release showing the City of Rochester's Seal which purported to come from Rice. In response to Rice's statements and representations, Ambrose, acting within her official duties and responsibilities, initiated an investigation.

Mayor Callaghan asked Councilor Rice if he wished to plead true or not true. Councilor Rice pleaded not true.

Kelly Walters, City Clerk, read the following charge:

Count III – False Statements to City Staff Regarding Matters Within Their Authority

The Investigative Committee alleges that, on or about February 22, 2022 Christopher Rice did knowingly make false, fictitious, and fraudulent statements and representations to Kathryn Ambrose in the

conduct of her duties and responsibilities as Acting City Manager in that Rice told Ambrose that a press release showing the City of Rochester's Seal which purported to come from Rice had been the result of a third party impersonating him without his consent. In response to Rice's statements and representations, Ambrose, acting within her official duties and responsibilities, initiated an investigation.

Mayor Callaghan asked Councilor Rice if he wished to plead true or not true. Councilor Rice pleaded not true.

Kelly Walters, City Clerk, read the following charge:

Count IV – Retaliation

The Investigative Committee alleges that on or about March 4, 2022, Christopher Rice did engage in Retaliation against Paul Callaghan in that, in response to Callaghan informing Rice of an investigation initiated into Harassment allegations against Rice, Rice told Callaghan that he would make Callaghan's "life a living hell for the next two years" or words to that effect.

The Investigative Committee further alleges that the conduct engaged in by Rice in all four Counts above constitute individual acts of Misconduct in Office in accordance with Section 70 of the City Charter.

Mayor Callaghan asked Councilor Rice if he wished to plead true or not true. Councilor Rice pleaded not true.

Mayor Callaghan stated that the meeting would be open to the public under RSA 91-A. Mayor Callaghan gave a brief overview of process, which is outlined on the Agenda. He said members of the Investigative Committee may ask questions; however, City Councilors who are not on the Investigative Committee must submit their questions in writing and the questions will be determined relevant or not relevant by the Chair (Mayor Paul Callaghan). Councilor Berlin requested a point-of-order; however, Mayor Callaghan said the Council must follow Roberts Rules of Order and there are only five privilege motions.

3. Investigative Committee Case-in-Chief

Deputy City Mayor, Peter Lachapelle, gave a detailed summary of the charges brought forth by the Investigative Committee.

Councilor Lachapelle wished to enter the Investigative Committee's full report, as evidence, and welcomed any questions.

Councilor Rice asked Councilor Lachapelle if the Investigative Committee provide him (Christopher Rice) with a copy of the Policy and Procedure Memo relative to "Harassment and Discrimination" in which he (Christopher Rice) signed back in 2019-2020. Mayor Callaghan said the question is not relevant because he (Christopher Rice) is not a City employee. Councilor Lachapelle recalled this policy had been adopted at least 7 years after he (Peter Lachapelle) took office. Councilor Lachapelle felt it was common sense to know that an ethical policy exists for all City Council members to adhere to.

Councilor Rice asked if this is an "Ethics" policy or a "Harassment and Discrimination" policy. Councilor Lachapelle believed it classified as both.

Councilor Rice said his question about the Investigative Committee providing evidence about him (Christopher Rice) receiving such a policy still stands because the policy as described in Section IV "Individuals Covered by the Policy", indicates that "Boards" and "Commissions" are to be included with this policy. Councilor Rice asked if Councilor Lachapelle agreed that the City Council would be considered a "Board". Councilor Lachapelle replied yes. Councilor Rice reiterated reasons why he would like to verify the document showing his signature as verification that he received the document. Councilor Lachapelle said he believed the HR Department would have that document. Councilor Rice said his argument is not with the verbiage in the document and it is common practice for a person to know this type of information; however, he questioned if the Investigative Committee has the evidence to show that he (Christopher Rice) received said policy. Councilor Rice said he has been unsuccessful with searching for this policy/document on the City's website.

Councilor Lachapelle asked if by not receiving such a document would indicate your (Christopher Rice) behavior is ok. Councilor Lachapelle asked if Councilor Rice took an Oath of Office in January 2022, to uphold the New Hampshire Constitution, the City Charter, and the City Ordinances. Councilor Rice replied "sure, I did".

Councilor Rice started to make a comment; however, Mayor

Callaghan told Councilor Rice he would have an opportunity to testify once this portion of the trial is completed.

Mayor Callaghan said he previously requested that any City Councilors who had questions for the Investigative Committee to respond directly to him (Mayor Callaghan) by Tuesday, May 10, 2022, at 5:00 PM. Mayor Callaghan stated that no questions by City Councilors were received by the deadline; however, one City Councilor sent questions about 14 hours too late. Councilor Rice **OBJECTED** and said he was not afforded the same opportunity to request that City Councilors submit questions directly to him (Christopher Rice). Mayor Callaghan said you (Christopher Rice) do not have to proceed with a defense argument and if no defense is given then no questions will be asked of you. Mayor Callaghan said if you (Christopher Rice) do give testimony as a witness, then the City Council members would be permitted to ask you (Christopher Rice) questions.

Mayor Callaghan reviewed the process of asking questions again. He said any Committee (Investigative) member could ask questions after being called upon; however, other City Council Members (non-Investigative Committee) would submit all questions in writing to be reviewed by the Chair (Mayor Callaghan).

Councilor Rice wished to clarify that Mayor Callaghan is the presiding chair of the meeting. Mayor Callaghan replied yes.

Councilor Hainey asked where in Roberts Rules of Order does it outline that questions must be submitted by a certain timeline. Mayor Callaghan confirmed that Roberts Rules did not give restrictions on a timeline; however, he (Mayor Callaghan) requested that all questions be submitted by Tuesday, May 10, 2022 by 5 PM, in order to keep the live (televised) trial running efficiently. Mayor Callaghan said the Investigative Committee confirmed that they would not call any witnesses to testify. Mayor Callaghan requested all questions be sent ahead of time to give the Investigative Committee a chance to review prior to the trial.

Councilor Hainey stated she would write her questions down now and submit them again. Mayor Callaghan said questions would not be permitted to the Investigative Committee because they were not received on time; however, questions could be asked directly to the defense (Christopher Rice).

Mayor Callaghan read aloud a question for the Investigative

Committee: "How many meetings did the Investigative Committee have and how long did each last". Councilor Lachapelle said the time length varied between five minutes up to half an hour. He said the number of times the Committee met should be included with the report.

Mayor Callaghan read aloud a question for the Investigative Committee: "When conducting interviews, were these done individually or in groups". Councilor Lachapelle said interviews were done individually.

Mayor Callaghan said a question was asked about who was interviewed, however, that information was included with the report.

Mayor Callaghan asked if the Investigative Committee is ready to close the opening statements. Councilor Lachapelle replied yes.

4. Councilor Rice's Case-in-Chief (if any)

Mayor Callaghan informed Councilor Rice that he could give an opening statement; however, no testimony could be given at this time.

Councilor Christopher Rice gave opening remarks.

Mayor Callaghan asked if Councilor Rice had any witnesses to call to the stand. Councilor Rice replied yes.

Councilor Rice called Councilor Ashley Desrochers to the stand. He asked if she could tell the Council "what" and/or "why" she said what she did, at their first meeting, which was included in the report. Councilor Desrochers asked for clarification of what was meant by "first meeting" and where the verbiage could be found in the report. Councilor Rice referred to the April 5th testimony and summarized that Councilor Desrochers claimed that she did not know Councilor Rice prior to her (Desrochers) campaign for City Council. Councilor Rice asked Councilor Desrochers to explain how we (Councilors Desrochers and Rice) met. Councilor Desrochers replied that she met Councilor Rice, while attending an event with other peers at Porters Pub. Councilor Rice asked if she recalled the date of the first meeting. Councilor Desrochers replied no. Councilor Rice asked if she recalled a brief timeline of when the meeting occurred such as August, September, October, or November. Councilor Desrochers recalled that it was probably late summer with outdoor dining still in place.

Councilor Rice confirmed that the first meeting was in late August. He recalled that he gave Councilor Desrochers his cell phone number. Mayor Callaghan reminded Councilor Rice not to testify but he could ask questions.

Councilor Rice asked if Councilor Desrochers recalled the first time they (Ashley Desrochers and Christopher Rice) texted each other. Councilor Desrochers did not recall.

Councilor Rice asked if Councilor Desrochers could verify her phone number for the City Council. Mayor Callaghan requested that Councilor Rice bring up the phone in order to verify the phone number privately. Councilor Desrochers verified the phone number in question was correct.

Councilor Rice stated that the first text messaging took place on September 7, 2021 and he asked if Councilor Desrochers recalled what was discussed. Councilor Desrochers replied no.

Councilor Rice asked if she recalled who texted who first. Councilor Desrochers replied no. Councilor Rice began to give testimony; however, Mayor Callaghan directed Councilor Rice to ask questions to the witness.

Councilor Rice asked if Councilor Desrochers recalled what she texted him (Christopher Rice) on October 25, 2021. Councilor Desrochers replied no.

Councilor Rice asked if she (Councilor Desrochers) recalled texting him (Christopher Rice) any lively banter or sexual comments during the month of October. Councilor Desrochers replied no.

Councilor Rice asked if Councilor Desrochers recalled any phone calls between himself and her. Councilor Desrochers replied yes.

Councilor Rice asked if Councilor Desrochers recalled saying any derogatory remarks about his sexuality or anyone else's sexuality on the City Council. Councilor Desrochers replied no.

Councilor Rice asked if Councilor Desrochers' "opinion" is that she should be removed from the discussions and voting on this matter because she is an "accuser". Mayor Callaghan said the question is not relevant. Councilor Rice and Mayor Callaghan debated the matter.

Councilor Rice asked if Councilor Desrochers had been interviewed for a recent NHPR Article relative to mental health. Mayor Callaghan asked how that is a relevant question to this trial. Councilor Rice said it is relevant to represent what her state of mind was during this time period in question. Mayor Callaghan said it is not relevant.

Councilor Lachapelle asked if Councilor Desrochers ever feels threatened at times near Councilor Rice. Councilor Desrochers replied yes.

Councilor Lachapelle asked if Councilor Desrochers would like to continue to be escorted to/from the City Council meetings to her vehicle. Councilor Desrochers replied yes.

Mayor Callaghan concluded that there were no more questions for the current witness (Desrochers).

Councilor Rice called Councilor Hainey to the stand. Mayor Callaghan asked what the relevance is with calling Councilor Hainey to the stand. Councilor Rice said Councilor Hainey was present during encounters with Councilor Desrochers and said she was present at the first meeting of himself and Councilor Desrochers (August timeframe).

Councilor Lachapelle questioned the process of allowing a witness to speak that was not mentioned in the report. Mayor Callaghan allowed the witness to be called to the stand; however, the witness should only be questioned for the Porter's Pub timeframe.

Councilor Rice asked if Councilor Hainey recalled meeting at Porter's Pub in late August. Councilor Hainey replied yes.

Councilor Rice asked if both Councilor Desrochers and himself were present. Councilor Hainey replied yes.

Councilor Rice asked what was said between Councilor Desrochers and himself, after the meeting.

Councilor Hainey recalled talking about campaigns and working with one another to get elected.

Councilor Rice asked if phone numbers were exchanged at that time. Councilor Hainey replied yes.

Councilor Lachapelle asked Councilor Hainey how long she has

known Councilor Rice. Councilor Hainey replied since the previous election.

Councilor Lachapelle asked if Councilor Hainey read the full report. Councilor Hainey confirmed she has read the report.

Councilor Rice wished to testify (himself). He summarized the meeting between Councilor Desrochers and himself at Porters Pub. He said at the time Councilor Desrochers announced she was seeking election to the City Council. Councilor Rice said he has photocopies of all the text messages sent between the two of them beginning on September 7, 2021. Councilor Rice said that Councilor Desrochers did verify her phone number. He said there was lively banter back/forth. Mayor Callaghan asked if Councilor Rice intended to read the text messages out loud, and if so, that they needed to be reviewed by himself (Mayor Callaghan) to determine if the text messages are deemed relevant. Mayor Callaghan reviewed the text messages with the City Attorney and determined that the evidence would not be accepted based upon NH Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons.

Mayor Callaghan asked Councilor Berlin to return to his seat because he is a member of the jury.

Councilor Rice called for an undebatable motion to accept the evidence as presented. Councilor Beaudoin asked for clarification on the specific reasons in which why the messages would not be allowed. Mayor Callaghan said he believed the text messages would be confusing, they do not make any sense, and it is misleading. Councilor Gray said it is difficult for him as a City Councilor to make that determination without seeing the text messages for himself. Mayor Callaghan said the text messages would be distributed to the members of the City Council in order for them to determine if they wished to over-ride his (Mayor Callaghan) decision or not.

Mayor Callaghan said a vote of "yes" will uphold the decision not to include the text messages as evidence. A "no" vote will allow the evidence. He stated that a 2/3rd vote is required. Councilor Gray asked what if a member of the City Council believes that some, but not all, of the messages should be accepted as evidence. Mayor Callaghan responded that it is an all or nothing vote that is needed.

The **MOTION FAILED** to receive a 2/3rd vote with a roll call vote of 6 to 6. Councilors Hamann, Desrochers, Gilman, Malone,

Lachapelle, and Mayor Callaghan voted yes. Councilors Fontneau, Laroche, Gray, Berlin, Hainey, and Beaudoin voted no. Mayor Callaghan said the motion failed and the evidence would not be permitted.

Councilor Rice testified that it is his opinion that there was lively debate and rhetoric between Councilor Desrochers and himself. He referred to page 6 of the report; which he (Councilor Rice) told Ms. Chapman (investigator), that Councilor Desrochers made a derogatory LGBT comment at the recount event. He said the comment was along the lines of "The City Council was going to be more gay than ever" and that the "three gay people were going to be sitting next to each other. Councilor Rice stated that in his three campaigns that he has never used the term (LGBT) or run on that platform. Councilor Rice said he found the comment to be incredibly offensive. Councilor Rice stated that the comment was witnessed by a current City Councilor. Councilor Rice said he believes the reasons he plead not true to the other articles all stem from this one issue. He said he plead not true so that he would be given an opportunity to answer any questions from the City Council. He said he was not present during the investigative process.

Councilor Rice stated that he was given one opportunity to respond to the Investigative Committee. Councilor Rice explained that his employment is in a profession which is currently "short-staffed" throughout the state of NH. He was unable to make the Investigative Committee's set meeting times to discuss these issues.

Councilor Rice reiterated his objection to having two city councilors who are listed in the report as "accusers" as part of the review board. He said they should not be allowed to vote. Mayor Callaghan stated that those remarks are out of order.

Councilor Lachapelle said Councilor Rice indicated that he (Councilor Rice) took offense to the remark that Councilor Desrochers made as follows: "That the Council would be more 'gay' then ever"; however, the report outlines a comment that Councilor Rice made himself as follows: "Glad to have a cute girl (Councilor Desrochers) next to him (Councilor Rice) and a cute gay guy (Councilor Berlin) to your (Councilor Rice) right". Councilor Rice said that was a false statement. Councilors Lachapelle and Rice briefly debated the matter.

Councilor Lachapelle asked if he (Councilor Rice) believed that all persons (7 or 8) who gave testimony along with the outside

investigator are lying. Councilor Lachapelle said that would defy logic. Councilor Rice began to ask a question; however, Mayor Callaghan said Councilor Lachapelle should ask questions and Councilor Rice should only be giving answers to those questions during this portion of the trial.

Councilor Lachapelle said Councilor Rice gave testimony this evening that he (Councilor Rice) had only one opportunity to appear before the Investigative Committee. Councilor Rice concurred. Councilor Lachapelle said he has a copy of the email, which was sent to him (Councilor Rice) from himself (Councilor Lachapelle). Councilor Lachapelle said a read-receipt confirmed that Councilor Rice did receive the email, in which Councilor Lachapelle had included several dates and times that Councilor Rice could meet with the Committee. Councilor Lachapelle said a deadline to respond was included in the email. Councilor Lachapelle said he did receive the following response from Councilor Rice on April 19th at 2:27 AM: "At the advice of legal counsel we will respond shortly". Councilor Lachapelle asked again if Councilor Rice only had one opportunity to respond. Councilor Rice confirmed that he only had one opportunity to respond to those dates in that email. Councilor Lachapelle asked why Councilor Rice did not respond with an alternative date to meet with the Committee. Councilor Rice said that he responded back to the email prior to the "time certain" requirement. Councilor Rice asked when the original email had been sent. Councilor Lachapelle replied the email had been sent on Saturday, April 16, 2022, at 1:46 PM.

Councilor Lachapelle requested to include the email correspondence between Councilor Rice and himself as evidence. Mayor Callaghan replied that it could not be taken as evidence during this portion of the trial.

Councilor Rice said at the time he received the email that he (Councilor Rice) was being represented by legal counsel. He said after that time, he was no longer being represented by legal counsel for a personal reason. Councilor Rice stated that his legal Counsel would have responded on his behalf; however, he (Councilor Rice) wished to deeply apologize to the Investigative Committee for not getting back to them, *(after not continuing with legal counsel)*.

Councilor Lachapelle asked if Councilor Rice was still denying that he (Councilor Rice) posted the press release on his Facebook webpage. Councilor Rice said he did not deny that the posting was on his social media page; however, he stated that he (Councilor Rice) did

not post it, which is what he recalled saying to Ms. Ambrose at City Hall. Councilor Lachapelle disagreed with Councilor Rice's recollection. Councilor Lachapelle recalled that Councilor Rice originally stated that there was no posting on the webpage at all, then subsequently, that two other individuals may have been responsible for posting the document on your webpage. Councilor Rice reiterated that he did not post the document in question.

Councilor Malone said the original posting on Councilor Rice's webpage was January 21, 2022 and subsequently another posting occurred in February. Councilor Malone asked Councilor Rice if his testimony is that his computer was hacked for a couple of months. Councilor Rice said that is possible. He explained that his political webpage account is separate from his personal account, and they are not tied to the same email address. Councilor Malone asked if he was able to gain access to the political account and delete the information, once the matter was brought to your (Councilor Rice) attention. Councilor Rice replied yes. Councilor Malone wished to confirm that no one changed the username or password and that Councilor Rice still had access to the account. Councilor Rice replied yes, he admits to deleting the post once he knew it was there because he felt it was not appropriate.

Councilor Lachapelle asked Councilor Rice if the city were to conduct a forensic check on his Facebook account, would it point-back to your computer. Councilor Rice said it could; but in order to do a forensic check, then access would be needed and if this were to go to an actual trial then "we" would comply to this request. Councilor Rice said this was a common access account, which means multiple people had access to the account. He reiterated that he did not post the document.

Councilor Lachapelle stated that less than two weeks after the first posting another document was posted (Police Job Fair). Councilor Lachapelle asked how it is possible that he posted the second posting without seeing the first posting on his own website. Councilor Rice stated that he does not receive notifications when things are posted to that account (by himself or anyone else) and he does not check his political facebook page on a consistent basis. He added that he does not post a lot on his personal facebook page either, maybe once a week. He said if he had checked on his political page then he would have seen the posting; however, he does not check that page.

Councilor Lachapelle asked if Christopher Rice posted the Police

Job Fair document on his Facebook page (Political Account). Councilor Rice said most likely yes, but to his recollection he does not remember doing so.

Mayor Callaghan read a question from a Councilor member to Councilor Rice as follows: "You just admitted that you deleted the Facebook posting, why would you delete the post after asking for an investigation?" Councilor Rice replied, "at the time, I did not have knowledge of the posting, however, when I got home and logged into my account, I saw the posting and deleted it".

Mayor Callaghan read a question from a Councilor member to Councilor Rice as follows: "Did you tell the City that you deleted the post, knowing the city was investigating?" Councilor Rice replied that "the City never asked me that question". Mayor Callaghan said that is not an answer. Councilor Rice repeated his previous statement. Mayor Callaghan said that is a non-responsive answer.

Mayor Callaghan said the other questions were not directed to Councilor Rice or were not relevant. Councilor Rice asked if he could review the questions. Mayor Callaghan replied no.

Mayor Callaghan asked if Councilor Rice has closed his case. Councilor Rice replied yes.

5. Rebuttal by the Investigative Committee (if any)

Councilor Lachapelle requested to submit as evidence the email correspondence between himself (Councilor Lachapelle) and Councilor Rice as dated April 16, 2022 (sent) and April 19, 2022 (received). Mayor Callaghan accepted the documents as relevant. ***(Investigative Report Addendum A)***

Councilor Lachapelle said Councilor Rice has testified this evening that he found the word "gay" offensive, however, the word gay is posted on his personal social media postings. Councilor Lachapelle wished to submit this document as evidence. Councilor Rice asked for a point of order. Mayor Callaghan asked Councilor Rice to approach the bench. Mayor Callaghan deemed both documents as relevant to the case. Councilor Hainey said the previous document (text messaging) was not deemed relevant. Mayor Callaghan said the City Council voted on that document (text messages) as not relevant. *The City Clerk left the room to make photocopies of the documents.*

Mayor Callaghan confirmed that he finds both documents relevant because they are relative to the credibility and contradicting statements made by Councilor Rice in his testimony.

Councilor Rice objected to the second document (personal Facebook page post) being submitted into evidence and requested an undebatable appeal. Mayor Callaghan asked that Councilor Rice state the grounds for that objection. Councilor Rice said the label LGBT and being gay vs a posting on his personal webpage/using hashtags "gay" is a way to connect with people in similar circles. He gave examples of other hashtags. Mayor Callaghan gave reasons why he disagreed and called for a vote on the motion. The **MOTION CARRIED** to accept the document (personal Facebook page post – ***Investigative Report Addendum B***) into evidence, by an 8 to 4 roll call vote. Councilors Laroche, Gilman, Beaudoin, Hamann, Lachapelle, Malone, Desrochers, and Mayor Callaghan voted in favor of the motion. Councilors Berlin, Fontneau, Hainey, and Gray voted against the motion.

6. Rebuttal by Councilor Rice (if any)

Councilor Rice requested to call back a witness (Councilor Desrochers) in order to bring forth evidence, which she posted on Facebook. Attorney O'Rourke explained that Councilor Rice can only rebut what the Investigative Committee has just testified to, which was the email and the personal Facebook post.

Councilor Rice called himself as a witness. He said there are members of this Committee/Council who have posted information about this investigation on social media, even after the Mayor had requested that the Committee/City Council not post/comment on social media about this situation. He said postings occurred on May 3rd after the Investigative Committee's Report was released; there were still some City Councilors defying the expressed consent of the Mayor. He said if one Facebook material is submitted as evidence then he believed that all Facebook postings should be permitted to be entered in as evidence.

Councilor Rice addressed the City Council about the email correspondence and apologized to the Investigative Committee about not getting back to them; however, he gave reasons why his (Councilor Rice) interpretation of the email was that the deadline had passed. He said he believed that he lost his opportunity to meet with the Committee. Councilor Rice said that Councilor Lachapelle made a

comment about the timing (2:00 AM) of the sent email; however, that is due to the timing of his shift at work.

Both Councilor Rice and Councilor Lachapelle were allotted five minutes each for their closing statements.

7. Deliberations by City Council

The Deliberations took place under the readings of each verdict [Agenda Number 8. Verdict as to each Charge Vote]

8. Verdict as to each Charge Vote (Majority Vote Required for Conviction)

Mayor Callaghan read the following charge:

Count I Harassment:

The Investigative Committee alleges that on or between November 13, 2021 and February 3, 2022, Christopher Rice did engage in Harassment of Ashley Desrochers in that Rice made repeated unwelcome comments toward Desrochers regarding Desrochers's body and appearance.

Mayor Callaghan said this is the deliberation portion of the meeting.

Councilor Fontneau said he was aware that inappropriate comments have been made; however, he did not feel that he understood what led to those comments being made and what change occurred in the relationship. In his view, the relationship between Desrochers and Rice had started friendly and cordial between two City Councilors. He said Councilor Rice has testified that there was some degree of banter between the two City Councilors. Councilor Fontneau stated that at some point, it seemed to cross the line to the point where comments were made which were most certainly inappropriate. Councilor Fontneau said he was unaware of the initial complaints from the October - December timeframe. He questioned why the level had risen to such a degree and why it was not stopped before it rose to that degree.

Councilor Berlin felt his answers from the Investigative Committee were not correctly reflected in the report. He gave his correct response/testimony as follows: "I did not witness any

interactions that I thought were inappropriate or over the line". (*This was in reference to the day of the recount, November 2021*) Councilor Berlin expressed concerns that some of his words were omitted in the Investigative Committee Report.

Councilor Desrochers stated that the testimony that she gave to the Investigative Committee indicates that she repeatedly told him (Councilor Rice) to stop making those comments. She made a statement about issues surrounding domestic violence and sexual harassment/assault and that it is common to be received from someone you know or have a relationship with.

Councilor Hainey said she is also very aware of statistics regarding domestic abuse/sexual assault.

Councilor Hainey stated that she did respond, maybe too late, to the Investigator Committee; however, the report does not indicate that she responded at all. She expressed disappointment that the Investigative Committee did not further the investigation to fill in some of the missing gaps (of information). She did not feel the report was accurate.

Councilor Desrochers said if Councilor Rice responded to the Investigative Committee initially, then he would have had ample opportunity to tell his side of the story and call witnesses. Councilor Desrochers said she regrettably involved another person (witness) into this trial.

Mayor Callaghan called the question of the allegations listed above to Count I Harassment. He requested the response would be true if a City Councilor felt the allegations were true and not true if they felt the allegations were not true: The City Council voted **true** to the allegations of Christopher Rice **Count I Harassment** by a roll call vote of 9 to 3 as follows: Councilors Malone Gray, Hamann, Beaudoin, Desrochers, Lachapelle, Gilman, Larochelle and Mayor Callaghan voted that allegation were true. Councilors Hainey, Fontneau, and Berlin voted that the allegations were not true.

Mayor Callaghan read the following charge:

Count II – False Statements to City Staff Regarding Matters Within Their Authority

The Investigative Committee alleges that, on or about February 22, 2022 Christopher Rice did knowingly make false, fictitious, and fraudulent statements and representations to Kathryn Ambrose in the conduct of her duties and responsibilities as Acting City Manager in that Rice told Ambrose that he did not create a press release showing the City of Rochester's Seal which purported to come from Rice. In response to Rice's statements and representations, Ambrose, acting within her official duties and responsibilities, initiated an investigation.

Councilor Hailey gave a brief overview of her own experience of holding two separate social media accounts and having others post to her political page. Councilor Hailey said she truly believes that Councilor Rice did not post that specific document to his page and gave reasons why.

Councilor Desrochers gave a more detailed account regarding posting comments/material on Facebook and how the notification process works.

Councilor Beaudoin said the Council is basically autonomous (answer to ourselves). He said Councilor Rice did not have any obligation to answer to the Deputy City Manager and that his only obligation would be to answer to this governmental body (City Council); however, he did speak to the Deputy City Manager and in doing so, he (Councilor Beaudoin) is convinced that Councilor Rice did mislead Katie Ambrose on both accounts II and III.

Councilor Berlin understood that Roberts Rules permits hearsay as evidence; however, in this case of whether or not something was posted, there is a way to get that answer and until that happens, he (Councilor Berlin) would have a hard time to convict someone without all the facts or seeing proof.

Councilor Malone said this situation (Facebook posting) did not need to go this far. She said she could have made the same mistake herself. It seems an apology from Councilor Rice and a commitment to resolving the issue would have been much better. Councilor Malone said instead of an apology, Councilor Rice accused someone else of using his Facebook page. She gave reasons why the evidence and logic did not support that claim.

Councilor Gray shared his experience with posting material to his political webpage and the Ward 6 Rochester United Neighborhood (RUN) webpage, has several administrators and it is difficult to know

who posted what. Councilor Gray stated that the document in question had Christopher Rice's name on it and it was clear that it was not a City of Rochester document; however, he does not feel that these two charges have been adequately proven.

Mayor Callaghan called the question. The City Council voted **true** to the allegations of Christopher Rice **Count II – False Statements to City Staff Regarding Matters Within Their Authority** by a roll call vote of 8 to 4 as follows: Councilors Lachapelle, Larochelle, Desrochers, Gilman, Malone, Beaudoin, Hamann, and Mayor Callaghan voted that allegation were true. Councilors Hainey, Berlin, Gray, and Fontneau voted that the allegations were not true.

Mayor Callaghan read the following charge:

Count III – False Statements to City Staff Regarding Matters Within Their Authority

The Investigative Committee alleges that, on or about February 22, 2022 Christopher Rice did knowingly make false, fictitious, and fraudulent statements and representations to Kathryn Ambrose in the conduct of her duties and responsibilities as Acting City Manager in that Rice told Ambrose that a press release showing the City of Rochester's Seal which purported to come from Rice had been the result of a third party impersonating him without his consent. In response to Rice's statements and representations, Ambrose, acting within her official duties and responsibilities, initiated an investigation.

Mayor Callaghan called the question. The City Council voted **true** to the allegations of Christopher Rice **Count III – False Statements to City Staff Regarding Matters Within Their Authority** by a roll call vote of 8 to 4 as follows: Councilors Larochelle, Desrochers, Malone, Gilman, Beaudoin, Lachapelle, Hamann, and Mayor Callaghan voted that the allegations were true. Councilors Fontneau, Gray, Hainey, and Berlin, voted that the allegations were not true.

Mayor Callaghan read the following charge:

Count IV – Retaliation

The Investigative Committee alleges that on or about March 4, 2022, Christopher Rice did engage in Retaliation against Paul Callaghan in

that, in response to Callaghan informing Rice of an investigation initiated into Harassment allegations against Rice, Rice told Callaghan that he would make Callaghan's "life a living hell for the next two years" or words to that effect.

Councilor Berlin said this was difficult for him to wrap his head around because you (Mayor Callaghan) can't accuse someone (Councilor Rice) of saying something and be the only one who was present for it and subsequently charge that person with a crime and be the one (Mayor Callaghan) serving as Chair of the jury that is determining the outcome of his fate. Councilor Berlin said it was unethical.

Councilor Berlin said he did not believe what Mayor Callaghan said in terms of the phone call with Councilor Rice. Councilor Berlin said he has no reason to believe what the Mayor said is true between two people with no one else present.

Councilor Malone agreed that it is difficult to determine what happened between a one-on-one conversation; however, when Councilor Rice had been asked about the comments, he allegedly made he (Councilor Rice) could not really deny that he said it. She understood that it must have been a heated conversation, and everyone may say things that are taken out of context. She reiterated that she wished that Councilor Rice would have responded to the Investigative Committee to further discuss these issues.

Councilor Beaudoin said it has been alluded to by Councilor Berlin and Rice that this procedure is not fair; however, this process is the only process in place to deal with these types of allegations. He said Section 70 of the City Charter places nine councilors on the spot to deal with a co-councilor's "misadventures". He said RSA 49 C:13 Removal of Mayor and Alderman stipulates that only an elected body may remove a mayor or any of its own members, for cause. Councilor Beaudoin said this is typical through the legislator process in NH. He gave reasons why there is no other process to deal with these types of allegations.

Councilor Lachapelle said he truly believes the alleged statement of retaliation made by Councilor Rice was made. Councilor Lachapelle said the Mayor reported that statement to the City Manager immediately after it was made. He gave reasons why he believed it happened.

Councilor Desrochers said it is up to the City Council to hold each other accountable and to work together as a team. She takes her job (City Council) seriously and has told her constituents that she would be honest, show integrity, and not lie. She took an oath to that effect. She said this last allegation (phone call from Councilor Rice to Mayor Callaghan) was a threat made about her, from Councilor Rice. She said that it is upsetting, and she is disturbed by it.

Councilor Hainey said this comes down to "he said/he said" without any witnesses and it is difficult to make a determination.

Councilor Fontneau explained that he believed something was said by Councilor Rice; however, he was not sure in what context it was said. He assumed the intention was not a physical threat but more of a threat like "I will vote against anything you vote in favor of over the next two years". He did not feel it was uncommon in political bodies of government. He was unsure if his intentions rose above that description.

Councilor Gray stated that as outlined in the Investigative Report, Councilor Rice had an incident with a weapon, which needs to be considered. He said the intent of the threat is not as important as how the threat was received.

Councilor Desrochers said there seems to be an implication that maybe Councilor Rice's comment was not meant as a threat of violence; however, it does corroborate with other testimony, the information that has been seen this evening, and what was included in the report itself, which indicates that Councilor Rice has been accused of being retaliatory, persuasive, and maybe using a weapon as a way of intimidation.

Mayor Callaghan called the question. The City Council voted **true** to the allegations of Christopher Rice **Count IV – Retaliation** by a roll call vote of 10 to 2 as follows: Councilors Gray, Laroche, Desrochers, Gilman, Lachapelle, Fontneau, Beaudoin, Malone, Hamann, and Mayor Callaghan voted that allegations were true. Councilors Hainey and Berlin voted that the allegations were not true.

9. Consideration of Sanctions (if necessary)

Councilor Lachapelle **MOVED** to **REMOVE** Councilor Rice from the Rochester City Council, effective immediately per Section 70 of the City Charter. Councilor Malone seconded the motion.

Councilor Fontneau said he has found the entire process to at least have the appearance of being extremely unfair. He said maybe Councilor Beaudoin is correct by saying that it is the only process the City Council has at this point. Councilor Fontneau shared that he has served on a jury in the past; however, this case did not have the appearance of due process or even a fair process. He gave reasons why it seems that removing a City Councilor from office is at the very highest level of the City Councils' authority. He questioned if there were any other sanctions available to the City Council. He said based on the process seen this evening he does not support removal from office.

Councilor Berlin stated that the evidence seemed one-sided and the process from the beginning did not seem fair. He did not support removing Councilor Rice from office.

Councilor Desrochers said that Councilor Rice had the opportunity to provide testimony and to submit witnesses to the Investigative Committee and to discuss the allegations but that did not occur. She said if it appears one-sided, that it because there was no cooperation from Councilor Rice during the investigative process. She said this is the process that the City Council must follow. She asked each City Councilor if Councilor Rice is setting the kind of example and leadership, that should be displayed for the City of Rochester. She supported removing Councilor Rice from the City Council.

Councilor Malone asked if there were other options of punishment besides removal from office. Councilor Malone said someone can have good intentions without malice; however, your behavior can still impact someone else in a harmful way. She said there has to be acknowledgment/responsibility and then move forward; however, that is not what was seen this evening from Councilor Rice.

Councilor Hainey expressed frustration with the process. She said she felt that Mayor Callaghan was very "short" with her when she asked questions. She said it was difficult to get answers to her questions. She gave examples of the communication which occurred between them. She said "process" is important to her and this process was not explained well. She said she believes in progressive discipline. She did not feel that "jumping" to removing Councilor Rice from office follows progressive discipline. She said it seems there should be other

steps or recommendations to discuss instead of removing Councilor Rice from the City Council. Councilor Hainey said she believes that Councilor Rice represents his constituents very well. She gave a few examples. Councilor Hainey stated that she did not feel Councilor Rice's constituents wished for him to be removed from the City Council.

Councilor Gray said Councilor Rice had the opportunity to have an attorney represent him this evening. Councilor Gray said he felt an attorney would have advised him on what to rebut or not. Councilor Gray said the reason he agrees to remove Councilor Rice from the City Council is because of the testimony about the gun. He said if you are having a difficult time with someone and then point out to that person the fact that you have a gun is "over the hill". He understood why a young women would want to be escorted in/out of the building when that individual is around.

Councilor Desrochers said she loathed this process and that the City has spent a lot of money on the entire process. She stated that she did not report what had happened; however, she said she cooperated with the Investigative Committee. Councilor Desrochers said she has also received feedback from constituents who were disturbed that this happened. Councilor Desrochers talked about another gun incident, which she said occurred before this investigation began. Councilor Rice objected and said it was political slander. Mayor Callaghan said this was the deliberation process of the trial. She gave reasons why she is thankful that she was escorted in/out of the City Council meetings based on the final phone call (which this City Council voted was true) Councilor Rice had said to Mayor Callaghan about Mayor Callaghan and Councilor Desrochers.

Councilor Beaudoin disclosed that he frequently carries firearms himself; however, he has never told anyone he carries and tries to keep it to himself. He said it is extreme to remove an elected official from office and would like to hear what other sanctions could be voted upon prior to voting to remove Councilor Rice from office. He said it would give him an opportunity to determine if other sanctions were extreme enough or not.

Councilor Larochelle said he voted on the charges based on a preponderance of the evidence and not based upon "beyond a reasonable doubt". Councilor Larochelle said that is a pretty low bar when deciding to remove a councilor from office. He explained how difficult it is to make a decision, to remove a City Councilor from Office,

based upon a preponderance of the evidence.

Councilor Hainey said she has a difficult time with the gun incident because it comes down to "she said/he said". Councilor Hainey has never heard Councilor Rice brag about having a gun, in all the years that she has known him. She said it was almost two years into knowing Councilor Rice before she even knew he carried a gun. She said the investigative Committee did not mention the "gun" this evening; however, she is aware that it was mentioned in the report.

Councilor Hamann said he represents the constituents of Ward 5 as does Councilor Rice. He voted true on the charges based upon a preponderance of evidence. He stated that he has received feedback from Ward 5 voters, and it has been about a 60/40 split, with approximately 60% in favor of removing Councilor Rice from office and the other approximately 40% not in favor of removing Councilor Rice from office. Councilor Hamann said that Councilor Rice has done a decent job of representing the constituents of Ward 5; however, he must vote his conscious and must do what is best for the City. Councilor Hamann said he is leaning towards "removal" from office.

Councilor Fontneau gave reasons why he requested to know what other options are available to the City Council besides removing Councilor Rice from office. Attorney O'Rourke said another option is known as "censure", which is stating to Councilor Rice that the City Council "thinks" you did a bad thing, and nothing else happens with a censure. Attorney O'Rourke stated that the City Council could potentially remove Councilor Rice from his current City Council standing committees. He said it would take a majority vote for the censure and a 2/3 vote to remove him from the City Council standing Committees. Attorney O'Rourke explained that there is a steep drop from removing a City Councilor from office to censure; however, that is because this is a public body and not a private body. Councilor Fontneau asked if the body could demand community service or demand a public apology. Attorney O'Rourke replied no, that is not established in the body's current bylaws. He explained that the body is limited to action as outlined in the Council Rules of Order, Roberts Rules of Order, State statute, and the local City Charter.

Councilor Hainey asked if the City Council could make it so Councilor Rice would not be able to proceed with any more press releases until such time as it was approved by the Mayor or City Manager, or make him take Harassment awareness training. Attorney O'Rourke explained that those actions cannot be enforced. He said the

Code of Ethics Policy, which did include other options for taking action against a non-compliant City Councilor; was voted down by the City Council last year.

Councilor Berlin stated that he would be more apt to vote in favor of a lesser punishment, such as removal from Committees or as Chair of a Committee.

Councilor Lachapelle said the City Council must act as the Judge this evening. He said a slap on the wrist for this behavior is sending the wrong message to the City. Councilor Lachapelle said he has nothing against Councilor Rice personally; however, he does take what was presented to the Committee personally. He said what is wrong is wrong and what is right is right. The City Council voted "true" on all four charges. He made a comment about Councilor Rice digging his own grave.

Councilor Larochelle asked if it was possible to continue the investigation and postpone this vote/process this evening. Councilor Lachapelle replied that the process is done.

Mayor Callaghan called the question. The **MOTION CARRIED** by a 9 to 3 roll call vote. Councilors Beaudoin, Hamann, Desrochers, Gray, Lachapelle, Gilman, Malone, Larochelle, and Mayor Callaghan voted in favor of the motion. Councilors Hainey, Berlin, and Fontneau voted against the motion.

Mayor Callaghan informed Christopher Rice that he is no longer a City Councilor, effective immediately, and that he needs to return any City equipment back to the City.

10. Adjournment

Mayor Callaghan **ADJOURNED** the trial at 7:41 PM.

Respectfully submitted,

Kelly Walters, CMC
City Clerk

Fw: Meeting

Thanks,
Pete

From: Christopher Rice <christopher.rice@rochesternh.net>
Sent: Tuesday, April 19, 2022 2:27 AM
To: Peter Lachapelle <peter.lachapelle@rochesternh.net>
Cc: Terence O'Rourke <terence.orourke@rochesternh.net>; bchristie@shaheengordon.com
<bchristie@shaheengordon.com>
Subject: RE: Meeting

Mr. Lachapelle,

At the advice of legal counsel, we will respond shortly.

Christopher J Rice

From: Peter Lachapelle <peter.lachapelle@rochesternh.net>
Sent: Saturday, April 16, 2022 1:46 PM
To: Christopher Rice <christopher.rice@rochesternh.net>
Cc: Terence O'Rourke <terence.orourke@rochesternh.net>; Peter Lachapelle
<peter.lachapelle@rochesternh.net>
Subject: Meeting

Chris,

The investigative committee would like to provide you an opportunity to speak with us. We have two (2) days available for you to choose from, the first is Thursday April 21st, 2022 at 4:30pm and the second is Friday April 22nd, 2022 between the hours of 8:00am and noon or 4:00pm. Please reply back to me before noon on Tuesday April 19th, 2022. If I do not hear back, the committee will assume you do not wish to be interviewed.

I will also send you a text to remind you to look at your City email account regarding this invite.

Thanks,
Pete

[Reply](#) [Reply all](#) [Forward](#)



Christopher John

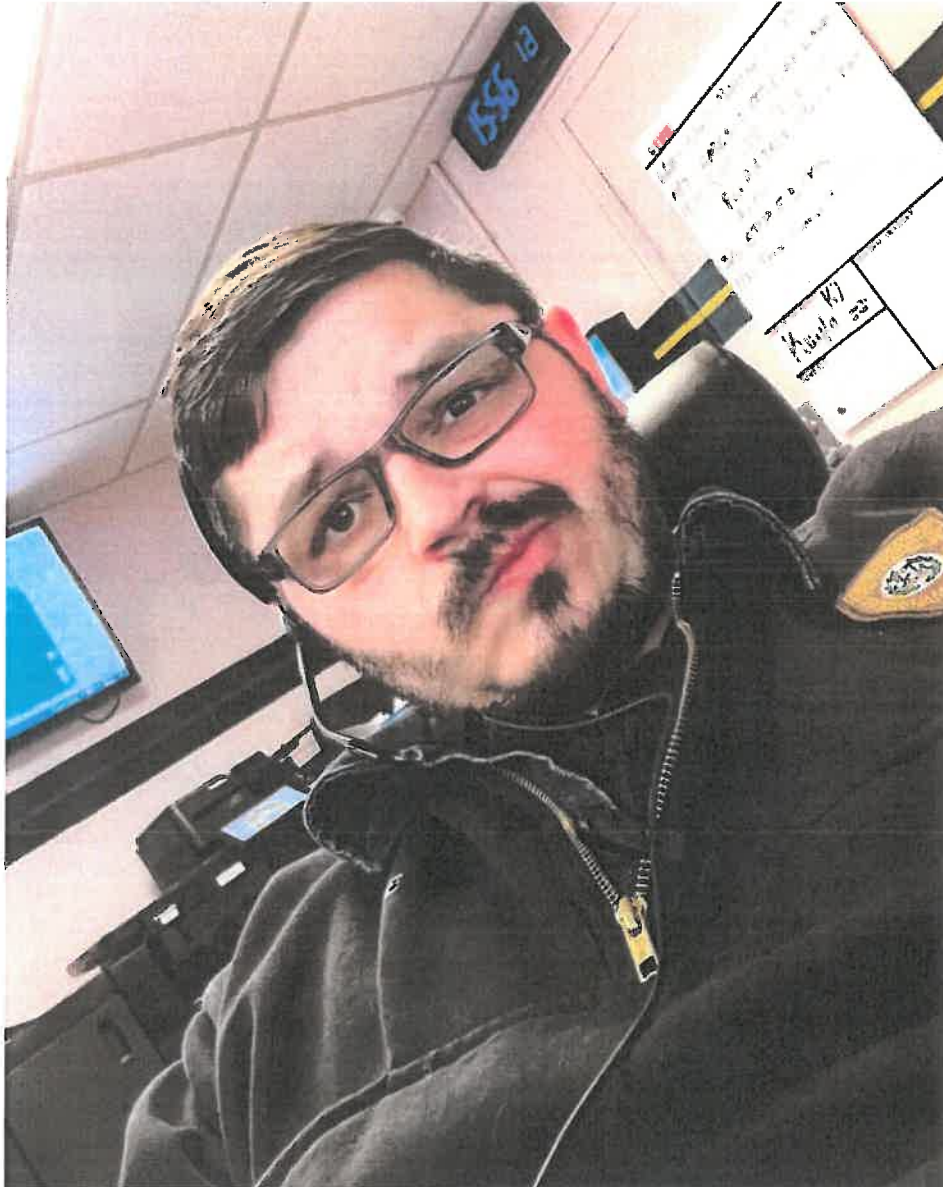


Christopher John



Apr 1 · 👤

Pondering my life choices #gaynh #gay603 #603love
#worklifestyle



👍❤️ 44

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