
CITY OF MAPLEWOOD

Internal Report of Potential Policy Violations

INVESTIGATION REPORT

Subject: Eric Hjelle

Subject: Jon Melander

A. PROCEDURAL BACKGROUND

This report documents an investigation initiated by the City of Maplewood (“City”) into reports of potential employee misconduct. On October 25, 2005, City Firefighters reported to Fire Chief Steve Lukin (“Lukin”) that on the evening of October 24, 2005, they visited the District 4 fire station and observed City Firefighter and City Council candidate Eric Hjelle (“Hjelle”), other District 4 Firefighters, District Chief Jon Melander (“Melander”), and others, stuffing envelopes with material promoting Hjelle’s candidacy for City Council. Firefighters also reported that District Chief Melander approached them and told them to forget they observed the activity.

On October 25, 2005, Chief Lukin discussed the reports with Melander, who confirmed the reports. Lukin then apprised City Manager Richard Fursman (“Fursman”) of the reports. *Exhibit 1, Memorandum from Lukin to Fursman.*

On October 25, 2005, City Manager Fursman authorized an independent investigation. The investigation was conducted by Michelle Soldo from Carlson & Soldo, P.L.L.P. During the period November 15, 2005 through December 27, 2005, interviews were conducted and City records were reviewed.

B. SUMMARY OF ALLEGATIONS

1. On or about October 17, 2005 and on October 24, 2005, Hjelle engaged in campaign activity at the District 4 fire station, in violation of City policy.
2. Hjelle invited District Chief Melander, City Firefighters and others to participate in campaign activity he conducted at the District 4 fire station, in violation of City policy.
3. Melander permitted Hjelle to engage in campaign activity at the District 4 fire station and he participated in the activity, in violation of City policy.
4. Melander told City Firefighters who observed the campaign activity at the District 4 fire station to forget they saw the activity.

C. RELEVANT POLICIES AND STATUTES

1. City of Maplewood Rules of Procedure for City Council Meetings Section 14, City Council Administrative Policies¹ *Exhibit 2*.
2. City of Maplewood Fire Department Policy Manual *Exhibit 3*.
 - a. Section 1, Employee's Responsibility for [the] Manual²
 - b. Section 1, Requests for Interpretation³

¹ The provision states: "*City Hall is a non-public forum and prohibits all campaigning for public office within all municipal buildings and equipment, except for candidate forums held during designated hours at a designated place by non-partisan political organizations . . . scheduled in coordination with the City.*" Exhibit 2, Section 14..

² The provision states in relevant part: "*Employees who do not understand a policy or standard's meaning or management's intent are responsible for contacting a supervisor for clarification. It will not be an acceptable defense to claim ignorance about a standard once it has been made known to the organization. Ignorance is no excuse. Employees bear the burden of establishing that they made a positive and reasonable effort to know all policies and standards in any corrective action taken against them.*" Exhibit 3.

³ The provision states in relevant part: "*The following procedure shall be used by all employees who . . . anticipate finding themselves in a situation whereby they may be in violation of the provisions of these policies. First, a verbal interpretation should be sought from the employee's District Chief. Then, if the policy remains unclear, the employee should . . . prepare a memo to the Fire Chief which includes the following information: [1] the specific section needing clarification; [2] the situation or circumstances surrounding the request; and [3] submit the memo to the Fire Chief and a copy of the memo to the employee's District Chief. The Fire Chief shall formulate the appropriate response*" Exhibit 3.

- c. Section 2, Work Rule Offenses⁴
- d. Section 2, Political Activity⁵
- e. Section 2, Conduct as a City Employee⁶
- f. Section 2, Conduct as a City Firefighter⁷
- g. Section 2, Employee Responsibilities⁸

⁴ The provision states in relevant part: “An employee shall be subject to immediate disciplinary action . . . up to and including discharge, for: . . . [a] Inducing or attempting to induce any employee of the City to . . . act in violation of any lawful departmental or official regulation or order; [b] Insubordination, which is the refusal to comply with the lawful verbal and written rules, duties, policies, procedures and practices of the Department; [c] . . . engaging in political activities on or with City Property or on City time; and [d] Failure to fulfill employee responsibilities . . . especially those detailed in Section 2, City Wide Work Rules and Code of Conduct.” Exhibit 3.

⁵ The provision states in relevant part: “. . . any political activity in the workplace must be pre-approved by the City Manager to avoid any conflict of interest or perception of bias such as using authority or political influence to compel another employee to apply for or become a member in a political organization.” Exhibit 3.

⁶ The provision states in relevant part: “In accepting City employment, employees become representatives of the City and are responsible for assisting and serving the citizens for whom they work . . . Overall, employees should exhibit conduct that is ethical, professional, responsive, and of high standards becoming of a City employee. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors and department heads.” Exhibit 3.

⁷ The provision states: “All Maplewood Firefighters shall conduct themselves in a professional manner whenever they are in contact with the public, at schools and at conferences. Ethics: The discipline dealing with what is good and bad and with moral duty and obligation. Intent: Firefighters are servants of the public and as such their conduct and behavior is subject to criticism by the general public. This criticism is to a greater extent than if they were engaged in private endeavors. For this reason, rules of conduct and behavior practiced by all respectable law-abiding citizens shall be enforced at all times by Department personnel. The rules contained in these policies are not designed to limit any employee in the exercise of his or her judgment in taking the action in extraordinary situations that a reasonable person would take. Situations may arise, from time to time which cannot be foreseen and for which no rule or regulation can be provided. Employees shall always act with promptness and discretion. When policies are deviated from, the employee shall be able to articulate the necessity for the deviation. Follow-up: All Maplewood Firefighters shall be responsible for following all rules, personnel policies and R.O.G.’s of the Maplewood Fire Department. All Firefighters shall annually review rules, personnel and R.O.G.’s to maintain a complete understanding.” Exhibit 3.

⁸ The provision states in relevant part: “. . . [C] Employees shall make an affirmative, consistent effort to observe and comply with the directives, rules, policies, operating guidelines, memoranda and traditions established This standard applies to policies, operating guidelines, procedures and traditions that are written, as well as those established by past practice patterns . . . the employee shall . . . comply with the standard and not look for exceptions to the standard . . . [G] Employees shall accept full responsibility for their attitude and the results of their behaviors on duty as well as off duty. . . . Those who wish to hold the honor of a public position and enjoy the privileges of public trust share a responsibility to conduct themselves (on duty as well as off duty) in a manner that does not bring public image or trust into question . . . [H] Employees shall exercise common sense and strive to find ways in every contact to promote the City’s values and expressed in its standards (such as the organizational philosophy, mission statement, goals and objectives, standards of conduct and other lawful directives and legitimate expectations)” Exhibit 3.

3. Minnesota Statute Chapter 211B.01, Definitions, Subds 2, 6 and 9⁹. *Exhibit 4.*

D. SUMMARY OF FINDINGS

1. On or about October 17, 2005 and on October 24, 2005, Hjelle used the District 4 fire station training room to stuff envelopes with material promoting his candidacy for City Council, the candidacy of Rebecca Cave for City Council, and the candidacy of Diana Longre for Mayor. Hjelle's conduct violated City policy.
2. Hjelle invited District Chief Melander, City Firefighters, City Council candidate Rebecca Cave and Mayoral candidate Diana Longre to participate in campaign activity he conducted at the District 4 fire station. Hjelle's conduct violated City policy and appears to violate Minn. Stat. §44.15, subd. 2.
3. Hjelle engaged in campaign activity at the District 4 fire station without City authorization. Hjelle's conduct violated City policy.
4. Hjelle engaged in campaign activity at the District 4 fire station with the knowledge the activity is prohibited by City policy.
5. District Chief Melander, City Firefighters, City Council candidate Rebecca Cave and Mayoral candidate Diana Longre participated in campaign activity at the District 4 fire station, in violation of City policy.
6. Melander permitted Hjelle to engage in campaign activity at the District 4 fire station, with the knowledge the activity is prohibited by City policy.

⁹ *"Subd. 2, Campaign Material. "Campaign material' means any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media."*

"Subd. 6, Political Purposes. An act is done for 'political purposes' when the act is intended or done to influence, directly or indirectly, voting at a primary or other election. This does not include news items or editorial comments published or broadcast by the news media."

"Subd. 9. An employee or official of the state or of a political subdivision may not use official authority or influence to . . . compel a person to take part in political activity . . ." Exhibit 4.

E. SUMMARY OF HJELLE’S INTERVIEW STATEMENT

Eric Hjelle was interviewed on December 6, 2005.¹⁰ Hjelle reported he has worked as a City of Maplewood “paid-per-call” Firefighter assigned to the District 4 fire station for approximately five years. City records indicate Hjelle’s date of hire was March 23, 2000. Hjelle reports to District Chief Melander.

The City’s paid-per-call Firefighter job description indicates that Hjelle is responsible for responding to fire, medical and other emergencies as directed. Hjelle said he also serves as Station Engineer and is responsible for maintaining and repairing City fire trucks and equipment. *Exhibit 9, Paid-per-call Firefighter Job Description.*

1. Discussion of City Policies and Procedures

Hjelle acknowledged that he is a City employee, the terms and conditions of his employment with the City are governed by City policies and work rules, and he is responsible for complying with the same.¹¹ City records indicate that on May 23, 2000, April 22, 2002 and February 2, 2004, Hjelle signed acknowledgments confirming he read

¹⁰ At the start of the interview, Hjelle was apprised of the allegations regarding his conduct. Hjelle was then given a written Tennessen notice that he reviewed and signed. Exhibit 8, Tennessen Notice. Hjelle indicated that he understood the purpose of the interview and the potential use of the information he provided.

¹¹ City policy states in pertinent part: “*In accepting City employment, employees become representatives of the City . . . employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors and department heads.*” Exhibit 3, Section 2, Conduct as a City Employee. “. . . *All Maplewood Firefighters shall be responsible for following all rules, personnel policies and R.O.G. ’s of the Maplewood Fire Department.*” Exhibit 3, Section 2, Conduct as a City Firefighter. “*Employees shall make an affirmative, consistent effort to observe and comply with the directives, rules, policies, operating guidelines, memoranda and traditions established for the effective, efficient and safe operations of the Department. This standard applies to policies, operating guidelines, procedures and traditions that are written, as well as those established by past practice patterns . . . Employees shall accept full responsibility for their attitudes and the results of their behaviors on duty as well as off duty . . .*” Exhibit 3, Section 2, Employee Responsibilities.

and understands the terms of City Personnel policies and procedures and been given an opportunity to ask questions regarding the same. *Exhibit 5, Policy Acknowledgments.*

Hjelle said he understands he is responsible for seeking clarification¹² regarding any City policy and procedure he does not understand, and he is subject to discipline, up to and including discharge, if he does not comply with the same.¹³

2. Discussion of Allegation 1. On or about October 17, 2005 and on October 24, 2005, Hjelle engaged in campaign activity at the District 4 fire station, in violation of City policy.

Hjelle confirmed reports that, during the period July 19, 2005 through November 7, 2005, he campaigned for a seat on the City Council and was elected to the City Council on November 7, 2005. *Exhibit 6, Minnesota Affidavit of Candidacy for City Council.*

Hjelle acknowledged that candidates for City Council and other elected offices are responsible for reviewing, understanding and fully complying with state election rules

¹² City policy states in pertinent part: “*Employees who do not understand a policy or standard’s meaning or management’s intent are responsible for contacting a supervisor for clarification. It will not be an acceptable defense to claim ignorance about a standard once it has been made known to the organization. Ignorance is no excuse. Employees bear the burden of establishing that they made a positive and reasonable effort to know all policies and standards in any corrective action taken against them.*” Exhibit 3, Section 1, Employee’s Responsibility for [the] Manual. “[E]mployees who want policy clarification or who anticipate finding themselves in a situation whereby they may be in violation of the provisions of these policies [shall seek] a verbal interpretation from the employee’s District Chief. Then, if the policy remains unclear, the employee should: “A. [P]repare a memo to the Fire Chief which includes the following information: 1. The specific [policy] needing clarification; and 2. The situation or circumstances surrounding the request; and 3. Submit the memo to the Fire Chief and a copy of the memo to the employee’s District Chief.” Exhibit 3, Section 3, Request for Interpretation.

¹³ City policy states in pertinent part: “*An employee shall be subject to immediate disciplinary action, without warning, up to and including discharge, for: [1] “Insubordination, which is the refusal to comply with the lawful, verbal and written rules, duties, policies, procedures and practices of the Department;” [2] “...engaging in political activities on or with City property or on City time;” “Failure to fulfill employee responsibilities . . . especially those detailed in Section 2, ‘City Wide Work Rules and Code of Conduct.’”* Exhibit 3, Section 2, Work Rule Offenses.

(set forth in Minnesota Statutes 211A and 211B) and City policies governing political activity. Hjelle said he is currently more knowledgeable about state election rules than he was prior to the November 7, 2005 election. Hjelle explained that following the election, an unsuccessful City Council candidate filed a complaint alleging he violated state election laws. Hjelle discussed the nature of some of the allegations and said he “did not intentionally violate the law.” Hjelle asserted that another candidate engaged in activity that he believes is inappropriate and violates state election laws. Hjelle explained that the candidate rode in a City fire truck in a local parade. In regard to the activity, Hjelle said: “Riding in a fire truck gave the impression that the City or the Fire Department endorsed him. It’s not right for the City or the Fire Department to endorse any candidate during a campaign.”

Hjelle said he is aware that City policy addresses the use of City buildings and equipment for political activity. When asked to discuss his understanding of relevant City policies, Hjelle provided a copy of City Council meeting minutes dated January 12, 2004. Hjelle turned to page 20 of the meeting minutes in which proposed language for the “Rules and Procedures for City Council Meetings” is set forth. Hjelle read the following provision, which he said is applicable: “City Hall is a non-public forum and City policy prohibits all campaigning for public office within municipal buildings and equipment.”

Exhibit 11, 01/12/04 City Council Meeting Minutes.

The above-referenced Meeting Minutes indicate that the City Council adopted the above cited policy language. *Exhibit 11*. The current and complete text of that provision reads: “City Hall is a non-public forum and prohibits all campaigning for public office within all municipal buildings and equipment, except for candidate forums held during designated hours at a designated place by non-partisan political organizations . . . scheduled in coordination with the City” *Exhibit 3, Political Activity*. City policy also requires that individuals seek and receive prior approval from the City Manager to engage in any political activity in the workplace, to avoid any conflict of interest or perception of bias. *Exhibit 2, Section 14*. These policy provisions were reviewed with Hjelle.

When asked what he understands the above-cited policy provision to mean, Hjelle responded, “People can’t campaign in City buildings without the City’s permission.” When asked to identify the City administrator(s) from whom he sought and received authorization to use the District 4 fire station to stuff campaign envelopes, Hjelle said, “I didn’t ask anyone. It’s my right to use the building.” When asked to explain the basis for that “right,” Hjelle said, “It’s one of the few perks of being a City Firefighter.”

Hjelle was asked to describe discussions Fire Chief Lukin and/or District Chiefs have reportedly had with City Firefighters about the above-cited policy. Hjelle said he does not recall any such discussion. However, Hjelle then acknowledged that Fire Chief Lukin told Firefighters that City policy prohibits the use of City property, uniforms and equipment to endorse political candidates. Hjelle said he specifically recalled Lukin

saying that candidates for political office cannot take photographs in front of a City fire truck or a City fire station because “it gives the appearance” the City Fire Department endorses the candidates. Hjelle added, “The Fire Department cannot support a particular candidate.”

Hjelle confirmed reports that on or about October 17, 2005 and on October 24, 2005, he used the District 4 fire station to stuff envelopes with campaign material. Hjelle confirmed the report that the campaign material promoted his candidacy for City Council, the candidacy of Rebecca Cave for City Council, and the candidacy of Diana Longre for Mayor. Hjelle acknowledged that the envelopes stuffed with campaign material were mailed to City residents to encourage them to vote for him.

Hjelle repeatedly denied that his use of the District 4 fire station to stuff campaign envelopes was inappropriate. Hjelle argued that his conduct does not fall within the definition of the conduct prohibited by City policy. Citing City policy language prohibiting “all campaigning for public office within municipal buildings,” Hjelle asserted he did not violate City policy because:

- He engaged in “personal” activity, not campaign activity, when he stuffed envelopes with campaign material at the District 4 fire station. (Assertion 1)
- The District 4 fire station is not a municipal building. (Assertion 2)
- The District 4 fire station is a municipal building, but it does not fall within “the definition” of a municipal building. (Assertion 3)

- District Chief Melander authorized him to stuff campaign envelopes at the District 4 fire station. (Assertion 4)
- City policy governing the political activities of City employees on City property does not apply to him because he is not a City employee. (Assertion 5)
- No one knew he stuffed campaign envelopes at the District 4 fire station. (Assertion 6)

Assertion 1. Hjelle engaged in “personal” activity, not campaign activity, when he stuffed envelopes with campaign material at the District 4 fire station.

Hjelle asserted he engaged in personal activity, not campaign activity, when he stuffed campaign envelopes at the District 4 fire station. Hjelle said that campaign activity is “something that is done with the intent to influence “potential voters” and his act of stuffing envelopes does not meet this definition. Hjelle did not identify the source of the definition.

Minnesota Statute Chapter 211B.01, subd. 2 defines “campaign material” as “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.” *Exhibit 4.* Minnesota Statute Chapter 211B.01, subd 6 states that an act is done for “political purposes” when the act “is intended or done to influence, directly or indirectly, voting at a primary or other election,” but “does not include news items or editorial comments published or broadcast by the news media.” (emphasis added) *Exhibit 4.*

Hjelle asserted that the act of stuffing envelopes with campaign material does not meet any of the above-cited definitions of activity that would constitute “campaigning.” Hjelle explained, “Potential voters are not influenced by anything when envelopes are being stuffed. They are influenced when they receive the envelopes.”

Hjelle readily acknowledged that he stuffed envelopes with campaign material for the sole purpose of mailing the envelopes to potential voters with the objective of influencing them to vote for him. Despite this admission, Hjelle maintained that this activity does not satisfy his definition of campaign activity. Hjelle was unable to clearly articulate his position.

Hjelle then asserted that his act of stuffing campaign envelopes at the District 4 fire station is a “personal” activity, not political activity. Hjelle’s assertion focuses on the location of the activity, rather than the nature of the act. Hjelle said:

Paid-per-call Firefighters have always been able to use the fire station for personal reasons, like baby showers and wedding showers. We watch football games here. I don’t view stuffing campaign flyers any differently than watching a football game, or having a baby shower.

Hjelle continued:

We stuffed envelopes for the purpose of mailing them out for a campaign, but that was not active campaigning because we did it in this facility (the District 4 fire station), which is not open to the public. It would be different if the public had access to the building, but they don’t. The doors are locked and someone has to let them in.

Hjelle acknowledged that City policy does not state that City Firefighters have the unfettered right to use City fire stations in the manner they deem fit, and specifically prohibits the use of City building and equipment for policy activity unless the activity is authorized by the City Manager. *Exhibits 2 and 3*. Hjelle then asserted, “Policies in this City are only applied when the City wants to apply them. I don’t think there is anything wrong with what I did.”

When asked why he did not engage in the “personal” activity of stuffing envelopes for his City Council campaign at his private insurance office,¹⁴ Hjelle said: “I couldn’t do that. My business is a corporation. It’s illegal to receive corporate assistance.” When questioned further about his reasoning, Hjelle explained: “Even if I did it after hours and no one was around, there is always a chance that someone in that building will see what’s going on.” Hjelle was asked to explain why it would matter if someone observed him stuffing campaign envelopes at his private office if the activity is in fact “personal” activity, and not campaign activity. Hjelle replied, “It’s the perception that matters.”

When asked to consider and discuss the potential perception created by his use of a City fire station to stuff envelopes for his City Council campaign, Hjelle said, “If people knew about it, they might think I had Fire Department’s endorsement, but nobody knew about it.” *See Discussion of Assertion 6*. When told that this investigation was initiated because his campaign activity was observed and reported to the City, Hjelle then asserted

¹⁴ Hjelle said he owns and runs an insurance business and has offices in Maplewood, Minnesota and White Bear Lake, Minnesota.

he did not violate City policy the District 4 fire station is not a municipal building. *See Discussion of Assertion 2.*

Assertion 2. The District 4 fire station is not a municipal building.

Hjelle asserted that he did not violate City policy prohibiting “all campaigning for public office within municipal buildings,” because the District 4 fire station is not a “municipal building.” City policies do not define “municipal building.” Minnesota Statute §200.02, subd. 9 defines “municipality” as “a city or town.” *Exhibit 4.* The American Dictionary defines “municipality” as “self-governing city.” *Exhibit 12, American Standard Dictionary Excerpt.* It logically follows that “municipal building” is defined as a building owned by a City or town, and that the intent of the City’s policy is to prohibit all campaigning in any City owned or occupied building.

When the above-cited definitions were discussed with Hjelle, he then asserted that the District 4 fire station is not a City owned building. Hjelle acknowledged that the sign on the front of the District 4 fire station building says: “City of Maplewood Fire Department.” Despite the sign, Hjelle said: “No! It’s not the City’s fire station. It’s my fire station. The City technically owns it, but it’s my fire station and my fire truck. The fire station is here and operating because of us (paid-per-call Firefighters).”

After much discussion, Hjelle acknowledged that if the City owns the District 4 fire station, that building is a City building. However, Hjelle asserted that, even if the City “technically” owns the fire station, it is not a municipal building because “it is not open to the public.” Hjelle explained, “The public must be invited in. It would be

different if the public had access to the building, but they don't. The doors are locked and someone has to let them in." Hjelle conceded that City jails and the BCA crime lab are municipal buildings to which public access is restricted. Hjelle then asserted that the District 4 fire station is a municipal building, but it "does not fall within the definition of municipal building." *See Discussion of Assertion 3.*

Assertion 3. The District 4 fire station is a municipal building, but it does not fall within "the definition" of a municipal building.

Hjelle asserted he did not violate City policy prohibiting "all campaigning for public office within municipal buildings," because the District 4 fire station is a municipal building, but it does not fall within "the definition" of "municipal building." Hjelle defined "municipal building" as a building in which full-time and part time employees work.¹⁵ Hjelle could not identify the source of his definition, or clearly explain his reasoning.

When questioned further about the basis for his assertion, Hjelle then asserted he did not violate City policy because he is not a City employee and not subject to City policies. *See Discussion of Assertion 4.*

Assertion 4. Hjelle is not a City employee and not subject to City policies.

Hjelle asserted he did not violate City policy prohibiting "all campaigning for public office within municipal buildings," because he is not a City employee and not subject to City policies. Hjelle acknowledged that his assertion is inconsistent with his

¹⁵ Hjelle said, "This is a municipal building, but it does not fall within the definition of a municipal building because there aren't any full-time or part-time employees who work here."

admission at the start of the interview that he is a City employee, the terms and conditions of his employment with the City are governed by City policies, and he is subject to discipline, up to and including discharge, if he does not comply with City policies. Hjelle then said, “I’m technically a City employee, but our classification is a very liberal interpretation of a City employee. The City only treats us like employees when it wants to.” Hjelle then asserted that he is a City employee when he responds to an emergency call and is compensated for his time. Hjelle explained:

I am an employee when my pager goes off. When my pager does not go off, I’m not an employee. I choose when I am a City employee. I’m only a City employee when I receive compensation for something I’m doing. If I choose to go on a call, I’m an employee. If I don’t go a call, I’m not a City employee.

Hjelle could not identify City policy or other support for his contention.

Hjelle acknowledged that on October 17, 2005 and October 24, 2005, when he used the District 4 fire station to stuff envelopes with campaign material, he was not responding to an emergency call, was not compensated by the City for his time, and based on the above-cited definition, he was not a City employee at that time. When asked to reconcile this proposed fact, with his earlier assertion that his use of the District 4 fire station for “personal” purposes is a “perk for being a City Firefighter,” Hjelle said: “I’m a member of the public with privileges because I am a volunteer.” Hjelle could not identify City policy or other support for his contention. Hjelle then asserted he did not violate City policy because District Chief Melander authorized him to use the fire station to stuff campaign envelopes. *See Discussion of Assertion 5.*

Assertion 5. District Chief Melander authorized Hjelle to stuff campaign envelopes at the District 4 fire station.

Hjelle asserted he did not violate City policy prohibiting “all campaigning for public office within municipal buildings” because District Chief Melander authorized him to use the District 4 fire station to stuff campaign envelopes. Hjelle explained, “I told Jon [Melander] I planned to use the station and he said that was fine with him. If he thought I was doing something wrong, he should have told me.” Hjelle acknowledged that as a candidate for City Council, he was solely responsible for conducting his campaign in compliance with State election laws and City policies.

Hjelle also acknowledged that the City policy states that City Manager Fursman, not Melander, is authorized to approve the use of City buildings for political purposes. *Exhibit 3*.¹⁶ City policy states: “. . . any political activity in the workplace must be pre-approved by the City Manager to avoid any conflict of interest or perception of bias such as using authority or political influence to compel another employee to apply for or become a member in a political organization.” *Exhibit 3, Political Activity*. When asked to explain the reason he did not consult with Fursman, Hjelle said, “I didn’t feel I needed to. I talked to Jon [Melander].”

Hjelle was asked to respond to the report that in early October 2005, prior to his use of the District 4 fire station to stuff campaign envelopes, Karen Guilfoile (City

¹⁶ Hjelle acknowledged he did not seek or receive authorization from City Manager Fursman to use the District 4 fire station to stuff campaign envelopes. Hjelle explained, “I didn’t feel I needed to check with him. I checked with Jon and he said it was fine with him.”

Clerk/Director of Records, Elections and Licenses) told him he could not use a City fire station to engage campaign activity. Hjelle said he did not recall Guilfoile advising him in this manner.

An October 4, 2005, e-mail message Hjelle sent to Guilfoile was reviewed with Hjelle. *Exhibit 7, E-mail Correspondence Between Guilfoile and Hjelle.* In the e-mail message, Hjelle inquired about the use of a City fire station to conduct a candidate debate and he cited City policy prohibiting “all political activity within municipal buildings.” Also reviewed with Hjelle, was Guilfoile’s responsive e-mail message to him dated October 5, 2005. *Exhibit 7.* In the e-mail message, Guilfoile cited City policy prohibiting “all campaigning for public office within municipal buildings” and she wrote in pertinent part: “Further, you as a Maplewood firefighter using a fire station for campaign purposes and as a platform for a debate would clearly be a conflict.” *Exhibit 7.* Hjelle acknowledged he received and reviewed Guilfoile’s e-mail message.

When asked to explain his rationale for using the District 4 fire station to stuff campaign envelopes, after he received Guilfoile’s e-mail message, Hjelle said: “She was talking about a debate, not stuffing envelopes.” Hjelle acknowledged he did not consult with Guilfoile regarding his use of the District 4 fire station to stuff campaign envelopes. When asked why he did not consult with Guilfoile regarding this issue, Hjelle said: “She wasn’t helpful. I had to call the County to find out what to do.” Hjelle then asserted he did not violate City policy because “no one knew” about his activity. *See Discussion of Assertion 6.*

Assertion 6. Stuffing campaign envelopes at the District 4 fire station did not violate City policy because no one knew about it.

Hjelle asserted he did not violate City policy prohibiting “all campaigning for public office within municipal buildings” because “no one knew about” his campaign activity. Hjelle said, “I don’t think what I did was inappropriate because no one knew about it.” Hjelle clarified that “the public” did not know that he used the District 4 fire station to stuff campaign envelopes. When asked if he is asserting that his conduct would be inappropriate if the public had been aware of it, Hjelle said, “Well, I don’t think it would be inappropriate, but some people, other candidates, might think the Fire Department was endorsing me and it can’t endorse any political candidate.” When reminded that this investigation was initiated by the City after his campaign activity was observed and reported, Hjelle paused and said: “Look, if I’m guilty of something, it’s that I didn’t sit down and read the rules after I filed for election.”

Hjelle acknowledged that when he is seated as a City Council member, he will be responsible for developing and enforcing City policies and procedures. Hjelle was asked to discuss how he will credibly enforce City policies he does not follow. Hjelle responded:

I can do it because I did not intend to do anything wrong. I didn’t do anything malicious or with the intent to deceive. If faced with that, I can be a lot more accommodating to people. I’m a chump. The first time I have to deal with something like that, I’m probably gonna give people the benefit of the doubt. To a certain degree, that’s how I think the City should be addressing this issue.

3. Discussion of Allegation 2. Hjelle invited City Firefighters and others to participate in campaign activity at the District 4 fire station, in violation of City policy.

Hjelle admitted that he invited City Firefighters, City Council candidate Rebecca Cave, and Mayoral candidate Diane Longre to stuff campaign envelopes at the District 4 fire station. Hjelle explained that on or about October 17, 2005, paid-per-call Firefighter Ed Dietz assisted him. On October 25, 2005, “most” District 4 paid-per-call Firefighters, District Chief Melander, Cave and Longre assisted him. Hjelle declined to identify the names of the Firefighters who assisted on October 25. The following City policy provisions were reviewed with Hjelle:

City policy prohibits all campaigning for public office within municipal buildings.... *Exhibit 2.*

An employee shall be subject to immediate disciplinary action, without warning, up to and including discharge, for...[i]nducing or attempting to induce any employee of the City to....act in violation of any lawful departmental or official regulation or order. *Exhibit 3.*

In light of the above-cited policy provisions, Hjelle was asked to discuss his rationale for inviting paid-per-call Firefighters to assist with his campaign activity at the District 4 fire station. Hjelle responded, “I didn’t induce or make anybody do anything. The people that wanted to help, helped. Those who didn’t, didn’t help.”

Hjelle was asked to discuss his rationale for inviting City Council candidate Cave and Mayoral candidate Longre to stuff campaign envelopes at the District 4 fire station. Hjelle said, “We were stuffing envelopes with flyers related to the three of us and they wanted to help.” Hjelle acknowledged he did not invite or inform other City Council and

Mayoral candidates of the activity. In this regard, Hjelle said, “In retrospect, I probably should have done that.”

Hjelle readily confirmed reports that he told paid-per-call Firefighters that if he was elected to the City Council he would take steps to improve their working conditions. Hjelle was asked if he considered the pressure that some paid-per-call Firefighters might have felt to help him stuff campaign envelopes because they feared negative feedback from co-workers and/or retribution from him, Cave and/or Longre, if elected. Hjelle responded, “I don’t think anyone felt pressure to do anything.”¹⁷

F. **SUMMARY OF MELANDER’S INTERVIEW STATEMENT**

Jon Melander was interviewed on November 30, 2005.¹⁸ Melander reported he has worked as a City of Maplewood District Chief for approximately 33 years. City records indicate Melander’s date of hire was August 1, 1972. Melander reports to Fire Chief Steve Lukin.

The City’s District Chief job description indicates that Melander is responsible for performing “administrative, supervisory and professional work, managing fire department operations and activities within a fire station and performing related duties as required.”

The job description states that Melander’s supervisory responsibility includes providing

¹⁷ At the close of the interview, Hjelle was instructed not to discuss this investigation with any city employee and not to engage in any retaliatory behavior toward anyone he believes may be involved in this investigation. Hjelle said he understood and would comply with the instruction.

¹⁸ At the start of the interview, Melander was apprised of the allegations regarding his conduct. Melander was then given a written Tennessen notice that he reviewed and signed. Exhibit 8, Tennessen Notice. Melander indicated that he understood the purpose of the interview and the potential use of the information he provided.

general supervision to captains and firefighters within District 4, evaluating performance, assigning and reviewing work, enforcing policies and procedures and recommending reward and discipline. *Exhibit 10, District Chief Job Description.*

1. Discussion of City Policies and Procedures

Melander acknowledged that he is a City employee, the terms and conditions of his employment with the City are governed by City policies and work rules, and he is responsible for complying with the same.¹⁹

City records indicate that on May 23, 2000 and January 27, 2004, Melander signed acknowledgments confirming he “read and understands the terms of” City Personnel policies and procedures, and been given an opportunity to ask questions regarding the same. *Exhibit 5.*

¹⁹ City policy states: “*In accepting City employment, employees become representatives of the City... employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors and department heads.*” Exhibit 3, Section 2, Conduct as a City Employee.

City policy states: “*...All Maplewood Firefighters shall be responsible for following all rules, personnel policies and R.O.G.'s of the Maplewood Fire Department.*” Exhibit 3, Section 2, Conduct as a City Firefighter. “*Employees shall make an affirmative, consistent effort to observe and comply with the directives, rules, policies, operating guidelines, memoranda and traditions established for the effective, efficient and safe operations of the Department. This standard applies to policies, operating guidelines, procedures and traditions that are written, as well as those established by past practice patterns....Employees shall accept full responsibility for their attitudes and the results of their behaviors on duty as well as off duty....*” Exhibit 3, Section 2, Employee Responsibilities.

Melander said he understands he is responsible for seeking clarification regarding any City policy he does not understand²⁰ and he is subject to discipline, up to and including discharge, if he does not comply with City Policies.²¹

2. Discussion of Allegation 3. Melander permitted Hjelle to engage in campaign activity at the District 4 fire station and he participated in the activity, in violation of City policy.

Melander confirmed reports that on or about October 24, 2005, Hjelle used the training room in the District 4 fire station to stuff envelopes with material promoting Hjelle's candidacy for City Council. Melander said the campaign material also promoted the candidacy of Rebecca Cave for City Council and the candidacy of Diana Longre for Mayor.

Melander also confirmed reports that he and "several" District 4 paid-per-call Firefighters participated in the activity. Melander declined to identify the names of the Firefighters and said, "Most were there."

²⁰ City policy states: "Employees who do not understand a policy or standard's meaning or management's intent are responsible for contacting a supervisor for clarification. It will not be an acceptable defense to claim ignorance about a standard once it has been made known to the organization. Ignorance is no excuse. Employees bear the burden of establishing that they made a positive and reasonable effort to know all policies and standards in any corrective action taken against them." Exhibit 3, Section 1, Employee's Responsibility for [the] Manual. "[E]mployees who want policy clarification or who anticipate finding themselves in a situation whereby they may be in violation of the provisions of these policies" shall seek "a verbal interpretation from the employee's District Chief. Then, if the policy remains unclear, the employee should...[p]repare a memo to the Fire Chief describing "the specific [policy] section needing clarification; the situation or circumstances surrounding the request; and submit the memo to the Fire Chief and a copy of the memo to the employee's District Chief." Exhibit 3, Section 1, Request for Interpretation.

²¹ City policy states: "An employee shall be subject to immediate disciplinary action, without warning, up to and including discharge, for: [1] "Insubordination, which is the refusal to comply with the lawful verbal and written rules, duties, policies, procedure and practices of the Department;" [2] "...engaging in political activities on or with City Property or on City time;" "Failure to fulfill employee responsibilities...especially those detailed in Section 2, City Wide Work Rules and Code of Conduct." Exhibit 3, Section 2, Work Rule Offenses.

City policies addressing political activity on City property were reviewed with Melander. City policy “prohibits all campaigning for public office within municipal buildings, except for candidate forums held during designated hours at a designated place by non-partisan political organizations, which are scheduled in coordination with the City.” *Exhibit 3, Section 14*. City policy also states that “any political activity in the workplace must be pre-approved by the City Manager to avoid any conflict of interest or perception of bias.” *Exhibit 2, Section 14; Exhibit 3, Political Activity*.

Melander confirmed reports that in recent months, Fire Chief Lukin told District Chiefs that City property, uniforms and equipment cannot be used to endorse political candidates. Melander said Lukin specifically mentioned that political candidates could not take photographs in front of a City fire truck or City fire station because it may give the appearance the City Fire Department endorses the candidates. Melander said he disagrees with Lukin’s assertion that the Fire Department cannot endorse political candidates. Melander explained:

The City of St. Paul Fire Department actively endorses candidates. We should be able to do it. The Fire Department can’t get politically involved very often, but we feel it is our right to get involved if we want to.

Melander acknowledged that City policy expressly prohibits any person from engaging in campaign activity in municipal buildings, including the District 4 fire station. However, Melander said he does not “personally” feel Hjelle’s conduct was improper. Melander explained:

Technically, legally, this is City property. But it is still hard for me to see it as anything but our station. It's our station, not the City's station. We are City employees only when it is convenient for the City. When it's not, we are paid-per-call firefighters. Personally I feel we have the right to use the fire station for whatever we want to use it for. City policy supports that position.

When asked to identify the City policy to which he referred, Melander said, "It's an unwritten rule, like unwritten rules the Chief (Lukin) and HR have."²² Melander was asked to reconcile his claim with the express language of the City's policy prohibiting the activity. Melander replied:

We have an unwritten policy that says we can use the fire stations. Now they don't want to honor it. What has been said, in so many words - Steve Lukin has said, "If you have a practice, just do it. Don't tell us about it." He won't admit that now.

Melander acknowledged that neither he, nor Hjelle, sought or received authorization from City Manager Fursman or Fire Chief Lukin to permit Hjelle to engage in campaign activity at the District 4 fire station. Melander said:

I didn't check with anyone. Eric did not check with anyone. That night (10/24/05), he (Hjelle) didn't ask if he could use the Station. I offered it to him because from my experience we always are able to use it for whatever we want. I don't know the election rules, but I still feel Eric had every right to use the fire station for his personal use. It's one of Departments very nice benefits. If any of the other candidates had asked to use the fire station, I would have let them use it.

²² Melander described several instances in which he asserts the City took action based on unwritten policies. Melander acknowledged that Fire Chief Lukin and City Manager Fursman have the authority to adopt and enforce unwritten policies and he does not have the authority to do so.

Melander said he was not aware that Hjelle stuffed campaign envelopes at the District 4 fire station on October 17, 2005. Melander said he was on vacation at the time.

Melander confirmed reports that on or about the morning of October 24, 2005, he discussed with Fire Chief Lukin, his concern about a City Council candidates' use of the District 4 fire station to conduct an upcoming monthly town meeting. Melander acknowledged that on October 24, 2005, he did not disclose to Lukin that Hjelle was scheduled to use the District 4 fire station that evening to stuff envelopes for his City Council campaign. Melander explained, "It didn't occur to me to mention it."

Melander then asserted that if Hjelle's use of the City fire station violated City policy, he and Hjelle did not intend to violate policy. Melander said:

Eric said not everyone knows the rules, even though we sign a piece of paper that says we do. They can't expect everyone to know the election laws. He (Hjelle) may have violated things, but it wasn't malicious. No one thought it was a problem or we wouldn't have done it. It was just a social event here.

Melander added, "Eric said he called City Clerk numerous times and she wouldn't call him back. He said he only gets a response if he e-mails her. Eric may have made mistakes, but what he did was based on the information he was given by the City Clerk."

3. Discussion of Allegation 4. Melander told two City Firefighters who observed the campaign activity Hjelle conducted at the District 4 fire station, to forget they saw the activity.

Melander acknowledged that on the evening of October 24, 2005, he told two Firefighters who observed, but did not participate in the campaign activity Hjelle

conducted at the District 4 fire station, to forget they saw the activity. Melander explained: “It’s just something I said. I didn’t mean anything by it.”²³

G. FINDINGS

1. District Chief Jon Melander has been employed with the City since August 1, 1972. Melander is responsible for managing fire department operations and activities within the District 4 fire station, supervising paid-per-call Firefighters assigned to the District 4 fire station, and enforcing Fire Department/City policies and procedures. Melander reports to Fire Chief Lukin. *Exhibit 10.*
2. Paid-per-call Firefighter Eric Hjelle has been employed with the City since March 23, 2000. Hjelle is responsible for responding to fire, medical and other emergencies as directed and maintaining and repairing City fire trucks and equipment. Hjelle reports to District Chief Melander. *Exhibit 9.*
3. The terms and conditions of Melander’s and Hjelle’s employment with the City are governed by City policies and work rules. *Exhibits 2 and 3.*
4. On May 23, 2000 and January 27, 2004, Melander signed acknowledgments stating he “read and understands the terms” of City Personnel policies and procedures, and been given an the opportunity to ask questions regarding the same. *Exhibit 5.*
5. On May 23, 2000, April 22, 2002 and February 2, 2004, Hjelle signed acknowledgments confirming he “read and understands the terms” of City Personnel policies and procedures and been given an opportunity to ask questions regarding the same. *Exhibit 5.*
6. On July 19, 2005, Hjelle filed a Minnesota Affidavit for Candidacy for the Maplewood City Council. As a candidate for public office, Hjelle was required to conduct his campaign in the manner proscribed by Minnesota Statute Chapters 211A and 211B, and City policies. *Exhibits 2, 3 and 6.*

²³ At the close of the interview, Melander was instructed not to discuss this investigation with any City employee. Melander nodded in the affirmative. Hjelle subsequently reported that he met with Melander at the District 4 fire station, immediately following Melander’s interview, and Melander told him about the questions he was asked. Hjelle said he asked Melander if he was instructed not to discuss the investigation and Melander said he was not given that instruction. *Report, Section E.*

7. On October 4, 2005, Hjelle sent an e-mail message to Karen Guilfoile, City Clerk and Director of Records, Elections and Licenses, inquiring about the use of a City fire station to hold a candidate debate. In the e-mail message, Hjelle cited City policy prohibiting “all campaigning for public office within municipal buildings.” *Exhibit 7*.
8. On October 5, 2005, Guilfoile responded to Hjelle’s October 4, 2005 e-mail message. Guilfoile cited City policy prohibiting “all campaigning for public office within municipal buildings.” Guilfoile told Hjelle it is inappropriate for him, “as a Maplewood firefighter,” “to use a fire station for campaign purposes” and “as a platform for a debate.” *Exhibit 7*.
9. On or about October 17, 2005 and on October 24, 2005, Hjelle engaged in campaign activity at the City’s District 4 fire station, in violation of City Policy.
 - a. Hjelle acknowledged that on October 17, 2005 and October 24, 2005, he used the training room in the District 4 fire station to stuff envelopes with material promoting his candidacy for City Council, the candidacy of Rebecca Cave for City Council, and the candidacy of Diana Longre for Mayor. *Report, Section E, Summary of Hjelle’s Interview Statement*.
 - b. The above-cited activity constitutes campaign activity.
 - (1) Minnesota Statute Chapter 211B.01, subd. 2 defines “campaign material” as “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.” *Exhibit 4*.
 - (2) Minnesota Statute Chapter 211B.01, subd 6 states that an act is done for “political purposes when the act is intended or done to influence, directly or indirectly, voting at a primary or other election,” but “does not include news items or editorial comments published or broadcast by the news media.” *Exhibit 4*.
 - (3) Hjelle acknowledged that he stuffed envelopes with campaign material for the sole purpose of mailing the envelopes to potential voters with the objective of influencing them to vote for him. *Report, Section E*.

- c. Hjelle’s conduct is prohibited by City policy.
 - (1) City policy prohibits “all campaigning for public office within municipal buildings, except for candidate forums held during designated hours at a designated place by non-partisan political organizations, which are scheduled in coordination with the City.” *Exhibit 2*.
 - (2) City policy states: “An employee shall be subject to immediate disciplinary action, without warning, up to and including discharge,” for:
 - [a] “Insubordination, which is the refusal to comply with the lawful, verbal and written rules, duties, policies, procedures and practices of the Department;”
 - [b] “. . . engaging in political activities on or with City Property or on City time;” and,
 - [c] “Failure to fulfill employee responsibilities . . . especially those detailed in Section 2, ‘City Wide Work Rules and Code of Conduct’.”

Exhibit 3.

- 10. Hjelle invited District Chief Melander, City Firefighters, a City Council candidate and a Mayoral candidate to participate in campaign activities he conducted at the District 4 fire station, in violation of City policy and apparent violation of Minnesota Statute §44.15, subd. 2.
 - a. Hjelle acknowledged he invited District Chief Melander, City Firefighters, City Council candidate Cave, and Mayoral candidate Longre to the District 4 fire station to stuff campaign envelopes with material. *Report, Section E.*
 - b. Hjelle acknowledged that on or about October 17, 2005, at least one paid-per-call Firefighter participated in the activity. On October 24, 2005, District Chief Melander, “most” District 4 Firefighters, City Council candidate Cave and Mayoral candidate Longre participated in the activity. *Report, Section E.*

- c. Hjelle’s conduct is prohibited by City policy.
 - (1) City policy prohibits “all campaigning for public office within municipal buildings, except for candidate forums held during designated hours at a designated place by non-partisan political organizations, which are scheduled in coordination with the City.” *Exhibit 2*.
 - (2) City policy states: “An employee shall be subject to immediate disciplinary action, without warning, up to and including discharge, for . . . [i]nducing or attempting to induce any employee of the City to . . . act in violation of any lawful departmental or official regulation or order.” *Exhibit 3*.
 - d. Hjelle’s conduct appears to violate Minn. Stat §44.15, subd. 2.
 - (1) Minn. Stat. §44.15, subd. 2., states: “No employee in the classified service shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assistance, assessment, or subscription, whether voluntary or involuntary, for any political purpose whatsoever, or for any political party or affiliate. Any violation of this provision shall be cause for dismissal from the service of the municipality.”
 - (2) City pay-per-call Firefighters are in the “classified service” as defined by Minn. Stat. §§44.01, 44.03.
 - (3) There is no case law or attorney general opinion interpreting this statute. The Attorney General has the authority to issue opinions interpreting statutes in the absence of case law²⁴.
11. Hjelle engaged in campaign activity at the District 4 fire station without City authorization.
- a. City policy states that “any political activity in the workplace must be pre-approved by the City Manager to avoid any conflict of interest or perception of bias.” *Exhibit 3*.

²⁴ Minn. Stat. §8.07 provides: “The Attorney General on application shall give an opinion, in writing, to county, city, town . . . attorneys . . . on questions of public importance.”

- b. Hjelle acknowledged he did not seek or receive authorization from City Manager Fursman to use the District 4 fire station to stuff campaign envelopes. *Report, Section E.*
 - c. District Chief Melander permitted Hjelle to use the District 4 fire station to stuff campaign envelopes. Melander did not have the authority to approve the activity.
 - (1) Melander is not authorized by City policy to permit Hjelle to engage in campaign activity at the District 4 fire station. City policy states that “any political activity in the workplace” must be approved by City Manager Fursman. *Exhibit 3; Report, Section F, Summary of Melander’s Interview Statement.*
 - (2) Melander did not seek or receive authorization from Fursman or his direct supervisor, Fire Chief Lukin, to permit Hjelle to engage in campaign activity at the District 4 fire station. *Report, Section F.*
12. Hjelle engaged in campaign activity at the District 4 fire station with the knowledge the activity is prohibited by City policy.
- a. Hjelle acknowledged that the terms and conditions of his employment with the City are governed by City policies and work rules, and he is subject to discipline, up to and including discharge, if he violates the same. *Report, Section E.*
 - b. On May 23, 2000, April 22, 2002 and February 2, 2004, Hjelle signed acknowledgments confirming he “read and understands the terms” of City Personnel policies and procedures, and he had an opportunity to ask questions regarding the same. *Exhibit 5.*
 - c. City policy prohibits “all campaigning for public office within municipal buildings, except for candidate forums held during designated hours at a designated place by non-partisan political organizations, which are scheduled in coordination with the City.” *Exhibit 2.*

- d. City policy states: “An employee shall be subject to immediate disciplinary action, without warning, up to and including discharge,” for:
 - [a] “Insubordination, which is the refusal to comply with the lawful, verbal and written rules, duties, policies, procedures and practices of the Department;”
 - [b] “. . . engaging in political activities on or with City Property or on City time;” and,
 - [c] “Failure to fulfill employee responsibilities . . . especially those detailed in Section 2, ‘City Wide Work Rules and Code of Conduct’.”

Exhibit 3.

- e. Prior to engaging in campaign activity at the District 4 fire station, Hjelle was specifically told he could not use a City fire station to engage in campaign activity.
 - (1) On October 4, 2005, Hjelle sent an e-mail message to Guilfoile, inquiring about the use of a City fire station to conduct a candidate debate. In the e-mail message, Hjelle cited the provision of City policy prohibiting “all campaigning for public office within “municipal buildings.” *Exhibit 7.*
 - (2) On October 5, 2005, Guilfoile responded to Hjelle’s October 4, 2005 e-mail message. Guilfoile cited City policy prohibiting “all campaigning for public office within municipal buildings.” Guilfoile told Hjelle it is inappropriate for him, “as a Maplewood firefighter,” “to use a fire station for campaign purposes” and “as a platform for a debate.” *Exhibit 7.*

13. Melander, City Firefighters, City Council candidate Cave, and Mayoral candidate Longre participated in campaign activity at the District 4 fire station in violation of City policy.

- a. Hjelle acknowledged that he invited Melander, City Firefighters, City Council candidate Cave and Mayoral candidate Longre to the District 4 fire station to stuff envelopes with campaign material. *Report, Section E.*

- b. Hjelle acknowledged that on or about October 17, 2005, at least one paid-per-call Firefighter participated in the campaign activity. On October 24, 2005, Melander, “most” District 4 Firefighters, City Council candidate Cave and Mayoral candidate Longre participated in the campaign activity. *Report, Section E.*
 - c. City policy prohibits “all campaigning for public office within municipal buildings, except for candidate forums held during designated hours at a designated place by non-partisan political organizations, which are scheduled in coordination with the City.” *Exhibit 3.*
 - d. City policy states that “any political activity in the workplace must be approved by City Manager” Fursman. *Exhibit 3.*
 - e. Melander, City Firefighters, City Council candidate Cave and Mayoral candidate Longre were not authorized by City Manager Fursman to engage in campaign activity at the District 4 fire station. *Report, Sections E and F.*
14. Melander permitted Hjelle to engage in campaign activity at the District 4 fire station and he participated in the activity, with the knowledge the activity is prohibited by City policy.
- a. Melander acknowledged that on October 24, 2005, he permitted Hjelle to use the District 4 fire station training room to stuff campaign envelopes. *Report, Section F.*
 - b. Melander acknowledged that the terms and conditions of his employment with the City are governed by City policies and work rules, and he is subject to discipline, up to and including discharge, if he violates the same. *Report, Section F.*
 - c. On May 23, 2000 and January 27, 2004, Melander signed acknowledgments confirming he “read and understands the terms” of City Personnel policies and procedures and he had an opportunity to ask questions regarding the same. *Exhibit 5.*
 - d. City policy prohibits “all campaigning for public office within municipal buildings, except for candidate forums held during designated hours at a designated place by non-partisan political organizations, which are scheduled in coordination with the City.” *Exhibit 2.*

- e. Melander’s conduct is prohibited by City policy.
 - (1) City policy prohibits “all campaigning for public office within municipal buildings, except for candidate forums held during designated hours at a designated place by non-partisan political organizations, which are scheduled in coordination with the City.” *Exhibit 3*.
 - (2) City policy states: “An employee shall be subject to immediate disciplinary action, without warning, up to and including discharge,” for:
 - [a] “Insubordination, which is the refusal to comply with the lawful, verbal and written rules, duties, policies, procedures and practices of the Department;”
 - [b] “. . . engaging in political activities on or with City Property or on City time;” and,
 - [c] “Failure to fulfill employee responsibilities . . . especially those detailed in Section 2, ‘City Wide Work Rules and Code of Conduct’.”

Exhibit 3.

- (3) Melander is not authorized by City policy to permit Hjelle to engage in campaign activity at the District 4 fire station. City policy states that “any political activity in the workplace must be approved by City Manager” Fursman. *Exhibit 3; Report Section F*.
- f. Melander did not seek or receive authorization to permit Hjelle to engage in campaign/political activity at the District 4 fire station, he did not apprise Fire Chief Lukin of the activity, and he attempted to conceal the activity.
 - (1) Melander acknowledged he did not seek or receive authorization from Fursman or Fire Chief Lukin, to permit Hjelle to engage in campaign activity at the District 4 fire station. *Report, Section F*.
 - (2) Melander acknowledged that on the morning of October 24, 2005, he to Fire Chief Lukin, his concern about a City

Council candidates' use of the District 4 fire station to conduct an upcoming monthly town meeting. Melander did not disclose told Lukin that Hjelle was scheduled to use the District 4 fire station that evening to assemble campaign materials. *Report, Section F.*

15. Melander attempted to conceal the campaign activity that he, Hjelle and others engaged in at the District 4 fire station on October 24, 2005.

Melander acknowledged that on the evening of October 24, 2005, he told two Firefighters who observed, but did not participate in the campaign activity conducted at the District 4 fire station to forget they saw the activity. *Report, Section F.*

H. **EXHIBITS**

- Exhibit 1. Memorandum from Lukin to Fursman
- Exhibit 2. City of Maplewood Rules of Procedure for City Council Meetings, Section 14, City Council Administrative Policies
- Exhibit 3. City of Maplewood Fire Department Policy Manual
- Exhibit 4. Minnesota Statute Chapter 211B.01, Definitions, Subds 2, 6 and 9
- Exhibit 5. Policy Acknowledgments
- Exhibit 6. Minnesota Affidavit for Candidacy
- Exhibit 7. Email Correspondence Between Guilfoile and Hjelle
- Exhibit 8. Tennesen Notices
- Exhibit 9. Paid-per-call Firefighter Job Description
- Exhibit 10. District Fire Chief Job Description
- Exhibit 11. January 12, 2004 City Council Meeting Minutes
- Exhibit 12. American Standard Dictionary Excerpt

Submitted by:

CARLSON & SOLDI, P.L.L.P.

Date _____

By _____

Michelle M. Soldo
Investigator
1052 Centerville Circle
Vadnais Heights, MN 55127
Telephone: 651-287-8640
Facsimile: 651-287-8659
soldo@carlsonsoldo.com