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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.:

GEORGE GRETSAS, in his
official capacity as City Manger
of the City of Delray Beach,
Florida a Florida municipal corporation
and political subdivision of the
State of Florida,

Plaintiff,

v.

CITY OF DELRAY BEACH, FLORIDA,
a Florida municipal corporation and political
subdivision of the State of Florida, and
SHELLY PETROLIA, in her official capacity
as Mayor of the City of Delray Beach, Florida,
ADAM FRANKEL, in his official capacity as a
City Commissioner of the City of Delray Beach,
Florida, RYAN BOYLSTON, in his official capacity
as a City Commissioner for the City of Delray Beach,
Florida, SHIRLEY JOHNSON, in her official capacity
as a City Commissioner for the City of Delray Beach,
Florida and JULIE CASALE, in her official capacity as a
City Commissioner for the City of Delray Beach, Florida,

Defendants.

**VERIFIED EMERGENCY COMPLAINT (MOTION) FOR WRIT OF MANDAMUS
AND TEMPORARY INJUNCTION**

Plaintiff, GEORGE GRETSAS, in his official capacity as City Manager of the City of
Delray Beach, Florida a Florida municipal corporation and political subdivision of the State of
Florida (hereinafter referred to as "Plaintiff") through undersigned counsel sues Defendants
CITY OF DELRAY BEACH, FLORIDA, a Florida municipal corporation and political

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subdivision of the State of Florida, SHELLY PETROLIA, in her official capacity as Mayor of the City of Delray Beach, Florida, ADAM FRANKEL, in his official capacity as a City Commissioner of the City of Delray Beach, Florida, RYAN BOYLSTON, in his official capacity as a City Commissioner for the City of Delray Beach, Florida, SHIRLEY JOHNSON, in her official capacity as a City Commissioner for the City of Delray Beach, Florida and JULIE CASALE, in her official capacity as a City Commissioner for the City of Delray Beach, Florida, (hereinafter referred to as “Defendants”), and in support alleges:

GENERAL ALLEGATIONS

1. That at all times material hereto, Plaintiff, GEORGE GRETSAS, is over eighteen years of age, a resident of the State of Florida and was and still is a City Manager of the City of Delray Beach, Florida a Florida municipal corporation and political subdivision of the State of Florida as more fully described hereinbelow.

2. That at all times material hereto, Defendant, THE CITY OF DELRAY BEACH, FLORIDA, has been a Florida municipal corporation and political subdivision of the State of Florida located in Delray Beach, Palm Beach County, Florida established and organized by Chapter 25786 Laws of Florida Special Acts of 1949.

3. That at all times material hereto, Defendant, SHELLY PETROLIA, has been over eighteen years of age, a resident of the State of Florida and has been the Mayor of the City of Delray Beach, Florida, a Florida municipal corporation and political subdivision of the State of Florida.

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4. That at all times material hereto, Defendant, ADAM FRANKEL, has been over eighteen years of age, a resident of the State of Florida has been a City Commissioner of the City of Delray Beach, Florida, a Florida municipal corporation and political subdivision of the State of Florida.

5. That at all times material hereto, Defendant, RYAN BOYLSTON, has been over eighteen years of age, a resident of the State of Florida and has been a City Commissioner of the City of Delray Beach, Florida, a Florida municipal corporation and political subdivision of the State of Florida.

6. That at all times material hereto, Defendant, SHIRLEY JOHNSON, has been over eighteen years of age, a resident of the State of Florida and has been a City Commissioner of the City of Delray Beach, Florida, a Florida municipal corporation and political subdivision of the State of Florida.

7. That at all times material hereto, Defendant, JULIE CASALE, has been over eighteen years of age, a resident of the State of Florida and has been a City Commissioner of the City of Delray Beach, Florida, a Florida municipal corporation and political subdivision of the State of Florida.

8. That all the acts complained of herein occurred within Delray Beach, Palm Beach County, Florida.

9. That further, venue and jurisdiction of this action is proper under Art. I, Sec. 24, of the Florida Constitution, and Section 119.07, Florida Statutes and Chapter 119, Florida Statutes

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and its related provisions, Chapter 86, Florida Statutes and its related provisions, Art. V, Section 5(b), Fla. Const., and Florida Rule of Civil Procedure 1.610.

10. That in addition to the above, the facts and circumstances giving rise to this dispute and which create the need for relief occurred and relate to records maintained in the custody, control or possession of the CITY OF DELRAY BEACH, FLORIDA, Palm Beach County, Florida and its City Commissioners in Delray Beach, Palm Beach County, Florida and the property in litigation (i.e., records in the possession of the CITY OF DELRAY BEACH, FLORIDA and its City Commissioners), are located in Palm Beach County, Florida.

COUNT I

ACTION FOR WRIT OF MANDAMUS

11. This is an action by Plaintiff against Defendants for this court to issue a writ of mandamus damages to Plaintiff against Defendants in excess of \$30,000.00, exclusive of interest, costs and attorney's fees.

12. That Plaintiff realleges and readopts paragraphs 1 through 10 above as more fully set forth herein.

13. That Plaintiff commencing on August 24, 2020 through present Plaintiff made Public Records Requests for certain records in the possession, control or custody of the Defendants (Composite Exhibit "A")

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14. That on or about October 7, 2020 Plaintiff's counsel sent a notice to the Defendants that they were in violation of law for not producing the requested public records and gave Defendants five (5) days to comply with the law. (Exhibit "B").

15. That the Chapter 119 Public Records Request seeks the production of public records including but not limited to request (Exhibit "B") from Plaintiff's lawyer, Ms. Rodriguez to the Defendants requesting: "Copies of all Public Records (text messages and emails) sent and/or received from the private devices of the Mayor, City Commissioners, the City Attorney and the City Auditor in 2019."

16. That the Defendants acknowledged the Public Records Requests on multiple occasions and in varying forms of communications. Simply put, and in summary, the Defendants have only produced approximately 3,100 pages of approximately 10,000 public records that they have admitted exist. Plaintiff has been willing, ready and able and has in fact, paid all the invoices for the production of documents sought by Plaintiff referred to herein.

17. That a termination hearing on Plaintiff's employment with the Defendant, CITY OF DELRAY BEACH, as City Manager was scheduled for Friday, October 23, 2020 before the Commission. The City Commission voted to postpone the public hearing in lieu of Plaintiff willing to forego his salary during his suspension as City Manager with the understanding that the hearing would be reset for November 20, 2020 at 10:00 a.m. and that the Defendants would provide the documents that were missing or not provided pursuant to Plaintiff's prior Public Records Request contained in Composite Exhibit "A", and Exhibit "B" by October 26, 2020. The

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Defendants requested a two (2) day extension to comply with the agreement from Plaintiff's attorney and the Plaintiff's attorney agreed. The two (2) day extension deadline passed and the Defendant still did not provide all of the records it had agreed to provide.

18. That the above public records are needed Plaintiff in order to properly prepare with his lawyer his termination hearing now reset for November 20, 2020.

19. That to date, Defendants have failed to completely respond and provide the records sought by Plaintiff that are absolutely necessary to be review by Plaintiff and his lawyers prior to his hearing.

20. That the delay in producing the requested records is unreasonable, unlawful, and constitutes a denial of due process and access to public records that are essential to Plaintiff maintaining his position as City of Manager for the City.

21. That as custodian of public records, the Defendants have a duty to permit the inspection by Plaintiff of all public records sought by Plaintiff.

22. That Plaintiff has a legal and constitutional right to inspect all public records to which no statutory exemption applies by virtue of Art. I, § 24(a), Fla. Const.; and § 119.07(1) (a), Fla. Stat.

23. That Defendants have failed to timely provide Plaintiff with the requested records necessary for his review and preparation with his lawyers for the reset termination hearing on November 20, 2020.

24. That the refusal to provide Plaintiff with the requested records sought above violates the Public Records Act contained in Chapter 119, Florida Statutes.

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25. That Plaintiff has no other adequate remedy at law.

26. That Plaintiff seeks and is entitled to an accelerated hearing under § 119.11(1), Florida Statutes.

27. That Plaintiff is entitled to recover reasonable attorney fees and costs incurred in bringing this action under § 119.12, Florida Statutes. See also Bd. of Trustees, Jacksonville Police & Fire Pension Fund v. Lee, 189 So. 3d 120 (Fla. 2016).

28. That Plaintiff seeks a writ of mandamus from this court ordering Defendants to perform mandatory duties to make public records available for inspection and to enforce the violations alleged herein of the Public Records law by Defendants. Smith v. State, 696 So. 2d 814, 816 (Fla. 2d DCA 1997). (For purposes of relief under the Public Records Act disclosure of public records is a mandatory act).

29. That in Radford v. Brock, 914 So. 2d 1066 (Fla. 2d DCA 2006), the Second District Court of Appeal outlined the requirements for issuance of an alternative writ of mandamus:

A party petitioning for a writ of mandamus must establish a clear legal right to performance of the act requested, an indisputable legal duty, and no adequate remedy at law. When a trial court receives a petition for a writ of mandamus, its initial task is assessing the petition to determine whether it is facially sufficient. If it is not facially sufficient, the court may dismiss the petition. If the petition is facially sufficient, the court must issue an alternative writ of mandamus requiring the respondent to show cause why the writ should not be issued.

914 So. 2d at 1067-68 (internal citations and quotation marks omitted). See also Moore v. Ake, 639 So. 2d 697, 698 (Fla. 2d DCA 1997) (a petitioner is not required to serve the respondent with

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the complaint and could not serve the alternative writ until the trial court had performed the tasks required of it under the rule).

As demonstrated below, Plaintiff has established all of the above requirements, and an order to show cause or alternative writ of mandamus should issue forthwith directing the CITY OF DELRAY BEACH, FLORIDA and Defendants, to show cause why the requested relief should not be granted.

A. Clear Legal Right

To be entitled to a writ of mandamus, a party must allege a violation of a clear legal right and the breach of an indisputable legal duty. Clay County Educ. Ass'n v. Clay County Sch. Bd., 144 So. 3d 708, 709 (Fla. 1st DCA 2014).

Section 119.07(1), Florida Statutes, provides that:

Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

In Nat'l Collegiate Athletic Ass'n v. Associated Press, 18 So. 3d 1201, 1210 (Fla. 1st DCA 2009), the First District Court of Appeal stated, “[t]he plain meaning of this statute is that the public records law can be enforced against any person who has custody of public records, whether that person is employed by the public agency creating or receiving the records or not.” *Id.* at 1210.

All citizens of this State enjoy the right to inspect public records. Indeed, this right is not only a statutory right under § 119.07(1), Fla. Stat., but has been elevated by the citizens of Florida to constitutional status. Art. I, § 24(a), Fla. Const. The Florida Public Records Act was enacted to promote public awareness and knowledge of government actions in order to ensure that

governmental officials and agencies remain accountable to the people. WFTV, Inc. v. School Board of Seminole County, 874 So. 2d 48, 52 (Fla. 5th DCA 2004). “An individual's reason for requesting a public record is irrelevant.” Barfield v. Sch. Bd. of Manatee County, 135 So. 3d 560, 562 (Fla. 2d DCA 2014). The burden is on the Defendant to demonstrate that the requested records are exempt and the statutory basis for such an exemption. Id.

This action alleges that the CITY OF DELRAY BEACH, FLORIDA and its City Commission, failed to comply with its statutory duties in responding to the records requests by failing to furnish any responsive records.

Plaintiff, therefore, has established a clear legal right to the relief requested.

B. Mandatory Duty

As the custodian of the requested records, the CITY OF DELRAY BEACH, FLORIDA, has a mandatory statutory duty to permit inspection of any record or any portion thereof which is not subject to any statutory exemption. The CITY OF DELRAY BEACH, FLORIDA, also has a mandatory duty to state in writing any applicable statutory exemption it contends applies to the requested records as well as a duty to produce any non-exempt portion of a record after redacting any exempt portion. *See* § 119.07(1)(d), (e) and (f).

The CITY OF DELRAY BEACH, FLORIDA, has no discretion but to state in writing any applicable statutory exemption, explain with particularity its reasons for the conclusion that any applicable exemption applies to the records, and produce any non-exempt portion after redaction of the exempt portion. Otherwise the CITY OF DELRAY BEACH, FLORIDA, must produce the requested records.

Here, the CITY OF DELRAY BEACH, FLORIDA, relies not on any statutory exemption under Fla. Stat. Sect. 119.071 in refusing to produce the public records. Rather, the CITY OF

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DELRAY BEACH, FLORIDA, and its City Commission are denying Plaintiff access to the public records critical for defense at his termination hearing.

The response by the CITY OF DELRAY BEACH, FLORIDA, is in direct violation of the letter and spirit of Chapter 119. The right to access public records is of constitutional dimension.

See Art. I, Sec. 24(a), Fla. Const. As emphasized in by the Florida Supreme Court:

Florida courts have articulated that the purpose of the Public Records Act, in broad terms, is “to open public records to allow Florida’s citizens to discover the actions of their government.” Bent v. State, 46 So.3d 1047, 1049 (Fla. 4th DCA 2010) (quoting Christy v. Palm Beach Cty. Sheriff’s Office, 698 So.2d 1365, 1366 (Fla. 4th DCA 1997)). This Court, in particular, has described the right of access to public records as a “cornerstone of our political culture.” In re Report & Recommendations of Judicial Mgmt. Council of Fla. on Privacy & Elec. Access to Court Records, 832 So.2d 712, 713 (Fla.2002).

Bd. of Trustees, Jacksonville Police & Fire Pension Fund v. Lee, 189 So. 3d 120, 124 (Fla. 2016).

C. No Adequate Remedy

Plaintiff has no other adequate remedy at law. Mandamus is the appropriate remedy for violations of the Public Records Law. Yasir v. Forman, 149 So. 3d 107, 108 (Fla. 4th DCA 2014); Smith v. State, 696 So. 2d at 816.

D. Accelerated Hearing

Plaintiff is entitled to an immediate hearing under § 119.11(1), which provides that:

[w]henever an action is filed to enforce the provisions of this chapter, the court shall set an immediate hearing, giving the case priority over other pending cases.

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Clay County Educ. Ass'n v. Clay County Sch. Bd., 144 So. 3d 708, 709 (Fla. 1st DCA 2014) (immediate hearing was required when action seeking public records is filed). See Woodfaulk v. State, 935 So. 2d 1225, 1227 (Fla. 5th DCA 2006) (trial court abused its discretion in refusing immediate hearing as filing of mandamus action itself triggered requirement that court set immediate hearing under § 119.11(1)). See also Salvador v. Fennelly, 593 So. 2d 1091, 1093 (Fla. 4th DCA 1992).

E. Attorney's Fees and Costs

Attorney's fees and costs are proper because there is no basis for withholding the requested records. See Office of the State Attorney for 13th Jud. Cir. v. Gonzalez, 953 So. 2d 759, 764 (Fla. 2d DCA 2007) (attorney's fees awardable under § 119.12 when (1) a court finds that the basis for withholding the requested records is improper or (2) when an agency unlawfully delays producing public records). A good faith but mistaken belief that an exemption applies to shield public records does not preclude an award of attorney's fees. Times Publishing Co. v. Clerk of St. Petersburg, 558 So. 2d 487, 495 (Fla. 2d DCA 1990). As the Florida Supreme Court recently stated in Bd. of Trustees, Jacksonville Police & Fire Pension Fund v. Lee, 189 So. 3d 120 (Fla. 2016), awarding attorney's fees under § 119.12 "is not contingent on a finding of the public agency's unreasonableness or bad faith before allowing for an award of attorney's fees under the Public Records Act." Id. at 127.

WHEREFORE, Plaintiff prays that this Court enter a judgment granting the requested relief of:

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- A. An accelerated hearing;
- B. An order or judgment requiring the Defendants to make the requested records available to Plaintiff on an immediate basis;
- C. A judgment awarding costs and attorney's fees pursuant to Section 119.12, Florida Statutes; and
- D. Any such other relief as the Court deems appropriate.

COUNT II

ACTION FOR TEMPORARY INJUNCTIVE AND PERMANENT RELIEF

30. That this an action for a temporary and thereafter a permanent injunction against the Defendants to enjoin the Defendants from proceeding on November 20, 2020 or thereafter with voting on whether or not Plaintiff, GEORGE GRETSAS, shall remain as the City Manager for the City of Delray Beach, Florida.

31. That this action is brought pursuant to the relevant provisions of Chapter 119, Florida Statutes, Florida Rule of Civil Procedure 1.610 and venue and jurisdiction of this action in proper in Palm Beach County, Florida as more fully set forth herein.

32. That Plaintiff reallages and readopts paragraphs 1 through 10 above and 11 through 29 above as though fully set forth herein.

33. That Plaintiff has substantial likelihood of success on the merits.

34. That a temporary and thereafter permanent injunction shall serve the public interest.

35. That Plaintiff currently has no adequate remedy at law.

36. That Plaintiff is entitled to a clear legal right to relief sought herein.

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37. That if an injunction on a temporary and thereafter permanent basis is granted, Defendants will suffer no hardship.

38. That the Plaintiff will suffer irreparable injury unless the temporary and thereafter permanent injunction is issued.

39. That the threatened injury to the Plaintiff outweighs the possible injury the injunction may cause the opposing party, if granted.

40. That as noted above, Plaintiff asserts that there is a substantial likelihood on the success on the merits.

41. That if issued, the injunction would not disserve the public interest.

42. That the action and the relief sought herein is necessary to maintain the status quo until a final hearing on a permanent injunction can be held.

43. That the Plaintiff's rights and freedoms include, generally, the right to due process of law, the right to equal protection of law, and the right to earn a living and enjoy the fruits of one's labors, without undue governmental interference. Stated clearly, the loss of any constitutional right or freedom, in and of itself, constitutes irreparable harm. See Campus Sports Authority v. Johnston, 914 So. 2d 1076, (Fla. 2d DCA 2005).

44. That Plaintiff submits one critical purpose of a temporary injunction is prevent injury so that a party will not be forced to seek redress for damages after they have occurred. Lewis v. Peters, 66 So. 2d 489 (Fla. 1953). Bailey v. Cristo, 453 So. 2d 1134 (Fla. 1st DCA 1984).

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45. That Plaintiff submits injury may consist in the infringement of a property right. See Louisville & N.R. Co. v. Railroad Com'rs, 63 Fla. 491, 58 So. 543 (1912). It may also exist in the right to earn a livelihood and continue in one's employment. Watson v. Centro Espanol De Tampa, 158 Fla. 796, 30 So. 2d 288 (1947). Litigants who are the subject of harassment by overzealous, improper, or bad-faith use of valid statutes may be afforded the protection of injunctive relief. Cimbell v. Florida Dept. of Health and Rehabilitative Services, 682 So. 2d 637 (Fla. 2d DCA 1996).

46. That in the present action, Plaintiff has not been afforded the production of Chapter 119, Public Records Request records that are necessary to his defense and for preparation for a hearing that has been reset for November 20, 2020 at 10:00 a.m. before the City of Delray Beach, Florida and its City Commissioners, Defendants herein.

47. That further, and most importantly, currently pending is whether the MAYOR, SHELLY PETROLIA, may be entitled to vote on whether the Plaintiff, GEORGE GRETSAS, may continue as City Manager of the City when in fact the Mayor, SHELLY PETROLIA, appears to have a conflict of interest.

48. That Mayor Petrolia has admitted that prior to her voting to initiate termination proceedings against Plaintiff, Mayor Petrolia invited Plaintiff's Assistant City Manager and her boyfriend to her home to discuss Plaintiff. This action by Plaintiff resulted in a systematic, unrelenting avalanche of charges instituted by the City with Mayor Petrolia being the swing vote to suspend Plaintiff originating from the Plaintiff's pre-termination letter to Fisher, the Mayor's trusted confidant, friend, now ally. The Mayor's relationship with Ms. Fisher makes it impossible

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for her to participate impartially in Plaintiff's termination hearing. In addition to the home visit, the Mayor and Ms. Fisher had been communicating with each other and conducting City business using their private cell phones via text messages. Mayor Petrolia has admitted to erasing the string of text messages between herself and Ms. Fisher after having received two public records requests for the text messages (one from the Plaintiff and one from a former City employee who has filed an action against the City related to his forced resignation which he claims involved Ms. Fisher). Make no mistake, under no circumstances can Plaintiff receive a fair, unbiased due process termination hearing before a collegial body, the City Commissioner, with the Mayor holding a possible tie breaking vote on Plaintiff's continued employment with the City under the present facts and circumstances.¹

49. That the Mayor, SHELLY PETROLIA, is currently under investigation by the City Commission for allegedly violating the City Charter. Plaintiff has witnessed the Mayor, SHELLY PETROLIA, violating the City Charter and informed the City Commission that the Mayor had

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¹ Mayor Petrolia is no "stranger" to controversy relating to Public Records Requests from the City. In 2017, the Mayor was deposed in a defamation case (Auburn Trace, Inc. v. Christopher Wolfe and Argent of Nevada, Inc., d/b/a Argent Corporation, case number 502016CA003300XXXXMB). The attorney for the movant asked about public records that she had been storing on her private devices. The movant had requested the records from the Mayor in 2016. The Mayor had replied that no such documents existed. During the deposition, however, the lawyer mentioned that there were in fact records and asked the Mayor why she did not turn over the requested records. At that point, Lynn Gelin the City Attorney for the City advised the Mayor to pled the Fifth Amendment right of self-incrimination approximately five (5) times during the deposition. The lawyer for the movant did not have enough time to complete the deposition in one (1) session, thus, the conclusion deposition was rescheduled. The lawyer for the movant asked the Mayor to make sure she preserved all electronic equipment and records. During the second deposition, it was revealed that sometime between the first and second deposition, according to the Mayor, her home computer "burned up" and her husband called in a "computer guy" who advised them that the hard drive was destroyed from whatever computer malfunction had occurred. Accordingly, there can be no mistake the Mayor has a "suspicious history" when it comes to turning over records from her private devices.

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improperly directed him in violation of the City Charter. Plaintiff's testimony in the investigation may be a determining factor as to whether the Mayor, SHELLY PETROLIA, will be removed from office by the City Commission. Plaintiff was directed by the Mayor, SHELLY PETROLIA, to utilize government resources to attempt to raise the property assessments of some of the Mayor's political adversaries. The matter has also been referred to the Palm Beach County State Attorney's Office, the Palm Beach County Inspector General and the Palm Beach County Ethics Commission for investigation.

50. That Mayor SHELLY PETROLIA also demonstrated clear bias against Plaintiff in an August 1, 2020 email to City Commissioners in which she lashed out at Plaintiff's whistleblower letter in which Plaintiff exposed significant issues with the City's drinking water utility. In one paragraph, reacting to Plaintiff having notified the Commission that the drinking water tanks had not been cleaned in thirty-eight (38) years, the Mayor stated that "if there is truth to what Gretsas states, the Health Department needs to be notified and Mr. Gretsas should be terminated immediately!" Documents discovered after Plaintiff's notice to the City Commission confirmed Plaintiff's claim that the tanks had not been cleaned in 38 years. In another paragraph, reacting the Plaintiff having notified the Commission of his concerns about toxins in the City water supply, the Mayor stated that if Plaintiff's claims were true, that "he should be fired on the spot!" Tests conducted by the City after Plaintiff's notice found high levels of polyfluoroalkyl substances (PFAS) in the City's reclaimed water and in the potable water. The Mayor's clear bias against Plaintiff is documented and her participation in Plaintiff's hearing will make it impossible for him to get a fair hearing.

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51. That in summary, Plaintiff seeks temporary and thereafter permanent injunctive relief against the City and City Commission until such time as all his Public Records Request are met and Plaintiff has adequate time to prepare for a due process full termination hearing before the City and the City Commissioners. The records are central to his defense. Further, the Plaintiff asserts that these records will show that he has not committed any "misconduct" and that the City and City Commission have no grounds to terminate Plaintiff for cause. Plaintiff is requesting that this court order Mayor SHELLY PETROLIA to preserve and produce all devices upon which the Mayor has conducted City business (including but not limited to, any and all City devices issued to her, her personal cell phone(s), her personal tablet(s), her personal laptop(s) and/or desktop computer(s), and any and all family/household devices that she has used for City business to a computer forensics expert selected by Plaintiff for forensic examination at Defendant's expense in order to retrieve any and all public records that were erased. The hard drives of the devices contain meta data which can be recovered by a computer forensics expert to provide plaintiff with the text messages that he has requested and which the Mayor claims that she has deleted. Further, plaintiff requests that this court further order Mayor Petrolia not to further tamper with this critical evidence, which would be unlawful spoliation of evidence.

52. That Plaintiff has demanded that the Mayor recuse herself from his termination hearing. In sum, the Mayor is under investigation for potential "Charter Violations" and the Plaintiff is an essential witness in the case. Accordingly, this appearance of impropriety and the actual conflict, and the clear instances of bias, mandates that this court render an order prohibiting the Mayor from voting on the termination of the City Manager after a duly noticed hearing.

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53. That if necessary, Plaintiff is prepared to post an adequate bond should the court grant the temporary injunction.

WHEREFORE, Plaintiff requests that the court grant the following relief:

a. That the court order MAYOR SHELLY PETROLIA, removed from attending or voting on a hearing reset currently for November 20, 2020 on Plaintiff's continued employment as City Manager for the CITY OF DELRAY BEACH;

b. That the court order that Plaintiff continue in his employment with pay as the City Manager of Delray Beach, Florida until such time as a hearing and vote is rendered on Plaintiff's position as City Manager of the City;

c. That the court if necessary, on at least a temporary basis postpone the hearing set for November 20, 2020 and not to be reset until at least thirty (30) days until Plaintiff has received the sought documents in his Public Records Request contained in Composite Exhibit "A" and Exhibit "B" in this action;

d. That the court award Plaintiff his costs for bringing this action; and

e. Grant such other and further relief as the court deems fit, just, equitable and proper under the circumstances.

I, GEORGE GRETSAS, declare under penalties of perjury, pursuant to the laws of Florida that the foregoing is true and correct, based upon personal knowledge not information and belief.


GEORGE GRETSAS

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Dated 9th, November, 2020.

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Attorneys for Plaintiff

1) **Records request R002653-082420** was made on 8/24/20, over two months ago. The request was as follows:

Please provide me with copies of all public records (text messages and emails) sent and/or received from the private devices of the Mayor, City Commissioners, the City Attorney, and the City Auditor in 2019.

The City said that there were over 10,000 documents that needed to be reviewed. I paid them \$816.36 for the records. Below are the file names that they sent over so far and the pages associated with each file. As you can see, so far they have provided only 3,139 pages

10/16/2020 Petrolia_e-mails_PDF.pdf - 158 pages
10/12/2020 Gelin_Texts_for_PRR_10-12-20.zip - 190 pages
10/12/2020 Mayor_Shelly_PDF.pdf - 993 pages
09/24/2020 Julia_Emails-redacted_Redacted.pdf - 167 pages
09/23/2020 R002653-Petrolia_Aol-Elect_Shirley_PDF.pdf - 832 pages
09/23/2020 R002653_PDF.pdf - 3 pages
09/23/2020 lynn-desanti@hotmail.com_PDF_3.pdf - 761 pages
09/23/2020 lynn-desanti@hotmail.com_2_PDF.pdf - 35 pages

Total Pages - 3,139

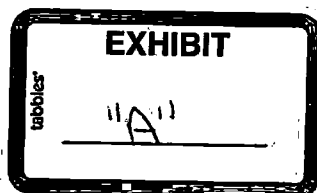
On 9/30/2020, I wrote the following to the City:

How many more documents and how much longer will this request that was submitted over a month ago take?

The City responded with the following:

In response to your above: As you know, this request is voluminous. Due to the nature of the request and the fact that it spans an entire year of records for multiple individuals and media, there are more than 10,000 records that have to be reviewed. Accordingly, the City is making its best efforts to provide you with this information timely. Should you desire to narrow your request again, please advise.

You may recall that during your tenure with the City, you tasked staff with determining the cost/research time for a hypothetical PRR consisting of a one year period of records. It was estimated, and you agreed, that staff review time would take approximately 524 hours and legal review would take 2096 hours. The cost for the hypothetical PRR was valued at \$115,138.52 for the records of one individual, not 4.



Here, you have not been charged anywhere near that amount and staff, as you know, is diligently working on obtaining the records that you seek while managing all of your other requests in addition to those sought by other individuals. We appreciate your patience and trust that you understand the challenge in fulfilling such a request. Your documents will be provided to you as they are received.

So far they have turned over only 3,139 pages. I have asked them numerous times how many more records they have. They have not responded.

Of the batches that they have sent, I do not see text messages from the Mayor's private devices. Most troubling is that through another records request, I have uncovered an email to the City Attorney from the Mayor's Assistant in which she forwarded an email from the Mayor where the Mayor disclosed that she was having difficulty fulfilling someone else's records request for text messages between the Mayor and Suzanne Fisher. According to the Mayor's email "I started working on it last week and somehow the entire text stream disappeared. I had my son download from the cloud yesterday but it didn't successfully download the text stream from Suzanne."

Fisher is my former Assistant City Manager who I attempted to fire and then the Mayor went after me. But for Fisher, I would not have been suspended. And my premise is that the City has retaliated against me for among other things, blowing the whistle on Fisher's improper conduct related to the City Golf Course. The Fisher text messages are important to my case.

One last point on the Mayor and records destruction. In 2017, the Mayor was being deposed on a defamation case and the lawyer asked her a question about public records that she had been storing on her private devices. The lawyer had records requested her in 2016 and she replied that she had no documents. In 2017, during the deposition, the lawyer mentioned that there were in fact records and asked her why she didn't turn them over when requested. At that point, Lynn Gelin advised her to plead the 5th and five times during the line of questioning about her not turning over documents she pled the 5th. (See tab 35 in Tab folder in DropBox). Additionally, and most shockingly, the attorney did not have enough time to question her in one session so he scheduled a second deposition and asked her to make sure that she preserved all electronic equipment and records. During the second deposition, it is revealed that sometime between the first and second deposition, according to the Mayor, her home computer "burned up" and her husband called in a "computer guy" who advised them that the hard drive was destroyed from whatever computer malfunction had occurred. So her history is pretty suspicious when it comes to turning over records from her private devices and I don't want to give her too much time for something to "accidentally" happen to her phone.

A good number of the termination charges against me are based on the City's false legal interpretation that if an employee does not store public records on the City's network, it is a violation of Chapter 119. My request above was aimed at showing how preposterous their premise is by proving that the City Attorney, who wrote the charges, the City Auditor, who

affirmed the charges, and the elected officials regularly do not store public records on the City's network and in fact, store them on private devices and private email servers. The information that I have requested is central to my defense and they still have not turned over all of the records that I requested and in some cases, they have redacted some of the records without the required explanations.

2) Records request R002837-092020 was made on 9/20/20. The request was as follows:

Please provide me with all phone records from Lynn Gelin's public and private phones that registered phone calls that Gelin made to Mayor Petrolia's public and/or private phones and/or in which Gelin received calls from Mayor Petrolia's public and/or private phones. Please ensure that the Mayor's 561-703-3191 phone is included and Gelin's 954 243 3110 phone is included in the record search in addition to any other phones they might have used to communicate.

So far I have only received Gelin's Records and one of the 2 files that they sent were not legible.

3) Records request R002838-092020 was made on 9/20/20. The request was as follows:

Please provide me with all phone records related to any calls made or received from the public or private phones of Lynn Gelin, Mayor Petrolia, Julie Casale, and Shirley Johnson to and from Jennifer Alvarez.

To date, they have only provided me with the phone logs of Alvarez and Gelin. (The Gelin logs, in my opinion, are illegible. I have forwarded it to you so you can judge for yourself.) I asked for all phone records from each of the individuals listed above and they have not complied.

From: Law Office of Carmen Rodriguez <crpa@crlaborlawfirm.com>
Date: October 7, 2020 at 9:16:19 AM EDT
To: Delray Beach Public Records Support <delraybeach@mycusthelp.net>
Subject: City Public Records Request :: R002653-082420

Good morning,

Approximately five weeks ago, George Gretsas requested “copies of all public records (text messages and emails) sent and/or received from the private devices of the Mayor, City Commissioners, the City Attorney, and the City Auditor in 2019.” To date, we have not received the responsive documents. This delay is a violation of the law. This will serve as our notice that we expect to receive the responsive documents within five (5) days.

Thank you for your prompt attention.

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