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January 21, 2025

Via Email: tlynn@hancocklaw.com

Tish E. Lynn
Hancock Estabrook LLP
1800 AXA Tower I
100 Madison Street
Syracuse, NY 13202

Re: City of Watertown Allegations Against Cliff Olney

Dear Ms. Lynn:

Our office represents Clifford G. Olney III (“Councilmember Olney”) in connection with the above-referenced matter. The purpose of this letter is to set forth the background which led to the allegations against councilmember Olney, comment on the mayor’s recent allegation, and to request a meeting among Councilmember Olney, a representative from the City of Watertown, and the parties’ attorneys with a view towards global resolution of the allegations.

Councilmember Olney was elected in 2021 to a 4-year term to serve on the Watertown City Council (the “Council”). Apparently, the internecine warfare ignited when in November 2022, the Council adopted Resolution No. 19, which provided that the City of Watertown (the “City”) intended to purchase the assets of Watertown Golf Club, Inc., for \$3.4 million. In December 2022, the Council adopted Resolution No. 1 which approved the Asset Purchase Agreement contemplated by Resolution No. 19. Not long thereafter, Maryellen Blevins commenced an action against the City, Councilmember Olney, and the other two council members who voted in favor of the Resolutions. Ms. Blevins asserted that Resolution No. 1 was void because the subject purchase was illegal, constituted an unconstitutional gift, and was a waste of municipal funds.

On January 17, 2023, Justice McClusky issued an opinion granting defendants’ motion to dismiss the complaint. Justice McClusky found that there was no allegation of fraud or waste of public property in the sense that they represent a use of public property or funds for entirely illegal purposes as required under law only that the complaint boiled down to “a belief that Watertown is paying too much money for the golf course.” The judge stated that the “Courts must not trespass into the purview of the legislature . . . [t]he recourse for a disgruntled voter is not to seek redress from the Court but rather express their opinion at the ballot box.”

During the litigation, City attorney, Bond, Schoeneck & King stated that “[t]he City Council wanted this land for the golf course for the people of the City of Watertown to play golf next summer and in the future and they wanted to acquire park-land. There is no more basic municipal purpose than acquiring park land.” Indeed, neither the Court nor the City’s attorneys found any

evidence of corruption, conflicts of interest, illegal advocacy, or other ethical violations against Councilmember Olney and none were alleged. Indeed, the City's aggressive defense of this action belies any allegations of Councilmember Olney's misdoings in connection with the golf course.

After losing the battle to legally kill the golf course deal initiated by his proxy, former council member and mayor, Jeffrey M. Smith, sought to obtain his pound of flesh against Councilmember Olney by filing an ethics complaint with the City's Ethics Board. The complaint contained allegations stemming from, or about, his failed attempt to stymie the project. In the complaint, Mr. Smith alleged that Councilmember Olney disclosed confidential attorney-client conversations and strategies, and communicated the content of deliberations among Council members in connection with the appointment of a permanent City attorney. Mr. Smith also alleged that Councilmember Olney failed to disclose that he had a personal interest in the passage of the golf course purchase resolutions and that he breached his fiduciary duty to the City because he advocated for the golf course transaction. To support his mostly hearsay and speculative allegations Mr. Smith attached a few email messages and a news article.

The City's Ethics Policy was written in 1970 and at the time of the complaint had not been materially updated. It appears, upon information and belief, that the Ethics Board operated with no published or easily accessible By-laws, no established rules of conduct, no mechanisms for how complaints are filed or handled, no rules of procedure for the submission of evidence, and the limits of its jurisdiction are not well defined.

On September 18, 2023, the Ethics Board issued its Advisory Opinion and Recommendations (the "Advisory Opinion"):

it is the unanimous opinion of the City of Watertown Ethics Board that Council Member Cliff G. Olney III should be referred to a hearing before the City of Watertown City Council consistent with City Charter to determine the veracity of allegations that he engaged in a pattern of conduct in violation of 32-3(B); 32-3(C) of the Code and General Municipal Law 805 (a)(1) and 805-a(1)(b).

The Ethics Board recommended that an appropriate penalty be imposed and a hearing process be commenced to remove Councilmember Olney from office. It should be noted that on September 18, 2023, during the open session of the Council, the Mayor requested the report be read into the official record and it was despite the fundamental flaws in the process. The next day, September 19, 2023, at 5:36 A.M., WWNY News reported, "The city of Watertown ethics board unanimously found council-member Cliff Olney violated city code and general municipal law."

That same evening, about one hour before a scheduled City Council meeting, Councilmember Olney was presented with a copy of the Advisory Opinion as were the other Council members. Incredibly, prior to his receipt of the Advisory Opinion, Councilmember Olney was not presented with a copy of Mr. Smith's complaint. The lack of due process accorded to Councilmember Olney is astounding. Finally, Councilmember Olney was presented with a copy of the complaint. Within a couple of days of receiving the complaint, Councilmember Olney stated to colleagues that as the charges were false, politically motivated, and filed because he was performing his job duties, he was entitled to be represented by counsel on the matter. To that end, on December 1, 2023, Councilmember Olney submitted a formal request to be represented on the matter which was

rejected on December 11, 2023. Following the denial to be provided legal counsel, Councilmember Olney publicly, as well as in-session, protested, and also claimed that Mr. Jennings, who lost a contentious city council race for re-election against Councilmember Olney, had a conflict of interest that made his involvement in the ethics matter inappropriate.

Councilmember Olney's integrity and reputation were greatly harmed by the publicly available Advisory Opinion because, unfortunately, findings of ethical violations can cause the electorate to turn against a candidate even if those findings were sustained in a venue which resembled a Star Chamber more than an open and fair proceeding.

On August 9, 2024, a special meeting of the Council was scheduled to discuss whether or not to follow the recommendations from the Ethics Board and pursue charges against Councilman Olney. Prior to the Council meeting, Ethics Board members and other City personnel received an email from then City Attorney Kristin Smith dated August 19, 2024. The email is enlightening and relevant parts are as follows:

[i]t appears that the Ethics Board did not offer Councilmember Olney an opportunity to offer his perspective before coming to its conclusion. This, in my opinion, was a critical omission. By comparison, for example, in the City of Newburgh, the Board of Ethics process includes the following step:

Should the Board of Ethics determine there appears to be merit or probable cause to the complaint, it shall send a written invitation to the officer or employee in question to appear at a private meeting of the board to explain the issue in dispute. The invitation shall contain a statement of the facts upon which the Board of Ethics has relied on for its determination of probable cause and a statement of the provisions of law allegedly violated. Said City officer or employee shall have a reasonable time to respond either orally or in writing and shall have the right to be represented by counsel or any other person.

She concluded by stating that the "better practice would have been to offer him an opportunity to be heard prior to issuing an advisory opinion [and] [w]hen I started as City Attorney, Ken Mix mentioned that there was interest in revamping the City's Ethics Board Process [and] that this is something that should be done before any future complaints are considered by the Board."

At the Council meeting held on August 19, 2024, by a vote of 4 to 1, the matter was remanded to the Ethics Board with instructions to allow Councilmember Olney to be heard and then to re-issue recommendations. On Friday October 4, 2024, Councilmember Olney received a letter from Steve Jennings stating that the Ethics Board was meeting on Monday October 7, 2024, and that he could attend if he wanted to.

Councilmember Olney responded by sending notice to Mr. Jennings, to the Council, and to the City Attorney requesting "a continuance of the upcoming ethics board hearing currently scheduled for October 7, 2024, regarding the complaint filed against me by former Mayor Jeff Smith . . . [and the] ethics complaint . . . is a significant legal matter, and I have the right to be adequately represented by counsel throughout the process." No response to the request was ever received by

Councilmember Olney. Councilmember Olney, through a process server, then served a notice of appearance upon Assistant City Manager Logan Eddy.

On October 7, 2024, the Ethics Board met as scheduled and publicly declared Councilmember Olney a “no show” at the hearing. The Ethics Board then sustained its findings and re-asserted their previous recommendations. On November 4, 2024, Councilmember Olney proposed a resolution again requesting that he be represented on the matter. That same day, the Council rejected the resolution by a vote of 2 to 3. It is unimaginable that the Council and the Ethics Board acted in this fashion after they were advised by their attorney that Councilmember Olney’s rights were violated through the denial of due process.

Although this letter is not the place to issue formal and detailed denials to the allegations, suffice to say that Councilmember Olney vigorously denies each and every charge in the complaint, that at no time did Councilmember Olney disclose confidential information or strategies with third-parties, had no personal interest in the golf course, and did not breach his fiduciary duty.

To compound the lack of due process and injuries that Councilmember Olney sustained, Mayor Pierce threatened to bring additional ethics charges for receiving money for his legal defense fund. Section 32-3(A) of the Ethics Code states:

Gifts. He shall not directly or indirectly solicit any gift or accept or receive any gift having a value of \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.

No reasonable person could interpret receiving money to fight the charges described above as a “gift . . . intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.”

Despite the significant procedural irregularities and the weaponization of the Ethics Code which have caused great harm to Councilmember Olney’s reputation, we respectfully request a meeting on or before January 29, 2025, among Councilmember Olney, a representative from the City of Watertown, and counsel for both parties. This meeting is intended to facilitate a fair and expeditious resolution of the matter, thereby avoiding further public discord or legal action. Please advise of your availability.

Thank you for your attention to this matter and I await your timely response.

Very truly yours,

Stewart L. Weisman