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State Representative
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Minnesota House of Representatives

COMMITTEES:
LEAD, CIVIL LAW AND DATA PRACTICES
VETERANS AFFAIRS DIVISION
TAXES
CHAIR: SAINT PAUL DELEGATION

Wednesday, January 3, 2018

****PERSONAL AND CONFIDENTIAL****

Mayor Melvin Carter
Office of the Mayor
15 West Kellogg Blvd. Suite 310
Saint Paul, MN 55102

Dear Mayor Carter:

I'd like to congratulate you on a very well-organized inaugural ceremony. It is extremely difficult to make those events run smoothly, and whomever did that for you should be commended. I have no doubt this is a harbinger for how you will run your administration over the next four years.

My previous election congratulations letter to you was an effort to begin a conversation about the upcoming legislative session, and how the delegation works with our local government representatives in the interests of the city and school district. Past administrations have used the lobbying team on point, with the chief of staff as the backstop. I hope that is how you plan to proceed but, in any case, the delegation would like to begin a conversation in advance of the upcoming session (which, this year, begins Feb. 20th) so please let me know who the lobbying team and chief of staff is when they have been appointed.

I write today to express reservations about two primary issues. The first is the hiring process of your department heads. I've not raised any of these concerns publicly, and am doing so with you now privately in the interests of generating understanding – not confrontation. As a de facto lead on data practices in the legislature, I am often asked if government practices conform with the spirit and the letter of our sunshine laws. This was raised with me again during the kerfuffle over data disclosure with hiring committees when it was reported in the papers. I decided I would wait until you were sworn in to raise the issue. Over the years, I've been asked by Mayor Coleman to deal with certain legislative data practices issues as they affect local government. I'd be happy to offer the same counsel to you.

The second issue I write to raise with you today is the Saint Paul City Attorney's Office. As you know, I served almost 15 years in that office, through 5 different City Attorneys, through many more deputies, and I have a great love for the office. I've served as a member of the bargaining unit negotiation team, and was active with our local – serving as our delegate to the Saint Paul Trades and Labor Assembly. It's a complicated task, managing attorneys (who, compared to many other civil



servants, have unique authority to help or hurt the cause based on their status as officers of the court who may operate independently in the courtroom). Therefore, it should be no coincidence that some of the higher profile public employee spats in Minnesota in the past 15 years have involved the Hennepin County Attorney's Office, Ramsey County Attorney's Office, Minnesota Attorney General's Office, and the US Attorney's Office. This same type of scenario is what generated the staff anger that resulted in Saint Paul City Attorneys organizing to join a union (something they had been reluctant to do prior). All of these situations were generally agreed to have been brought on by mistakes in management, were widely reported in the papers at the time, and resulted in lose-lose scenarios for employees and management. The reason I raise this issue now is due to your choice for City Attorney – Lyndsey Olson – of which I was made aware by a newspaper report on Friday.

When I read news of your choice for City Attorney I was surprised. The open process was not so open as to give notice of who was up for consideration, but if it had been, and had I heard you were considering Lyndsey Olson, I would have registered grave concerns over her fit for the office. My own experience with Ms. Olson in the Minnesota National Guard revealed her to be a prosecutor who would sacrifice justice in pursuit of a political win – even going so far as to commit misconduct to do so. But my personal experience in observing this trait in her is not so relevant as is the official National Guard investigation of her for operating a “toxic working environment.” Multiple Minnesota National Guard Officers have raised this issue with me about her. Having not worked with her on her team, I cannot speak personally to her habits as a manager, but these reports of her did appear to be consistent with my experience with her use of her office to wage a political fight. This bodes poorly for a successful labor-management operation and, as a veteran of the SPCAO, I am compelled to inquire of it.

In the Saint Paul City Attorney's Office, labor always has walked a fine line with management. Contentious problems will arise. That means that a City Attorney must be well practiced in effectively and positively interacting with line attorneys, deputies, and supervisors. Many managers can learn on the job, without having a lot of management experience. John Choi is a great example of that. But an in-coming City Attorney with a preexisting track record of integrity questions and management problems causes me great concern over the immediate future success of the SPCAO.

Mayor Carter, I remain vested in the success of an office in which I spent 80% of my adult career. I've seen it managed well (and not so well) and have also seen that commensurate change in effective operation of line attorneys in the interests of justice. But there is one other major reason why having an effective person there matters so much to me and that is this. On July 09, 2016, 51 people were arrested on I-94. These people were there to demand justice for Philando Castille. Those demonstrations resulted in something happened that had never happened before: a police officer was charged with murder. I have little doubt that without the hue and cry of community members for accountability, the story written would have been just one more dead motorist who didn't show his hands fast enough. Ultimately, a jury acquitted the police officer who shot Philando. That was the jury's call to do, but it was the bold decision of John Choi (who had the respect of his constituents and the backing of his office) to issue the charge in the first place. That was the significant impact Philando Castille had on Saint Paul and Minnesota – not the jury's decision, but the decision of a respected prosecutor (John Choi) to step out on a limb. The July 9 protests that helped John Choi make that charging decision were messy. One of the bystanders (not one of the 51 peaceful protestors who were arrested but some guy up on a bridge) dropped a chunk of concrete onto a U of M officer and injured him. They never caught the guy who did it, but the resulting anger from officials produced a few harried, and poor, decisions, one of which was to charge all 51 peaceful protestors with 3rd Degree Gross Misdemeanor Rioting (max one year of prison time). At the time

that charging decision was made, and at the same location, I personally challenged the Mayor, the Chief of Police, and the City Attorney on the wisdom of that choice, saying that it was prosecutorial overreach based on inflamed and reactionary judgment by city officials. My objections were ignored, but 8 months later, the gross misdemeanor charges were dismissed by a judge over the same objections.

I represented 8 of these original 51 free speech defendants. All of them were convicted, either by plea bargain or jury trial. The felony charges against the lone felony defendant were dropped, in total, by a jurisdiction which took it as a conflict case. They also dismissed the misdemeanor charges against him. This means that, of all the harrowing conflict over the summer of 2016 which stemmed from the shooting death of Philando Castille, the only people who were held accountable for anything were people who peacefully blocked a freeway to demand justice. And that travesty was rooted in poor judgment on the part of city leaders.

I share this example to highlight the importance of a seasoned manager, with a track record of good judgment, for the role of Saint Paul City Attorney. My only experiences (and the experiences of Ms. Olson's former coworkers in the MN National Guard) suggest she is not that person. However, I believe all situations possess nuance where context may soften an otherwise negative impression.

This is why I am asking for a disclosure of the following:

1. The official complaint and/or supporting documentation that provided the basis for any prior investigations against Lyndsey Olson, especially investigations by the Minnesota National Guard.
2. Any information provided to the hiring panel and/or any person who made the decision to advance or hire Lyndsey Olson as Saint Paul City Attorney.
3. Ms. Olson's disciplinary record in her prior position.
4. Information about Ms. Olson's disclosures to the hiring panel and/or any person who made the decision to advance or hire Lyndsey Olson as Saint Paul City Attorney. (i.e. did she reveal her track record of investigations to anyone on your transition team or to the citizen panel members?)

Mayor Carter, this is a personal letter from me to you. I have not copied it to any member of the press or even to the Saint Paul Delegation, as I am hoping we can resolve this internally. I would ask that within a week you respond with some indication of your willingness to work with me on this, and that at that point we have some idea of how long it will be before all of the requested information can be produced.

Thank you, and I look forward to working with you this session, Mayor.

Sincerely,



Representative John Lesch