

**BEFORE THE BOARD OF IMPEACHMENT  
CITY OF O’FALLON, MISSOURI**

**IN THE MATTER OF THE IMPEACHMENT  
OF KATIE GATEWOOD:**

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**ARTICLES OF IMPEACHMENT**

**WHEREAS**, Katie Gatewood (“Respondent”) was elected a Council Member for Ward 5 of the City of O’Fallon, Missouri at the local election held on June 2, 2020.

**WHEREAS**, on July 22, 2021, the City Council and Mayor of the City of O’Fallon, passed a resolution, in accordance with §3.6(C) of the Charter of the City of O’Fallon, Missouri, authorized proceedings to consider the removal of Katie Gatewood as a Council Member of the City of O’Fallon for alleged acts of misfeasance, malfeasance, and/or nonfeasance as described in these Articles of Impeachment with good cause shown.

**NOW THEREFORE**, the City of O’Fallon, Missouri, pursuant to §3.6(C) of the City Charter, hereby issues the following charges and Articles of Impeachment against Council Member Katie Gatewood:

**GOVERNING LAW AND JURISDICTION**

The City of O’Fallon, Missouri is a home rule charter city in the State of Missouri. As such, the power and authority to remove elected members of the City Council is delegated to both the City Council and Mayor by §3.6(C) of the City Charter, which provides:

**Removal.** The Mayor may, with the consent of a majority of the entire City Council, remove from office, for cause shown, any City Council member, such Council member being first given opportunity, together with his or her witnesses, to be heard before the City Council sitting as a Board of Impeachment. Any City Council member may, in like manner, for cause shown, be removed from office by a two-thirds (2/3rd) vote of the entire City Council, independently of the Mayor's approval or recommendation.

Language in §3.6(C) of the City Charter mirrors that found in §79.240 RSMo. pertaining to fourth-class cities. *Fitzgerald v. City of Maryland Heights* interpreted this language and held that “the appropriate meaning of the ‘for cause’ standard for impeachment ... should ... specifically relate to and affect the administration of [the] office, and ... be ... of a substantial nature directly affecting the rights and interests of the public”(796 S.W.2d 52, 56 (Mo. App. E.D. 1990) (citing *McCallister v. Priest*, 422 S.W.2d 650 (Mo. banc 1968)). The Court further explained that ‘cause’ itself should also be “limited to objective reasons which reasonable people, regardless of their political persuasion, could agree would render any [office holder’s] performance ineffective.” *Id.*

*Fitzgerald* defines three types of ‘cause’ that support removal from office: (1) misfeasance, (2) malfeasance, and (3) nonfeasance. According to *Fitzgerald*, ‘misfeasance’ is the improper performance of some act that may lawfully be done; malfeasance is the commission of some act wholly beyond the actor’s authority; and, nonfeasance is the failure to perform a required duty. *Id.* at 56-57. A finding of any of these is sufficient to support removal from office under the City’s Charter and *Fitzgerald*.

Council Member interference has historically been a significant issue in the City of O’Fallon and as a result, there are four separate provisions in the City Charter and Code addressing the issue in different ways. As it regards the actions of Council Member Gatewood detailed below in these Articles, the relevant provisions of the City Code include:

**Section 115.090 *Interference By Members of The City Council.***

No member of the City Council shall directly interfere with the conduct of any department or duties of employees subordinate to the City Administrator except at the express direction of the City Council or with the approval of the City Administrator.

Interference under this section would be malfeasance in office. Under Missouri law, we are to interpret ordinances in the same manner as statutes, that is to give them their plain ordinary

meaning when possible and that meaning is the dictionary definition of the word ” (*Delta Air Lines, Inc. v. Dir. of Revenue, State of Mo.*, 908 S.W.2d 353, 356 (Mo. 1995) (citing *Asbury v. Lombardi*, 846 S.W.2d 196 (Mo. banc 1993))). ‘Interfere’ is defined as:

1. to enter into or take a part in the concerns of others.
- 2: to interpose in a way that hinders or impedes: come into collision or be in opposition. *Merriam-Webster Dictionary*, (<https://www.merriam-webster.com/dictionary/interfere>)

and,

To check; hamper; hinder; infringe; encroach; trespass; disturb; intervene; intermeddle; interpose. To enter into, or to take part in, the concerns of others. *Black’s Law Dictionary, 6th Ed.*

The oath of office taken requires that every Council Member “faithfully demean” themselves in office. The Missouri Supreme Court has provided a standard for analyzing whether a Council Member’s actions and/or omissions show that they faithfully demean themselves in office and the consequences of failure. In *State ex rel. McKittrick v. Wymore*, an elected prosecuting attorney’s refusal to act on open and obvious illegal activities was compared to his oath to faithfully demean himself in office. 132 S.W.2d 979 (Mo. 1939). The Court compared the defendant’s conduct to what a faithful prosecutor should have done in that situation. Having failed to find reasonable justification for the prosecutor’s conduct, the Court found he failed to faithfully demean himself in office. Such finding was held to require his removal from office.

## **FACTS**

The following facts are common to all allegations:

1) The City of O’Fallon has a Home Rule Charter which establishes the City’s form of government, creates all offices and departments of the City, and defines the powers and duties of officials.

- a. **Article 3 - City Council** provides at Section 3.1–*Where Powers Vested*, that “except as otherwise provided in this Charter, all powers of the City shall be vested in the City Council.”
- b. **Article 5 – City Administrator** created the position of City Administrator, the chief administrative officer of the City. Section 5.3–*Powers and Duties*, vests specific powers in the City Administrator, creating exceptions to the City Council’s powers in §3.1, above. The duties of the City Administrator include:
  - i. The exclusive responsibility to “direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this charter or by law.” §5.3(B)
  - ii. The responsibility to “see that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Administrator or by officers subject to the City Administrator's direction and supervision, are faithfully enforced.” §5.3(D).
- c. **Article 6 – Administration and Personnel System** concerns the creation, organization, and powers of the various City Departments subordinate to the City Administrator, including the Police Department at §6.4. The Chief of Police is recognized as the Chief Law Enforcement Officer of the City with sworn officers under his command, to ensure that all laws are faithfully

enforced “subject to the City Administrator’s direction and supervision” under §5.3(D) and §5.3(B) of the Charter.

d. Under the Charter, the Police Department and the Police Chief, like the other City Administrative Departments and their heads, are subordinate to the direction, supervision, and administration of the City Administrator who, in turn, reports to the Mayor and City Council. Therefore, the City’s departments are not directly subordinate to the Mayor or City Council.

2) Missouri law states that once appointed, a police chief may only be terminated for cause, under a strict statutorily defined set of conditions (§106.273 RSMo.).

3) Philip Dupuis (“Chief Dupuis”) was serving as the interim Police Chief in early 2021 after the departure of the former Chief. Mayor Bill Hennessy moved to appoint then-interim Chief Dupuis as the new permanent Chief of Police and the Council voted 7-3 to approve the Mayor’s appointment in a closed session meeting on January 7, 2021.

4) At the January 14, 2021 meeting to publicly confirm the appointment of Chief Dupuis as permanent Chief, Council Member Gatewood made a statement to the Council suggesting widespread dissension and dissatisfaction with Chief Dupuis within the Police Department and the public on the basis that “several concerns were brought to [her] by fellow police officers” regarding Chief Dupuis’ tenure with the Department. (Video of January 14, 2021 City Council Meeting, beginning at 52:14). She stated that these concerns should have been more fully investigated before the vote on the appointment and intended her statement to leverage the reversal the Council’s prior vote to appoint Chief Dupuis or otherwise undermine his position. Despite Council Member Gatewood’s concerns, the City Council voted, by voice vote without

objection, to publicly confirm the Mayor's prior appointment of Chief Dupuis during the January 14, 2021 meeting.

5) Subsequent to Chief Dupuis' appointment and despite the Council's approval of his hiring, Council Member Gatewood conducted an investigation into Chief Dupuis' background, without the authorization of the City Council or the City Administrator. (See ¶¶8 – 10)

6) On January 20, 2021, Chief Dupuis received an officer's written complaint regarding another officer's misconduct. Chief Dupuis engaged an outside investigator, Lieutenant Curtis Sullivan ("Lt. Sullivan") of the St. Charles County Police Department ("SCCPD"), to conduct a third-party review and investigation into the complaint. Lt. Sullivan interviewed numerous City officials, including Council Member Gatewood. Lt. Sullivan reported that during a February 5, 2021 interview at Council Member Gatewood's home, Council Member Gatewood admitted to him that the concerns about Chief Dupuis she advised the City Council of during the January 14, 2021 meeting, were not brought to her by fellow police officers as she told the Council. Instead, she admitted that she fabricated a story for the Council as to the origin of the concerns ostensibly to protect the identity of a single, male, former O'Fallon Police Officer, whose privacy she wished to protect as a whistleblower. (St. Charles Police Memo from Lt. Sullivan to Chief Dupuis, RE: Internal Affairs Investigation – #21-001, February 1, 2021).

7) During the citizen comment period of the March 11, 2021, City Council meeting, Russell Gatewood ("Mr. Gatewood"), Council Member Gatewood's husband, claimed to be the source of the Council Member's information regarding Chief Dupuis. Human Resources Manager Tanya Davies confirms that Mr. Gatewood has never been employed by the O'Fallon Police Department as a law enforcement officer. Based on this information, Mr. Gatewood does not fit the description Council Member Gatewood provided to Lt. Sullivan of the source as a former

O'Fallon Police Officer; this establishes that Council Member Gatewood's statement to Lt. Sullivan in conjunction with his investigation was also not the truth.

8) On April 5, 2021, Council Member Gatewood conducted a phone interview she requested with Detective Caitlin Adams ("Detective Adams"), of the Conroe Texas Police Department, who once worked with Chief Dupuis. Council Member Gatewood expressed her distrust of Chief Dupuis numerous times and told Detective Adams that Dupuis had "aided and abetted" and had been a conspirator to criminal activity in O'Fallon. Council Member Gatewood also stated she was trying to figure out how to get a Montgomery County District Attorney's report number so she could order that report. Specifically, Council Member Gatewood advised Detective Adams that she was "trying to gather every piece of evidence that [she] possibly can, to go to the Council to say, 'this man needs to go.'" (Telephone conversation between Council Member Gatewood and Detective Adams on April 5, 2021).

9) On that same day, Council Member Gatewood had a separate phone conversation with Lieutenant Dorcy McGinnis ("Lt. McGinnis") of the Conroe Texas Police Department, Det. Adams supervisor, who advised the Council Member that they do not allow officers to speak outside of the Department. Council Member Gatewood told Lt. McGinnis that she wanted to get information regarding an internal investigation of Chief Dupuis. She further stated that she had a Texas Ranger report, in hand, regarding that case and she was trying to get information on it with regards to the Montgomery County District Attorney's Office. Lt. McGinnis stated that the Conroe Texas Police Department never had an internal investigation regarding the situation Council Member Gatewood was speaking of prior to Chief Dupuis' retirement from the Department and that any information Council Member Gatewood had received from the Texas Rangers or the Montgomery County District Attorney's Office would be more information than

what their Department had. (Telephone conversation between Council Member Gatewood and Lieutenant McGinnis on April 5, 2021)

10) In or around early April 2021, Council Member Gatewood also reached out to Duke Coon, a Councilman of the City of Conroe, Texas, asking why Chief Dupuis left the Conroe Texas Police Department. According to Councilman Coon, Council Member Gatewood appeared to be on a fishing expedition, would not directly answer any of his questions concerning her allegations, and was a bit evasive in the conversation altogether. Councilmen Coon advised Council Member Gatewood that she needed to go through the City's HR Department or the other proper channels to do things the right way. He continued to say that Chief Dupuis' performance was exemplary, as well as all of his reviews and evaluations.

(Telephone conversation between Council Member Gatewood and Council Member Coon in or about early April 2021).

## **CHARGES**

Mayor Hennessy, with the consent of the majority of the whole City Council, has caused these Articles of Impeachment to be filed pursuant to the authority granted in §3.6(C) of the City Charter and the laws of the State of Missouri cited herein:

### **ARTICLE I**

The City of O'Fallon, Missouri alleges that Council Member Gatewood has engaged in conduct constituting malfeasance in office. Specifically, Council Member Gatewood engaged in a post-hiring investigation of then-permanent Chief of Police, Philip Dupuis, without the express direction of the City Council or approval of the City Administrator, as follows:

A. After the hiring of Chief Dupuis as the permanent Chief, Council Member Gatewood contacted representatives of the Conroe Texas Police Department, Chief Dupuis' prior employer, attempting to obtain confidential and/or compromising information about his service there to use in undermining the performance of his duties as Chief of Police and/or the conduct of the Police Department.

B. After the hiring of Chief Dupuis as the permanent Chief, Council Member Gatewood contacted an elected official of the City of Conroe, Texas, attempting to obtain confidential and/or compromising information about his service there to use in undermining the performance of his duties as Chief of Police and/or the conduct of the Police Department.

C. These acts were undertaken without authority, under the color of her office, and with the express intention of interposing herself into, undermining, hampering, intermeddling, and/or otherwise interfering in the conduct of the Police Department and/or the duties and job status of the Chief of Police, who is an employee subordinate to the City Administrator.

The actions alleged in Article I have no reasonable justification, are outside of the scope of Council Member Gatewood's authority, and constitute **Interference by a City Council Member** in violation of §115.090 of the City Code of the O'Fallon, Missouri. Such actions further amount to malfeasance on the part of Council Member Gatewood and show a conscious disregard for the proper order and discipline of the City of O'Fallon, Missouri, its Charter and Code, and the laws of the State of Missouri as they relate to the conduct of government. This malfeasance relates directly to the administration of the office of Council Member Gatewood. The actions further show that Council Member Gatewood is not suited to hold public office, and is an inadequate steward of the duties to the City of O'Fallon and trust placed in her by the citizens of the City of O'Fallon, Missouri.

## **ARTICLE II**

The City of O’Fallon, Missouri alleges that Council Member Gatewood has engaged in malfeasance by speaking untruths, lying, and/or making material misrepresentations in her capacity as an elected Council Member at City Council meetings, discussions with personnel under the color of her apparent authority and office, and/or in interviews with law enforcement as it regards City matters, in violation of her oath of office as follows:

A. At the January 14, 2021 meeting, Council Member Gatewood represented to the City Council that “several concerns were brought to [her] by fellow police officers” regarding the hiring or qualifications of then-permanent Chief Dupuis, insinuating widespread and internal dissension with Chief Dupuis’ leadership and arguing against the his previously confirmed appointment as permanent Chief. This statement was false, and known to Council Member Gatewood to be so when made. Councilwoman Gatewood confessed to Lt. Sullivan that the statement was false and that she lied allegedly to protect her source. The Council Member has not divulged the actual source but has admitted to Lt. Sullivan that it was not “several fellow officers” but, rather, was a single, male, former O’Fallon Police Department officer. Councilwoman Gatewood then allowed her husband to testify before the Council that he was the source, knowing that he was not, in fact, the source for the purpose of deceiving the Council and undermining the conduct of the Police Department and Chief Dupuis’ performance of his appointed duties.

B. Council Member Gatewood knew the source of her information but knowingly and intentionally misled the City Council to cause them to believe it was a different source, in an effort to undermine the Mayor’s confirmed appointment of Chief Dupuis and his ability to remain employed with and successfully complete his job duties as Chief of Pollice.

Council Member Gatewood's lies, misrepresentations, and/or fabrications detailed herein show a conscious disregard for the duties she owes under her oath of office. This conduct constitutes malfeasance on the part of Council Member Gatewood and a failure to faithfully demean herself in office under the *Wymore* holding. It further shows a conscious and intentional disregard for the truth as it relates to the administration of her office. Her actions further establish that Council Member Gatewood acted outside the scope of her position, is not suited to hold public office, and is an inadequate steward of the duties to the City of O'Fallon and trust placed in her by the citizens of the City of O'Fallon, Missouri.

**WHEREFORE**, the City of O'Fallon, Missouri requests that the Board of Impeachment impeach Council Member Katie Gatewood on the Articles contained herein, each separately and both together, issue findings of fact and conclusions of law consistent with and supporting the impeachment, and remove her from office, or such other discipline or action as the Board may find just and necessary.

**Date:** July 22, 2021

**FOR THE CITY OF O'FALLON**



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***SPECIAL PROSECUTORS***

**CERTIFICATE OF SERVICE**

On this **22nd** day of **July, 2021**, the undersigned hereby certifies that a copy of the above and foregoing,

\_\_\_\_\_ was hand delivered to the Respondent, and

a copy was mailed via first class postage prepaid United States Mail to the Respondent at her residence of record.

\_\_\_\_\_  
City Clerk