

APPENDIX to the Memorandum: The Case against the Process for Removing a Commissioner

To the Common Council of the City of Bloomington

RE: Notice of Removal Hearing — Reynard Cross, Historic Preservation Commission

Preamble

1. I have been advised to make you aware of certain facts concerning the process by which my removal from the Historic Preservation Commission has proceeded to this point. These facts matter because a vote to remove me that does not follow the process the law requires carries legal risk — not because of anyone’s intentions, but because of what the process itself failed to provide. I raise these points now, before any vote, so that each of you has the opportunity to consider them fully.

Totality of the Record

2. Before turning to the specific standard, it is important to be clear about what is already before you. This document is not the sum total of the information relevant to this matter. Throughout this proceeding I have submitted a substantial body of material to the Council, to the Council Attorney’s office, and to individual members — including my written response to the 21 August 2026 Notice and its attachments, the HPC Chair Report on Procedural Conduct, and other correspondence and records submitted in the course of this process. None of that material has been made public, but all of it is part of the record available to each of you individually to review.

3. I am raising this because I do not want the scope of this document mistaken for the scope of the record. What follows is a deliberately short executive summary — concise by design, not exhaustive — meant to bring to you the seriousness and gravity of proceeding to a vote on removal without due process having been afforded. The fuller factual record, including the direct evidentiary support for the points summarized here, already sits with you. Everything submitted over the course of this proceeding is offered in support of the same central point this document makes: that the process used against me has been constitutionally and procedurally deficient.

The Due Process Standard

4. Removal from an appointed position that may only be terminated for cause implicates a right the Constitution protects, and that right carries with it two distinct, independently required components: adequate notice of the charges, and a meaningful opportunity to mount a defense against them. Neither component is optional, and neither substitutes for the other.

I. Notice of the Charges

5. Adequate notice requires more than a general accusation. A charge sufficient to support removal for cause must specify: the particular rule or provision alleged to have been violated; the specific facts said to constitute the violation, described with enough precision to be checked against the record; the reasoning connecting those facts to that provision; and a showing that the conduct bears on fitness to serve. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532 (1985); *Waller v. City of Madison*. This is also the standard this Council’s own Special Committee on Council Processes stated in its Report to Council of 1 March 2023 (the “2023 Report”) on the matter of Greg Alexander: a removal motion “should be narrow, specific, and sufficiently clear that city council members, members of the public, and the appointee in question fully understand the specific conduct, statements, or omissions that have led to the proposed removal.” 2023 Report §§ 1.0, 3.1. The committee added that the appointee should be given written notice and at least five business days to respond in writing. *Id.* §§ 1.0, 3.2. This Council has already held at least one appointee to this exact standard. It has not yet been applied to me.

II. Opportunity to Mount a Defense

6. Once adequate notice has been given, due process further requires a meaningful opportunity to answer it, consisting of:
- a. *Sufficient time to prepare* — a defense cannot be prepared against a charge that has not yet been specified.
 - b. *The right to face and question one's accuser*, where a decision turns on a contested account of specific facts. *Goldberg v. Kelly*, 397 U.S. 254 (1970); *Gagnon v. Scarpelli*, 411 U.S. 778 (1973); *Willner v. Committee on Character and Fitness*, 373 U.S. 96 (1963).
 - c. *The right to call witnesses and present evidence*. Even in contexts far more restrictive than this one — including prison disciplinary proceedings — due process guarantees this right. *Wolff v. McDonnell*, 418 U.S. 539 (1974); *Loudermill*, *supra*.
7. Neither component has been satisfied here. The Notice I received on 21 August 2026 recites the Code of Conduct in its entirety without stating which of its five substantive provisions applies, what I am alleged to have said or done, or the standard by which my conduct is measured. There has been no opportunity to defend against even those unspecified charges which have been offered: I have not been told who has accused me of what; I have not been permitted to question that account; and I have not been permitted to call a witness or present a single piece of evidence, at any stage, before the subcommittee reached its recommendation.

III. An Impartial Decisionmaker

8. The due process this matter requires has a third component beyond notice and an opportunity to respond: an impartial decisionmaker. A decisionmaker who has a prior, personal stake in the matter does not satisfy that requirement, regardless of the decisionmaker's individual honesty. *Withrow v. Larkin*, 421 U.S. 35, 47 (1975); *Ward v. Village of Monroeville*, 409 U.S. 57 (1972); *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009).
9. Councilmember Zulich held three roles bearing on this matter at once: the Council's liaison to the HPC, a member of the Committee on Council Processes, and Chair of Interview Committee C, the body tasked with recommending whether I should be removed. In regard to the first two roles listed, I reported the breaches underlying this dispute to her directly and repeatedly, well before any removal proceeding existed: a draft memorandum on 1 July 2026, and a revised draft on 2 July 2026, proposing to rescind the Seminary Pointe vote; a further memorandum to the Committee on Council Processes on 13 July 2026; and a telephone conversation that same evening, lasting over forty minutes, in which I described the breaches in detail and what I was doing about them.
10. To my knowledge, no action was taken on any of my reports in the more than two months between our conversation on 13 July 2026 and 24 September 2026, when Interview Committee C, chaired by Councilmember Zulich, met and voted, 3 to 0, to recommend my removal. The committee's own memorandum records that the recommendation was made "as referenced in letter to Mr. Cross by council staff," without identifying that letter by date or author. To my knowledge, the only two people who addressed the committee were the Notice's author and Ms. Crossley, whose 15 September 2026 email recommending my removal was sent nearly a month after the Notice issued. No reference is made in the memorandum to the complaints I had raised with Councilmember Zulich months earlier.
11. On 21 August 2026, the day the Notice issued, I called Councilmember Zulich to tell her. I left a message. She has not returned the call and has not contacted me since.
12. Councilmember Zulich is also a direct witness to facts central to my defense, in that I reported these breaches to her, through proper channels, repeatedly, well before any proceeding against me began, and a decisionmaker who is simultaneously a percipient witness to the underlying dispute cannot also serve as its judge.

IV. How the Removal Proceeding Itself Failed the Standard

13. No member of this Council made a motion to initiate my removal. The Notice of Removal Hearing I received is dated 21 August 2026. To date, no account of any conduct, no evidence, and no accuser have ever been disclosed to me, officially or otherwise, in connection with that Notice. If this Council or anyone acting on its behalf contends that some specific document or account forms the evidentiary basis for the Notice, that contention has not been made to me, and I reserve the right to respond to it once it is.
14. This Council's own prior practice has been to begin such matters with a specific member's motion, on the record. On 1 February 2023, Councilmember Rollo moved: *"I move that Greg Alexander be removed from the Traffic Commission for the following cause: posting obscene and inappropriate statements..."* — a motion followed by discussion and a 9 to 0 vote to refer it to the Special Committee on Council Processes, whose report is the source of the notice standard above. On 29 March 2023, Councilmember Rollo moved again, setting out the specific statements at issue and how they bore on Mr. Alexander's fitness to serve. The same evening, Councilmember Volan moved to remove Luke Swain, with five business days to respond. The practice has continued since: Councilmember Ruff moved and Councilmember Stosberg seconded the removal of Jenna Buckner on 4 December 2024, and Councilmember Flaherty moved and Councilmember Asare seconded the initiation of Jose Fuentes's removal on 5 November 2025. Each time, a named member moved and the motion was recorded. (Council Memoranda, 29 March 2023 and 4 December 2024; Council Minutes, 5 November 2025.) No comparable motion has ever been made in my case. On 16 September 2026, the only motion made was Councilmember Stosberg's motion to refer the matter to Interview Committee C — not a motion to remove, and not the kind of motion this Council's own precedent shows is the actual starting point for a removal proceeding.
15. No hearing, which satisfies even the minimum requirements of an opportunity to respond, has occurred at any stage. On 24 September 2026, a three-member subcommittee met and voted to recommend my removal. I was not invited or even notified of the meeting, and was not informed a recommendation would be decided that evening. The only two people who addressed the committee were the attorney who authored the Notice and a staff member whose written account of her own observations and concerns is dated 15 September 2026, 25 days after the Notice issued. I have had no opportunity to question that account, call a witness, or introduce evidence — including an existing recording directly relevant to the allegation — before a recommendation for my removal from public office was reached.
16. The path this complaint took to reach this Council is itself irregular. The individual who submitted that account is a staff administrator, not a voting or appointed member of the HPC. Robert's Rules reserves the mechanism for raising and resolving a perceived procedural breach — a point of order — to members of the body, decided by that body itself. That process was available and was not used; the complaint instead went directly to this Council, which has no first-hand knowledge of the meeting in question.
17. Public comment was foreclosed on this matter, not merely absent. The Common Council's own published agendas for the 2 September 2026 and 16 September 2026 meetings state that public comment is limited to "matters of community concern not listed on the agenda." Because this matter was listed on the agenda both times, it was excluded from public comment by the Council's own rule, before either meeting began — not by any decision made in the room that night. I was present at both meetings, prepared to speak, as were other members of the public who were not afforded that opportunity.
18. The 24 September 2026 Interview Committee C meeting followed the same pattern: no public comment period was held, and, to the best of my knowledge, the only two people who addressed the committee were Attorney Allen and Ms. Crossley. At every stage where this matter has been before a body with authority to act on it, the only participants heard have been the attorney who authored the Notice and the staff member whose account supports it, while I and the public were excluded by rule. A fair process requires not only actual fairness,

but the appearance of it. I leave it to this Council to consider whether a process structured this way demonstrates bias.

The City Attorney's Office's Recurring, Unsolicited Involvement

19. An attorney's role at a board or commission meeting is a narrow one: to provide legal advice when a member or the presiding officer asks for it, on the specific question asked. That role does not extend to intervening in a body's internal proceedings, directing what its members may or may not do, or acting as a participant in matters the body has not put to counsel for advice. Measured against that standard, the City Attorney's Office's involvement in matters concerning me and the HPC's handling of the Seminary Pointe demolition delay has been unusual, and it has not been limited to this proceeding.

20. Assistant City Attorney Dana Kerr authored a written opinion advising the HPC that it lacked authority to reconsider its own 25 June 2026 vote on the Seminary Pointe demolition delay — the same vote whose procedural defects I had raised and was attempting to have corrected. Mr. Kerr also served as standing counsel to the Redevelopment Commission, a body with a direct stake in the outcome of that same matter. The record does not show that Mr. Kerr informed the HPC, at the time he gave that advice, that he served as that counsel.

21. At the Commission's 23 July 2026 meeting, Senior Assistant City Attorney Anna Holmes, not recognized by the Chair to speak, interjected during my Points of Information. Separately, points of information I put in writing were held by the City Attorney's Office, with HPC staff instructed not to forward them to my fellow commissioners pending that office's own review — a step outside the Commission's own established procedure for handling member communications.

22. The Notice of Removal Hearing against me was authored by Attorney Larry Allen, serving as the Council's interim attorney. Mr. Allen is a former City Attorney, appointed to that office at the start of the current mayor's administration in 2024, before leaving for private practice; he was brought back in April 2026, on a temporary basis, specifically because the Council had no attorney of its own. I have seen no record of which Council member, if any, instructed him to prepare the Notice, or on what authority he acted in doing so.

23. I do not assert that these facts establish coordination between the City Attorney's Office and this proceeding. I raise them because, taken together, they describe an office repeatedly present at points in this matter well beyond the narrow advisory role a board or commission's attorney ordinarily occupies — and because the person who wrote the Notice against me is a former head of that same office. Who instructed Mr. Allen to prepare it, and whose interest he understood himself to be serving in doing so, are questions I cannot answer. I leave them for this Council to ask.

The Remedy I Was Required to Use, and Did

24. The Commission's own governing structure already provides the correct venue for addressing a presiding officer's conduct, and I used it. Indiana Code 36-7-11-4(f) directs the Commission to adopt its own rules for the transaction of business; pursuant to that authority, the HPC's Rules and Procedures (Article I(L)) adopt Robert's Rules of Order Newly Revised (12th ed.) as the Commission's binding parliamentary authority — which itself provides a complete internal disciplinary process, including formal notification, hearing, and trial procedure (RONR 63:28–33), and specifically permits censure to be adopted without that formal procedure (RONR 63:34 n.1). Robert's Rules reserves this disciplinary power to the assembly itself, through formal action — never to a presiding officer acting alone.

25. Consistent with that process, I submitted to the full Commission, to the Committee on Council Processes, and directly to this Council and its attorney a formal report documenting fifteen separate breaches of the HPC's Rules and Procedures and Robert's Rules of Order, the substantial majority of them the Chair's own direct actions — including, among others, curtailing a recognized member's floor time without a motion or vote (Breach 8). That report, attached to this submission, recommended censure and the Chair's removal from the chairmanship — not

his ejection from the Commission — because Robert's Rules reserves that more severe remedy to a process beyond what the HPC can itself impose. No response to that report has ever been provided.

26. Because the Council, not the HPC, holds the power to appoint members to the Commission, only the Council holds the power to remove one. Where conduct is serious enough that removal from the Commission itself is the appropriate remedy — not merely discipline within the HPC's own power, or removal from the chairmanship under RONR §62–63 — it is the presiding officer, acting on the Commission's behalf, who would properly bring that recommendation to the Council. That structure was not followed in the process brought against me.

Two Standards, and the One the Notice Never Applied

27. The Council's own Code of Conduct makes Robert's Rules the measure of procedural conduct. The Code, enclosed with the Notice, requires members to "follow the procedures set forth in code, bylaws, or rules and regulations, and in Robert's Rules of Order." It directs members to the procedures of whichever code, bylaw, or rule governs the matter, and to Robert's Rules; it does not subject them to a competing, unstated standard. Robert's Rules supplies its own process for addressing a member's conduct (RONR 61:10–61:11; 63:28–33). The HPC's own Rules and Procedures contain both provisions: Article I(L) directs that meetings be conducted according to the procedures set forth in Robert's Rules of Order, and Article I(M) provides for removal for cause, including for violations of the code of conduct.

28. To my knowledge, no member of the Commission moved to discipline me under that process or filed a complaint against me. Robert's Rules yields to local law where the two conflict (RONR 2:18), but no conflict arises here, because the local law adopts Robert's Rules as the procedural measure. The Notice names no rule I broke. Conduct cannot be proper under the standard the Code adopts and improper under a standard the Notice never states. If the Council contends that conduct Robert's Rules permits is nonetheless cause for removal, it must identify the standard it is applying and show where I was given notice of it.

29. Ms. Crossley's email states that I was "ruled out of order several times" at the 9 July 2026 meeting. I was never ruled out of order. A ruling is a decision that meets Robert's Rules' requirements: on a point of order, the chair determines whether the point is well taken and states his reasons (RONR 23:15); on calling a member to order, he declares the breach and, if the member holds the floor, puts the question to the assembly before the member can be silenced (RONR 61:11). A statement by the chair is not a ruling. I held the floor, and a member who holds the floor cannot be interrupted by the chair except for the purposes RONR enumerates (RONR 42:18). The email identifies no ruling, no breach, and no vote. If Ms. Crossley, or anyone else contends that I was ruled out of order, it is for them to identify each incident and show that it met those requirements.

How This Council Handled a Removal Before

30. When this Council last considered removing a commissioner for conduct, it acted deliberately and in the open. After Councilmember Rollo's motion on 1 February 2023, the Council voted 9 to 0 to refer it to the Special Committee on Council Processes. Councilmember Rollo recused himself from the committee because he had made the motion. The committee met three times in February, was advised by two Council attorneys, took public comment, and published a written report in the Council's legislative packet. It recommended that the motion be withdrawn because it did not adequately describe the conduct at issue, and that any new motion be specific, tie the conduct to the duties of the office, and give the appointee written notice and at least five business days to respond in writing. 2023 Report §§ 1.0, 2.2, 3.1–3.3.

31. None of that happened here. The member who chaired Interview Committee C is a witness to the events. The committee met once, took no public comment, issued no written report, and gave me no notice of the meeting. The committee produces no formal minutes. Its only record of the meeting is a one-page memorandum, prepared by Ms. Crossley, which records a 3-0 vote to recommend my removal and no discussion, no reasons and no evidence. To my knowledge, no recording of the meeting has been made available to me.

The Same Standard, Applied Differently

32. Councilmember Piedmont-Smith helped write the standard for removal. She sat on the Special Committee on Council Processes, which met three times with two Council attorneys and took public comment, and she signed its 1 March 2023 Report. In 2026 she sponsored Ordinance 2026-04, which made violations of the Code of Conduct cause for removal. The Ordinance sets no procedure. The only procedure this Council has is in the Report she signed.

33. Mr. Alexander was accused of far more serious conduct than I am. The motion of 1 February 2023, made by Councilmember Rollo, alleged “posting obscene and inappropriate statements, including statements directed at and antagonizing members of the public.” The statements were public Twitter posts to a resident, including a crude sexual remark about Elm Heights residents and a comment that a project would “savagely penetrate your neighborhood,” which residents called sexual-violence language. Residents told the Council that he had threatened or harassed them on Twitter and in handwritten letters, and Councilmember Rollo described the conduct as “intimidation” and “harassment” (2023 Report § 3.5). Mr. Alexander himself called his posts “stupid” and apologized for making people feel threatened. The evidence was documentary, quoted in public, and in part admitted (B Square Bulletin and Indiana Public Media reports of 2 February to 13 April 2023).

34. The Council did not vote on that motion. It referred it 9-0 to the Special Committee on Council Processes (2023 Report § 1.0). Council attorneys advised the Committee that, most likely, none of the statements met the legal definitions of obscenity, fighting words or true threats (§ 3.4). The Committee recommended that the motion be withdrawn because it did not adequately describe the conduct, and required a narrow motion, five business days for a written response, and evidence connecting the conduct to fitness to serve (§§ 1.0, 3.1–3.3). Councilmember Rollo withdrew the motion and re-filed it on 29 March 2023, listing three tweets of November 2022. He withdrew that motion as well on 12 April 2023. No vote on removal was ever taken.

35. The comparison is the point. His case had specific conduct, public documentary evidence and an admission, and it still could not proceed without specificity, notice, a written response and a link to fitness. Mine has no quoted remark, no recording and no document that has been shown to me, and it is set for a vote on 14 October. The table after para 44 sets the two side by side. Councilmember Rollo, who made both motions against Mr. Alexander and recused himself from the Committee’s work on them (§ 1.0), seconded the motion in Interview Committee C to recommend my removal. I do not suggest that my conduct resembles Mr. Alexander’s. I ask only that the Council apply to me the process it applied to him.

36. The Report required that a motion for removal be “narrow, specific, and sufficiently clear” that the appointee “fully understand the specific conduct, statements, and/or omissions that have led to the proposed removal.” 2023 Report § 3.1. The Notice quotes five provisions of the Code of Conduct and does not say which one I violated. It names two meetings and no act. Nobody has explained to me why Mr. Alexander’s motion had to describe his conduct and the Notice against me does not.

37. The Report required written notice and five business days to respond “to the specific allegations and proposed basis for their removal.” 2023 Report §§ 1.0, 3.2. I was given five business days to respond to allegations that were not specific. Nobody has explained to me why Mr. Alexander’s five days ran against specific allegations and mine did not.

38. The Report required the member making the motion to show “the relevance of and logical connection between the named conduct and how, specifically, those acts or omissions have diminished the appointee’s ability or fitness,” including any evidence. 2023 Report § 1.0. The Notice says nothing about my fitness to serve and attaches no evidence. It says only that staff “substantiated” claims. Nobody has explained to me why Mr. Alexander’s motion had to show that connection and the Notice against me does not.

39. The Special Committee did not stop at stating the standard. It applied the standard to the motion in front of it, found the motion deficient because it “does not adequately describe the conduct, statements, and/or omissions that are the basis of the proposed removal,” recommended that it be withdrawn, and declined to recommend a vote until a compliant motion was made. 2023 Report §§ 1.0, 3.1. Mr. Alexander’s motion was withdrawn on 12 April 2023.

40. Councilmember Piedmont-Smith signed that Report. Despite the standard she signed in the Alexander matter, she made no such recommendation as a member of Interview Committee C. On the record I have, she did not say that the Notice fell short of that standard, did not recommend that it be withdrawn or reissued, and did not say what a compliant notice must contain. She voted instead, with the other two members, to recommend my removal, contrary to the standard she signed. Eight days before, on 16 September, she had said, as reported in the B Square Bulletin, that other commissioners had also failed to follow Robert’s Rules and that I had raised legitimate concerns. She chairs the Committee on Council Processes, which received my documented complaint against the Chair on 31 July and acknowledged it on 5 August.

41. Why did the Special Committee stop a deficient motion against Mr. Alexander, while Interview Committee C, with the same member, advanced a deficient Notice against me? At the least, this matter should not go forward until I am given notice in the manner the Report prescribes: the specific conduct, the provision it is said to violate, its connection to my fitness to serve, the evidence relied on, and five business days to respond.

	Greg Alexander (2023)	Reynard Cross (2026)
Who began it	A named member moved, publicly	No member moved. A Notice signed by the interim Council attorney said “staff” had received information
Referred to	A special committee created for the matter; three meetings	Interview Committee C; one meeting
Counsel	Two Council attorneys advised the committee	Mr. Allen, who signed the Notice; his role at the committee was not stated in the record; an attendee reports he addressed it
Public comment	Taken	None held; I was not invited
Conduct stated	The revised motion (29 March 2023) listed the statements at issue and their dates	The Notice quotes five Code provisions without saying which was breached, and names two meetings without naming an act
Link to fitness	The revised motion tied the conduct to his “diminished ability and fitness”	Not addressed
Legal review of the speech	Attorneys assessed whether the statements were protected (Report §§ 2.3, 3.4)	None in the record I have seen
Alternatives considered	A rebuke and a code of conduct (Report § 4.0)	None shown
A defective charge	The committee advised withdrawal and declined to recommend a vote	The committee voted to recommend removal
Written report	Published, with legal analysis	None to my knowledge
Response time	Five business days from written notice of specific allegations	Five business days to respond to unspecified claims; none to respond to the 15 September email before the committee met
Recusal	The member who made the motion recused himself from the committee’s work	The Chair, who spoke with me by phone in the weeks before the Notice, chairs the committee
Outcome	Motion withdrawn on 12 April 2023	Before the Council on 14 October 2026

Selective Enforcement of the Rules

42. A governing body that enforces a rule of decorum selectively — to silence speech it disfavors, rather than to maintain order — does not escape First Amendment scrutiny by labeling the enforcement procedural. The Notice itself does not identify which specific Code of Conduct provision my conduct is alleged to have violated; it reproduces the Code in full, leaving open whether the charge rests on protected speech or on conduct properly subject to regulation. That ambiguity is not merely a notice defect — it is compounded by Breach 9 of the attached report, which documents the Chair's own stated reason for ending my recognized floor time: that I would “*continue to filibuster*,” a characterization of what was being said, not a citation to any rule that had been violated. As explained above, I held the floor, and “filibuster” is not among the purposes for which Robert’s Rules permits the chair to interrupt a member who holds it (RONR 42:18). It is not a defined term of Robert’s Rules and does not appear in the HPC’s Rules and Procedures. Robert’s Rules limits a member’s time through its rules on the length of speeches, which the assembly can modify by a two-thirds vote (RONR 43:8; 15:5), and not through the chair’s characterization of what a member is saying; and the Commission’s established practice had placed no time limit on commissioner comments before 9 July 2026 (Breach 6). A decorum limit invoked because of what is being said, rather than how it is being said, is not content-neutral order-keeping; it is a violation of the member’s First Amendment right to free speech. This Council has recognized the point itself. When it considered removing Greg Alexander, its Special Committee on Council Processes identified the Pickering test as the framework for a removal based on speech, and its attorneys advised that, most likely, none of his statements amounted to obscenity, fighting words, or true threats as those terms are legally defined. 2023 Report §§ 2.3, 3.4. *Pickering v. Board of Education*, 391 U.S. 563 (1968).

43. Each of the breaches documented in the attached report — including Breach 8, curtailing a recognized member’s floor time with no motion and no vote — was not a discretionary judgment call available to a presiding officer. It was action the Commission’s own adopted rules of procedure do not authorize any single officer to take. Action taken outside the authority those rules define is *ultra vires*, not merely irregular.

44. The HPC’s parliamentary process provides remedies for exactly this kind of dispute, and I used them, in the order the process provides, before this proceeding against me ever began. At the Commission level, points of order and points of information exist to correct a presiding officer’s conduct in real time; when I invoked them, they were not sustained or were not answered. Before formally referring these matters to the Committee on Council Processes, I gave Councilmember Zulich timely, contemporaneous notice of what I intended to raise, in writing and in conversation, and I raised the same concerns with Ms. Crossley — detailed further below. Neither led to any action beyond what is described there. Robert’s Rules also provides a remedy for a presiding officer’s own breaches beyond what the Commission itself can address — and I invoked that remedy as well, submitting, on 31 July 2026, a fully documented briefing to the Committee on Council Processes, which acknowledged it in writing on 5 August, and then a report on the Chair’s procedural conduct to the full Commission, the Committee and this Council with my Response of 25 August 2026. No action has been taken on either to date.

Contemporaneous Reactions: Encouragement, Not Concern

45. Councilmember Zulich’s connection to this matter did not begin with this proceeding. She recruited me to serve as the Council’s appointee to the HPC after more than five years as a voting member, and invited me to apply — a relationship that continued well beyond the appointment itself. She also holds two roles directly relevant to what follows: she has described herself to me as the Council’s liaison with direct responsibility for HPC matters, and she serves on the Committee on Council Processes, the body to which I referred my concerns. I addressed her in both capacities throughout the events described below, keeping her informed as they occurred, in writing and in conversation.

46. On 1 July 2026, days after the Commission’s 25 June 2026 vote approving the Seminary Pointe demolition delay, I sent her a draft memorandum proposing to rescind that vote, followed by a revised version the next day. After the 9 July 2026 meeting, I sent her a draft of the briefing memorandum I intended to submit to the Committee on Council Processes. We arranged for a phone call to happen on 13 July 2026.

47. That call took place at 5:45 p.m. and lasted over forty minutes. During the call, I told her of my intention to resign from the Commission in protest. She discouraged me from doing so, telling me that the Council needed people with the knowledge and willingness to hold others accountable when something was going wrong. When I told her I was not interested in continuing to serve, certainly not under the current Chair, she offered instead to help me find another board or commission on which to serve — a response consistent with someone who believed I had done nothing wrong, not one consistent with someone who believed I had violated the Code of Conduct. I also told her, in that same conversation, of my intention to continue raising points of order and points of information at the next meeting rather than let the matter rest. She encouraged me to do exactly that.

48. I had a comparable conversation with Ms. Crossley on 16 July 2026 after the 25 June 2026 vote and the 9 July 2026 meeting, lasting an hour and thirty-four minutes. We discussed the same underlying issues at length. Ms. Crossley agreed that the Commission's handling of these matters indicated there were problems, though she attributed it to unfamiliarity with Robert's Rules and a misunderstanding of what parliamentary procedure is meant to achieve, rather than to any misconduct. At no point in that conversation did she raise any concern about my own conduct. The discussion was amicable, including where we disagreed, and it ended with both of us looking toward how to correct previous mistakes and how to prevent a recurrence.

49. Both conversations took place after the 9 July meeting now cited against me and before the 23 July meeting, and neither raised any concern about it. The two people with the most direct, contemporaneous knowledge of what was happening, who spoke with me about it at length, raised no concern about my conduct and, in Councilmember Zulich's case, affirmatively encouraged the very persistence now characterized as improper. I leave it to this Council to consider what weight that contemporaneous record should carry against a characterization offered only afterward.

The Standard Applied to No One Else

50. The conduct cited against me is not unique. On 31 August 2026, ten days after the Notice against me issued, the Committee on Council Processes held a public meeting addressing the same underlying pattern of Robert's Rules violations at the HPC, including the Chair's conduct during the Seminary Pointe votes. That was more than three weeks before Interview Committee C recommended my removal. Deputy Clerk Crossley, who is responsible for commissioner training on parliamentary procedure and is the only person who has put an account in writing, told the Committee that attendance at the mandatory Robert's Rules training she administered was under 50 percent. Ms. Crossley attributed the shortfall to the summer timing of the sessions and to the demands of administering training across all of the City's boards and commissions. She stated that she had personally offered to walk any commissioner through Robert's Rules one-on-one, and that no one had taken her up on it.

51. The Committee did not treat this as a basis for discipline. No complaint was filed, and no referral for removal was made, against the Chair or any other HPC member for the same category of conduct — a lack of familiarity with Robert's Rules — that underlies the Notice against me. A fellow HPC commissioner told the Committee directly, of the same votes at issue here, "I think the failure lies with all of us." Several other members of the public spoke at that same meeting in opposition to any action against me, including one who described the matter as "a political difference being disguised as a violation of conduct."

52. The same conduct, examined by the same City officials within weeks of each other, produced two different results: for every other participant — and especially the Chair, whose conduct during the Seminary Pointe votes was the specific subject of this meeting — an acknowledged training failure calling for more instruction; for me, a Notice of removal. That is selective enforcement: a standard invoked specifically to remove me, while the City treated the identical conduct in everyone else, and especially the Chair, as a shared, institutional problem requiring no discipline at all.

53. That standard is especially indefensible as applied to the Chair. Robert's Rules of Order Newly Revised requires that the presiding officer "be well versed in parliamentary law" and "thoroughly familiar with the bylaws and other rules of the organization" (RONR 47:6), and that "a presiding officer should make every effort to know more parliamentary procedure than other members" (RONR 47:15) — a duty the Rules place on the Chair alone, not on the general membership and not on an advisory member like me.

54. The training gap Ms. Crossley described to the Committee was, on her own account, a failure in the one role Robert's Rules holds to the highest standard. It was also a failure in her own area of institutional responsibility: administering that training was her job. I do not assert that Ms. Crossley's complaint against me was motivated by a wish to deflect attention from that failure. I raise the point because, whatever her intention, that is its effect: it assigns to me, individually, a breach of the same rules that she told the Committee on Council Processes reflected a systemic training shortfall under her own administration — while the Chair, whose conduct was the actual subject of that shortfall, faced no complaint, no referral, and no consequence at all.

Ms. Crossley's Email, Allegation by Allegation

55. Ms. Crossley's email was sent to nine councilmembers at 10:26 p.m. on 15 September 2026, with copies to Mr. Allen and the Clerk. I was not copied. It is dated twenty-five days after the Notice, so it cannot be what the Notice rests on. It alleges that I violated the Code of Conduct enclosed with the Notice, and quotes five of its provisions, which I refer to by their key words: **Compliance** (comply with laws, ordinances and policies); **Respect** (be patient, respectful, polite and courteous); **City operations** (no behavior or speech detrimental to City operations or the public interest); **Chair and Robert's Rules** (respect the chair and follow code, bylaws, rules and Robert's Rules of Order); and **Time** (be mindful of time, stay on topic, avoid unnecessary repetition).

56. The standard for cause is the one this Council's Special Committee on Council Processes stated in 2023: the provision breached, the specific facts, their bearing on fitness to serve, and the evidence (2023 Report § 1.0; paras 39–41 above). The email asserts a conclusion, "it is my recommendation that Mr. Cross be removed for cause," and demonstrates none of the four. It came twenty-five days after the Notice, which had already said that staff "substantiated" its claims, and it reached the Council with no motion behind it. Each allegation is taken in turn below.

57. **"Ruled out of order several times" (9 July). Provision:** Chair and Robert's Rules. **Standard:** A member is ruled out of order when the chair decides a point of order and states his reasons (RONR 23:15), or calls the member to order and puts the question to the assembly (RONR 61:11). A member who holds the floor may be interrupted only for the nine purposes in RONR 42:18. **Record:** The Commission's approved minutes of 9 July record no point of order, no appeal, no ruling and no calling to order of any member, though Robert's Rules says the minutes should record them (RONR 48:4, items 10 and 11). They record a motion by Mr. Baker, seconded by Mr. Castenada, to limit commissioner comments to three minutes, which they record as carried 5-3-0, with the Chair voting in favor. Six votes were required (RONR 15:5(7)). The email names no ruling. **Result:** There was no ruling for me to breach.

58. **A "45-minute heated exchange" that delayed the meeting; "abruptly left" (23 July). Provision:** Time. **Standard:** Robert's Rules limits a speech to ten minutes only while a debatable motion is pending (RONR 43:8). Points of Information and Commissioner Comments are not debate on a pending motion, and any other limit requires a two-thirds vote on a motion that any voting member may make (RONR 15:5(7)). Robert's Rules has no rule against heated debate. The HPC's Rules set no limit on commissioner comments, and none had been set before 9 July (Chair Report, Breach 6). The only limit ever put to a vote was the three-minute limit of 9 July, which the minutes record as carried 5-3-0 when six votes were required, and which my 31 July briefing to the Committee on Council Processes and the Chair Report describe as applying to that meeting only. **Record:** No limit was moved on 23 July by the Chair or by any voting member. The Commission's minutes of 23 July record no exchange, no duration, no recess and no adjournment time. They record that I raised a point of order that the 9 July limit required a two-thirds vote, and that "a majority vote was held in lieu of"; that the only delay was the

Commission's own, holding COA 26-23 until after DD 26-10 "to allow petitioner time to arrive," and denying it without prejudice, 5-0, when the petitioner was "still not present"; and that I left before DD 26-10. They do not say that any petitioner was kept waiting. The Chair Report documents that I was cut off after the first item with no motion and no vote, and that the Chair declined to answer a factual question the Commission's amended minutes already answered (Breaches 8, 10, 11, 15). **Result:** An exchange takes two or more people, and only I am blamed for it. I do not vote, so my leaving affected no vote, and no Code provision or HPC rule requires an advisory member to remain until adjournment. The members empowered to judge whether the discussion should continue did not use the rules to curtail it.

59. **"Combative ... argumentative," and "disparaging fellow commissioners and staff."** **Provision:** Respect. **Standard:** A breach needs a specific remark or act. **Record:** The email names no remark, no date and no person. Its own account of 25 June says my disappointment was "not to the level of disrespect." On 16 July Ms. Crossley spent an hour and thirty-four minutes on the phone with me and raised no concern (para 51 above). The disparaging remarks in the record are the Chair's: "theatrics" and "wasting everybody's time" (Chair Report, Breach 14). **Result:** No instance is given, and her own concession answers the allegation.

60. **25 June: "none ... made any motions to postpone."** **Provision:** Chair and Robert's Rules. **Standard:** Where a request is informal but clear, the chair must help put it into motion form (RONR 4:17–18). HPC Rule I(K) lets members "decide to delay the discussion until enough information is presented." An advisory member cannot move, as she says herself and as she told the Committee on Council Processes on 31 August. **Record:** Commissioners Butler, Cross and Schlegel each asked for a two-week continuance. The amended minutes name six commissioners in the postponement discussion, and the closing comments record "disappointment" that the extension "did not happen" (Chair Report, Breaches 1–3). **Result:** The missing motion was the Chair's duty, and I had no right to make it.

61. **Contact with HAND, and the email to city staff "just yesterday" (14 September).** **Provision:** City operations. **Standard:** Contacting staff is a breach only if it is shown to be detrimental or outside procedure. **Record:** By the Commission's practice, a commissioner's communication to other HPC members goes through the Program Manager, who is HAND staff, so writing to staff is the procedure. On 30 July I sent my Points of Information to Program Manager Noah Sandweiss for forwarding, "consistent with how similar communications have been distributed in the past." They went unanswered by the 6 August deadline I set. I then wrote again, asking whether the Chair intended to respond at all and setting a further deadline; that deadline also passed without a response (Chair Report, Table 1). They were also held for a time by the City Attorney's Office (para 24 above). The email does not say what the 14 September message was, what it asked, or what harm followed. **Result:** I cannot have followed the procedure and breached it at the same time. Asking again for an answer never given is not repetition of a question addressed, and writing to this Council about a documented procedural complaint is likewise not a breach of any provision.

62. **"I struggled to interject."** **Provision:** none. **Record:** A private phone call is not a meeting, and no provision of the Code governs how one is conducted. In the 16 July call she raised no concern, and the call was amicable (para 51 above). **Result:** The allegation is not relevant to cause.

63. **"Former voting member who was not reappointed."** **Provision:** none. **Record:** My term ended on 31 December 2025, and I served a further month, to the end of January 2026. This Council appointed me advisory commissioner on 22 April 2026, on the recruitment of its own liaison (para 48 above). **Result:** A term that ends is not conduct and is not cause.

64. **"Some of them are likely to resign."** **Provision:** none. **Standard:** Cause means that the member did something that breached a specific provision. A forecast about what other people may do is not something I did. **Record:** No commissioner is named, and the statement is second-hand. The one commissioner on the record, on 31 August, said "the failure lies with all of us" (para 54 above). **Result:** It describes a possible reaction by others and proves nothing about my conduct.

65. **“Bottom line ... ongoing training.”** Ms. Crossley’s stated remedy is training for everyone. On 31 August, fifteen days before she recommended my removal, she told the Committee on Council Processes that attendance at the mandatory training was under fifty percent. The responses to Ms. Butler’s email that she attached answer concerns a member of the public raised about 25 June. They have not been provided to me, and an independent concern about that meeting supports mine.

Why the Council Cannot Claim Necessity Now

66. Equity recognizes the doctrine of unclean hands: a party that has itself contributed to the wrong it now asks a court to remedy may not obtain that remedy, because a court of conscience will not grant relief to a party responsible for creating the very harm it complains of. This Council is not a court of equity, but the same logic bears directly on what is being asked of it here: it is being asked to act against the one person who followed every available channel to report a documented pattern of misconduct, while it did nothing about that pattern once it was fully in hand.

67. Criminal law recognizes a parallel principle in its treatment of self-created necessity: a defendant may not justify an otherwise unlawful act by pointing to an emergency the defendant manufactured. That doctrine does not govern a legislative body’s removal proceeding, but its logic applies just as directly: whatever urgency is now said to justify acting against me was produced by this Council’s own decision to leave a fully documented, properly submitted report unanswered for over a month. A body cannot manufacture the conditions that make an action seem necessary and then rely on that necessity to justify the action.

68. It was only after each remedy available to me, at every level, went unanswered that responsibility to act passed to this Council. A body that had the complete record and the authority to act, and did not, cannot now treat the resulting situation as though it arose independently of its own inaction.

Summary of the Record

- **No specific notice.** The Notice never identified which of the Code of Conduct’s provisions applied, the specific facts said to violate it, how those facts connect to that provision, or how my fitness to serve was implicated — all four elements this Council’s own standard requires.
- **The complaint underlying the Notice has not been identified to me.** To my knowledge, the Notice does not say what complaint(s) prompted it, who made it, or when. Ms. Crossley’s email recommending my removal is dated 15 September 2026, nearly a month after the Notice issued, so it cannot be the complaint the Notice rests on. I cannot answer an accusation whose source I have not been told.
- **No opportunity to be heard.** I was not permitted to speak at either Council session or at the Interview Committee C hearing; the committee heard only from Attorney Allen, the Notice’s author, and Ms. Crossley, the author of the only written account.
- **No motion to initiate removal.** Unlike the Alexander matter, where a Council member moved on the floor, the Council’s own committee required a narrow, specific motion, and the appointee was offered five business days to respond in writing, no Council member moved to begin a removal proceeding against me, though the Special Committee on Council Processes’ own standard contemplates that such a motion precede the Notice.
- **Every available channel was used, before any proceeding began.** Points of order and points of information at HPC meetings; written memoranda to the Chair, the full Commission, the Committee on Council Processes, and this Council; and direct, contemporaneous notice to Councilmember Zulich — all predate the Notice against me.
- **Selective enforcement.** The Chair’s own documented breaches of Robert’s Rules — including curtailing a commissioner’s floor time without a motion or vote — produced no complaint and no consequence, while I face removal for far less under the same rules.
- **A City Attorney’s Office with a stake the record does not show was disclosed.** An Assistant City Attorney advised the HPC it lacked authority to revisit the vote I was challenging while also serving as counsel to the Redevelopment Commission, which has a direct stake in that outcome, and the record does not show he informed

the HPC of that role; a Senior Assistant City Attorney interjected, unrecognized, during my Points of Information; and the attorney who authored the Notice against me previously led that same office.

- **The decisionmaker at Interview Committee C was not impartial.** Councilmember Zulich received my reports of these breaches directly and repeatedly and took no action on them for over two months. The day after Ms. Crossley's email recommending my removal, the matter was sent to the committee Councilmember Zulich chaired, which voted nine days later after hearing only from the Notice's author and Ms. Crossley. A person cannot fairly judge a matter in which she is a witness and in which her own inaction is at issue.
- **A standard applied to no one else.** The Deputy Clerk responsible for commissioner training acknowledged a systemic training failure most evident in the Chair's own conduct — the one rule Robert's Rules holds to the highest standard of anyone in the room. The Chair faced no complaint and no consequence for falling short of it; I, who carry no such enumerated duty, face removal.
- **Any urgency here is self-created.** Whatever necessity the Council now cites is the product of its own two-month failure to act on my earlier, timely complaints.
- **Contemporaneous reactions were supportive, not alarmed.** When I considered resigning, Councilmember Zulich discouraged me, said the Council needed people willing to hold others accountable, and offered to help me find another board if I still wished to leave the HPC.

Conclusion

69. Measured against this Council's own standard, this process has failed both procedural and substantive due process. In 2023, when the Council considered removing a commissioner, its own committee, advised by two attorneys, explained that procedural due process requires notice and an opportunity to respond, and that substantive due process requires a rational basis that is not arbitrary or capricious (2023 Report § 2.2). It called for a specific motion, a narrow and clear statement of the conduct at issue, a link between that conduct and fitness to serve, and written notice with five business days to respond (*id.* §§ 1.0, 3.1–3.3). Every one of those safeguards is missing here.

70. Procedurally, no member moved to remove me, and the member who chaired the committee is a witness to the events. I was not given proper notice as required for removal for cause. 2023 Report §§ 2.2, 3.2; *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 546 (1985). I was not even notified of the meeting at which my removal was recommended. Substantively, the Notice identifies no provision I breached, no act that breached it, and no connection to my fitness to serve, so no rational basis can be found in it, and it issued twenty-five days before the only written account that has come to light, which I learned of from the press, not from this Council. Either it was written with no account behind it, or the account has not been provided to me. I have asked for the records and have received none. When an account finally appeared, it came from the official responsible for the commissioner training whose failure the Committee on Council Processes had examined fifteen days earlier; it is an unsupported account, a claim without evidence, while the Chair's documented breaches, which are evidence, drew no complaint, and the Council is entitled to ask why.

71. A removal built on an unexplained Notice, an account that postdates it, a witness serving as judge, and a standard enforced against one member alone is not a process. The Council's own committee has already told it what a lawful one requires.

Recommendation

72. In light of the foregoing, I respectfully ask the Council to decline to proceed to a vote on removal until the procedural deficiencies identified above have been cured — including a proper motion on the record, adequate specific notice, and a genuine opportunity to confront the basis for the charges and present a defense.

73. I have requested the records that would show how this matter began: the information the Notice says Council staff received, the substantiation the Notice says staff completed, and the communications about me

among Council staff, the Clerk's office, the City Attorney's office and members of this Council. My request for records concerning the Notice was made in my response to the Notice; however, as of this Appendix I have received none of the records I have requested. A member cannot answer an account he has not seen, and the Council cannot fairly weigh a recommendation whose basis has been withheld from the person it concerns.

74. I ask the Council to take no vote on 14 October. If it proceeds, I ask that before any vote: (1) a member of the Council move my removal, stating the grounds, as was done for Greg Alexander, Luke Swain, Jenna Buckner and Jose Fuentes; (2) I receive written notice naming the Code of Conduct provision, the conduct, the dates, and its bearing on my fitness to serve; (3) I receive the information the Notice describes, the staff substantiation, and the records I have requested; (4) I have five business days after receiving them to respond in writing, and an opportunity to be heard; and (5) any member who is a witness to the events, including the Chair of Interview Committee C, recuse from the matter, as Councilmember Rollo recused himself from the Special Committee's work in 2023 because he had made the motion.

References

Judicial opinions, statutes and ordinances, the parliamentary authority, and official City records cited in this Appendix, followed by the news reports relied on where indicated.

Judicial Opinions

Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009).
Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985).
Gagnon v. Scarpelli, 411 U.S. 778 (1973).
Goldberg v. Kelly, 397 U.S. 254 (1970).
Pickering v. Board of Education, 391 U.S. 563 (1968).
Waller v. City of Madison, No. 21A-PL-928 (Ind. Ct. App. 3 February 2022), *trans. denied*.
Ward v. Village of Monroeville, 409 U.S. 57 (1972).
Willner v. Committee on Character and Fitness, 373 U.S. 96 (1963).
Withrow v. Larkin, 421 U.S. 35 (1975).
Wolff v. McDonnell, 418 U.S. 539 (1974).

Constitutional Provisions, Statutes, and Ordinances

U.S. Const. amend. I; amend. XIV, § 1.
 Ind. Code § 36-7-11-4(f).
 Bloomington Municipal Code §§ 2.02.050, 2.08.020(4) (§ 2.08.020(4) as in effect in March 2023; relocated to § 2.02.050(4) by Ordinance 2026-04).
 Bloomington Common Council, Ordinance 2026-04 (passed 18 February 2026).
 Code of Conduct for City of Bloomington Boards and Commissions (enclosure to the Notice of Removal Hearing, 21 August 2026).
 Bloomington Historic Preservation Commission, Rules and Procedures, Art. I(L)–(M).

Parliamentary Authority

Robert’s Rules of Order Newly Revised (12th ed. 2020), §§ 2:18, 4:17–18, 15:5, 23:15–23:16, 42:18, 43:8, 47:6, 47:15, 48:4, 61:10–61:11, and 62–63 (including 63:28–34 and 63:34 n.1).

Official Records

Notice of Removal Hearing, Office of the Common Council, City of Bloomington (21 August 2026) (signed by Larry Allen, Interim Common Council Attorney).
 Email from Jennifer Crossley, Deputy Clerk of Communications and Outreach, to members of the Common Council, “Points of information regarding Mr. Cross” (15 September 2026, 10:26 p.m.).
 Bloomington Common Council, Interview Committee Team C, Notice of Meeting and Memorandum (24 September 2026).
 Bloomington Common Council, Regular Session agendas (2 September 2026 and 16 September 2026).
 Bloomington Common Council, Special Committee on Council Processes, Report to Council (1 March 2023), Legislative Packet Addendum, Regular Session of 1 March 2023.
 Bloomington Common Council, Regular Session (1 February 2023) (motion of Councilmember Rollo concerning Greg Alexander).
 Bloomington Common Council, Regular Session, Memorandum (29 March 2023) (motions of Councilmembers Rollo (Alexander) and Volan (Swain)).
 Bloomington Common Council, Regular Session, Memorandum (12 April 2023) (withdrawal of Councilmember Rollo’s motion concerning Greg Alexander; motion of Councilmember Piedmont-Smith concerning Luke Swain).
 Bloomington Common Council, Regular Session, Memorandum (4 December 2024) (motion of Councilmember Ruff, seconded by Councilmember Stosberg, concerning Commissioner Buckner).
 Bloomington Common Council, Regular Session, Minutes (5 November 2025) (motion of Councilmember Flaherty, seconded by Councilmember Asare, concerning Commissioner Fuentes).
 Bloomington Common Council, Committee on Council Processes, public meeting of 31 August 2026 (recording and transcript).

Email from Councilmember Piedmont-Smith to Reynard Cross (5 August 2026) (acknowledging receipt of the briefing memorandum to the Committee on Council Processes).

Bloomington Historic Preservation Commission, regular meetings of 25 June 2026, 9 July 2026, and 23 July 2026 (recordings and minutes).

Legal Memorandum, “Rescinding a Demolition Delay Decision,” from Anna Holmes, Senior Assistant City Attorney, and Dana Robert Kerr, Assistant City Attorney, to the Bloomington Historic Preservation Commission (9 July 2026).

News Reports

B Square Bulletin and Indiana Public Media, reports on the Alexander matter (2 February to 13 April 2023).

B Square Bulletin, report of Councilmember Piedmont-Smith’s remarks at the Regular Session of 16 September 2026.