

Item 26-016:
Council Discussion and Action on
Councilmember Bowen's
Request for Discipline
Regarding Councilmember Simon

January 20, 2025 Regular City Council Meeting

Presenter: Richard D. Pio Roda, City Attorney

Overview

- 10/24/25: VM Bowen requests discipline (SLAC Ch. 1.13)
- 12/8/25: Scheduling of consideration of discipline
 - Set for 1/20/26 regular Council meeting after Brown Act issue concerning discussion at 11/3/25 meeting
- 1/5/26: Council waived attorney-client privilege applicable to investigation report of CM Bowen's complaint to City HR Dir.
 - CM Bowen's request for discipline relies upon the facts and findings in the investigation report

Disciplinary Hearing Procedure

- San Leandro Administrative Code (SLAC) Sec. 1.13.110:

“A Councilmember seeking to provide information to the Council concerning the specific conduct for which discipline is requested must submit written information to the City Manager for distribution to the whole Council. The request must contain the specific charges on which the proposed discipline or censure is based, and sufficiently specific facts and allegations as to the charges.”

- Specific charges:

“Pattern of bullying/abusive conduct towards her, in violation of the behavioral standards applicable to City Councilmembers set forth in the City’s Code of Ethics, Council Commitments, and the Council Member Handbook.” (from VM Bowen’s 10/24/25 request for discipline)

Facts and Findings Re: CM Simon

- Facts: October 27, 2025 investigation report by Jane Kow of HR Law Consultants
- Findings:
 - CM Simon retaliated against CM Bowen following her vote on CM Simon's censure at the 11/18/24 Council meeting (pgs. 6, 10)
 - CM Simon's comments derailed the City Council's consideration and vote on CM Bowen's priorities at the April 2024 planning session (pg. 15)
 - CM Simon subjected CM Bowen, female City Council Members, and a female employee to differential treatment reflecting gender bias (pgs. 7, 20)

Council Consideration of Discipline

- SLAC Section 1.13.115:

“Council must determine whether discipline short of censure is warranted, or to move towards censure. This discussion is a matter of public record and must take place during an open, noticed, and public meeting of the City Council.”

- A Councilmember who is the subject of an alleged violation shall be ineligible to vote on any matter related to a disciplinary action including, but not limited to, agendizing the hearing and adopting a resolution of censure.
- Actions of the Council shall require the affirmative votes of a majority of the entire Council membership (Municipal Code Sec. 1-1-305)

Discipline Short of Censure

- **Based on one or all of the findings in the report the Council could decide upon one or more of the following, or a combination of these, or discipline that includes conditions that if not met or accomplished could lead to a censure hearing, or a different discipline short of censure:**
 - **(a) Consultation with Mayor.** At the direction of the City Council, an informal consultation with the Mayor may be required of the member who is the subject of the request. If the subject of the request is the Mayor, the consultation shall be with the Vice-Mayor.
 - **(b) Letter of Reprimand from the City Council.** At the direction of the City Council, the Mayor, or Vice-Mayor if the Mayor is the subject of the discipline, shall coordinate with the City Manager and/or City Attorney on issuing a letter of reprimand to the subject Councilmember. The reprimand shall be based on a particular action (or set of actions) that is determined to be in violation of law or City policy but is considered by the Council to be not sufficiently serious to require formal censure. The letter of reprimand may include recommendations for corrective actions or behaviors.
 - **(c) Statement of Disapproval.** By a resolution of the City Council, the Council may adopt a statement expressing disapproval or displeasure with the conduct of a Council member including recommendations for corrective action or behavior.
 - **(d) Admonition.** By a resolution of the City Council, an admonition that a particular type of behavior or action may become or is a violation of law or City policy.

What is a Resolution of Censure?

- A resolution of censure signifies a formal, serious reprimand for misconduct, often for severe violations.
- Based on clear and convincing facts supporting the allegations of misconduct giving rise to the censure.
- A resolution of censure requires substantive and procedural due process

Censure Procedure

- SLAC Sec. 1.13.115: “The Council must move towards censure”
- SLAC Sec. 1.13.120: “If the Council decides to set the matter for censure hearing, it shall schedule the hearing no sooner than two weeks after its determination to hear the matter. The Council shall not schedule the matter during any previously scheduled excused absence of the subject Councilmember.”
- Censure hearings can happen at a regular or special meeting and are open to the public.

Censure Hearing

- Written Notice to the subject Councilmember at least 10 days in advance of the scheduled hearing
- **Hearing Procedures.**
 - Opportunity to make an opening and a closing statement, to call witnesses on his or her behalf and to question his or her accusers.
 - Councilmember may be represented by a person or persons of his or her choice and may have that representative speak or question witnesses on his or her behalf. The questioning or cross-questioning of witnesses may be reasonably limited by the Mayor
 - Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration.
 - Rules of evidence and judicial procedure applicable in courts of law do not apply to this hearing, and the procedures shall be generally informal.

Censure Action

- **(a) Direction to Correct.** The direction shall be given to the subject Councilmember to correct the result of the behavior that violated law or City policy.
- **(b) Direction to Attend Training.** Direction shall be given to the subject Councilmember to attend training related to the behavior that violated law or City policy. The Council could also find that Council privileges shall be withheld or unavailable until evidence or independent certification is provided by the subject Councilmember to the City Council that the training was completed.
- **(c) Resolution of Censure.** The City Council may adopt a resolution of censure based on clear and convincing facts supporting the allegations of misconduct giving rise to the censure. A resolution of censure may include the imposition of sanctions against the Councilmember as the City Council deems appropriate. Such sanctions may include removal from internal standing or ad hoc committees, removal from an external committee to which the member had been appointed, and/or restrictions on City-related travel privileges.

Direction from Council to Staff on Discipline

- Does the Council want to impose discipline?
- If so, what discipline does the Council want to impose?
 - Any of Items a) – d)?
 - All of the items
 - Combination of items or a different unlisted item short of censure
 - Completion of task / training with conditions that if not completed result in going to formal censure?
 - Move to Censure