

General Allegations

At times material to these preferred charges, on or about the dates and approximate times stated:

Introduction

1. Derek Cornette is a duly elected Alderman representing the City of Davenport's 7th Ward.
2. As a ward alderman, Derek Cornette has an obligation to honorably perform the duties required of his office. Davenport Municipal Code §2.08.010.
3. Among the duties Alderman Cornette shall perform are:
 - a. providing a productive and safe work environment free of harassment,
 - b. not appearing at city council meetings and functions in a state of intoxication.

4. Grounds for removal from office include willful misconduct or maladministration in office (Iowa Code §66.1A(2)) and intoxication (Iowa Code §66.1A.6)).
5. Willful misconduct or maladministration in office involves:
 - a. a breach of duty committed knowingly and with a purpose to do wrong.
6. Being intoxicated includes acting while under the influence of an alcoholic beverage (Iowa Code §321J.2(1)(a)) as well as having a blood alcohol concentration level of .08 or more (Iowa Code §321J.2(1)(b)). Davenport Municipal Code §5.10.280(A) makes it unlawful for a person to be intoxicated or to simulate intoxication in any public place (see, also Iowa Code §123.46(2) and (3)).

Incident 1

7. On or about February 28, 2023, in conjunction with a Management Update and Mayor/Council Discussion, Corporation Counsel Warner expressed concern to Davenport Chief of Police Jeff Bladel that Alderman Cornette was possibly intoxicated or exhibiting signs of being intoxicated.

8. Warner expressed to Bladel that Cornette's speech was slurred and his eyes were glassy, extremely red and bloodshot.

9. Physical signs and symptoms of alcohol use include, but are not limited to: an unsteady gait, nystagmus, impaired attention or memory, slurred speech, sweating, interference with decision-making, flushing of the face, glassy eyes, bloodshot eyes, louder speech than usual, mood swings, and aggression.

10. Bladel and Warner, together with Human Resources Director Alison Fleming, decided to make contact with Alderman Cornette after the meeting concluded.

11. After the meeting ended – approximately one hour later – Warner and Bladel approached Alderman Cornette and discreetly escorted him to the Human Resources Conference Room where HR Director Fleming was waiting.

12. Chief Bladel's initial observations of Alderman Cornette's physical conditions as they were escorting him to the HR conference room were that his face was flushed, his eyes were red, and he had gum or a mint in his mouth.

13. Bladel also noted that Alderman Cornette was resistant to the meeting and belligerent in his responses to City Attorney Warner.

14. During the meeting, Warner expressed concern to Alderman Cornette about the possibility that he was intoxicated given the physical

signs of alcohol ingestion he was displaying. Warner asked Cornette if he had been drinking alcohol and Cornette said he had been earlier in the day, but was fine and had no issues.

15. Alderman Cornette was offered assistance for alcohol usage and told that if was drinking alcohol or intoxicated he should not attend city council meetings.

16. Chief Bladel offered Alderman Cornette the opportunity to take a preliminary breath test and Cornette declined.

17. Given Chief Bladel's concerns about Alderman Cornette's sobriety level based upon the physical signs of alcohol usage he was displaying, Bladel refused to allow Cornette to drive himself home. Bladel and Warner walked with Cornette to the Harrison Street side of city hall where Capt. Behning met them and gave Cornette a ride home.

18. Immediately prior to the next committee of the whole meeting Alderman Cornette walked up to Chief Bladel to a point of close proximity, extended his hand for a handshake and asked Bladel if he wanted to PBT him?

19. Warner and Fleming conducted a follow-up meeting with Alderman Cornette on or about March 10, 2023 in which they re-enforced

their prior message that he should not show up to city meetings under the influence of alcohol.

Incident 2

20. Immediately prior to the May 3, 2023 Davenport Committee of the Whole meeting Major Brown of the Davenport Police Department approached Officer Carver regarding the possibility that Alderman Cornette was intoxicated.

21. Carver initiated a brief interaction with Alderman Cornette for the purpose of gauging his sobriety.

22. During their his interaction with Cornette Officer Carver noted that Cornette's eyes were glassy and bloodshot, but he did not detect the odor of an alcoholic beverage on Cornette's breath. He noted Cornette's speech was labored and slow, but did not observe him to slur any of his words.

23. Officer Carver noted that during the meeting Mayor Matson called upon Alderman Cornette to read from the agenda and observed that his speech was labored, but not slurred.

24. After the meeting concluded Scott County Sheriff Lt. Sean Thompson, Corporation Counsel Warner, Major Brown, and Officer Carver approached Alderman Cornette and had a conversation with him.

25. Alderman Cornette admitted to consuming alcohol prior to attending the meeting.

26. After speaking with Lt. Thompson, Alderman Cornette agreed to submit to a preliminary breath test.

27. Cornette's preliminary breath test result showed Cornette had a blood alcohol concentration of .072 immediately after the May 3rd city council meeting.

28. On average the human body metabolizes alcohol at the rate of one drink per hour. Thus, Lt. Thompson explained to Alderman Cornette that at the beginning of the May 3rd city council meeting his blood alcohol concentration would have been above the legal limit of .08.

Incident 3

29. Also immediately prior to the May 3, 2023 committee of the whole meeting, Alderman Cornette reached out and took the hand of city female employee 1, referred to her to her face as "his little mama" and told her "you're so beautiful."

30. This interaction was witnessed by two of city female employee 1's direct subordinates and a city male employee 1.

31. The city male employee 1 apologized after the meeting to city female employee 1 for Cornette's behavior.

32. City female employee 1 informed HR Director Fleming that she was uncomfortable with the situation as it was happening and left Cornette's presence as quickly as she could to escape the situation only to have Cornette approach her again when she returned to the council chambers and took a seat prior to the meeting.

33. On or about May 8, 2023 Warner and Fleming met with Cornette in the HR conference room where Warner re-iterated to Cornette that it was wholly inappropriate to refer to female staff employees by pet names like sweetie and dear.

34. Cornette's initial reaction to this was to be defensive and combative. He communicated that he didn't believe him referencing female employees by pet names was wrong and that people needed to have thicker skins and not be offended by everything.

35. Fleming and Warner specifically discussed Cornette's May 3rd inappropriate interaction with city female employee 1. Warner specifically instructed Cornette several times to cease all harassing behavior and not to retaliate against anyone involved. Warner explicitly told Cornette not to touch employees and not to address employees in the manner previously discussed with him. Fleming told Cornette to be cognizant of the fact that

while the person he was addressing might not take offense, a bystander might be offended.

36. Cornette expressed understanding and a willingness to be compliant.

Incident 4

37. On or about May 18, 2023, Alderman Cornette left a voicemail on the Human Resource Assistant's phone; she forwarded the voicemail to HR Director Fleming.

38. In his voicemail message Cornette said:

"Hi, this is Derek Cornette. I'd like a copy of ... the ... corporation counsel's job description and the assistant city attorney's job description. I'm thinking about applying. Give me a call or send me an email. Thank you very much ... "

39. Fleming shared this information with Corporation Counsel Warner.

40. City of Davenport administrative policy 3.11 prohibits retaliatory actions against employees who report complaints of harassment or those who participate in the investigation of harassment.

41. Alderman Cornette's voicemail message constitutes retaliatory conduct directed at an investigator of harassment.

Incident 5

42. On May 22, 2023 another meeting follow-up meeting had been scheduled for Cornette to meet with Fleming and Warner. Cornette responded to the meeting invite as “tentative” despite being listed as a required attendee.

43. At 3:00 p.m., the meeting’s start time, Cornette was not present so Fleming and Warner called his cell phone number.

44. With loud music playing in his background environment, Cornette answered the phone; so it was clear he did not intend to come in for the meeting.

45. Warner told Cornette that the meeting would be re-scheduled for the next day and that his attendance was required.

46. At 4:01 p.m. Warner sent an email to Cornette informing him that he had been placed in communication protocol and was only allowed to communicate with city staff members through Corporation Counsel Warner or Assistant Corporation Counsel Heyer.

47. Warner placed Cornette in communication protocol because the risk of him engaging in harassing behavior was too great to delay limiting his interactions with staff and the city has a legal responsibility to protect its employees from harassing behavior.

48. On May 23, 2023 Fleming and Warner met with Cornette in the HR conference room. Cornette began by telling Fleming and Warner that he had been good since the prior May 8th meeting.

49. Warner then played an audio recording of a voicemail message Cornette had left on May 18th on the city administrator's phone.

50. Cornette concluded his voicemail message to the city administrator saying, "Love ya, babe!"

51. Cornette's response to this was, "So?"

52. Warner played the audio recording a second time.

53. Cornette's response remained flippant and he was argumentative and combative while defending he had done nothing wrong.

54. Warner discussed drinking alcohol prior to council meetings and re-enforced that Alderman Cornette was very likely above the legal limit at the beginning of the May 3rd meeting. That would also mean that he drove to the meeting while under the influence.

55. Warner made it clear that if Alderman Cornette showed up for a council meeting intoxicated he would be arrested.

56. Warner also provided examples of inappropriate employee interactions involving Cornette and his use of inappropriate pet names with female employees.

57. Fleming pointed out to Alderman Cornette that there was a pattern to his use of pet names when addressing city employees – he only did that when he was interacting with female employees.

58. Cornette's response was that he would start addressing male employees by pet names, too.

59. Fleming told him that would be inappropriate as well and that he could simply address people by their names or their titles.

60. Warner pointed out that there were several female employees and a protected-class employee who had complained about how he addressed them and interacted with them. In fact, he had asked city female employee 2 and city female employee 3 if he had ever done so and they both unequivocally stated yes, on several occasions, Alderman Cornette had referred to them by inappropriate pet names and frequently inappropriately touched them, and it needed to stop.

61. Fleming noted that Cornette repeatedly tried to stare down Warner as this discussion was on-going.

62. Warner informed Cornette that the communication protocol was being extended.

63. Fleming observed that by the end of the meeting Alderman Cornette seemed to understand what he was being told. He then asked for the job descriptions he had previously requested.

64. Warner said he could provide Cornette the Corporation Counsel and Assistant Corporation Counsel job descriptions; which he did after the meeting.

65. Cornette said, "Maybe I'll take your job," as he stared at Warner.

66. Given that Warner reports directly to the city council and they control his employment, Warner expressed his belief that Cornette's comment was a threat and constituted retaliation.

Incident 6

67. On June 7, 2023 Alderman Cornette emailed Corporation Counsel Warner, saying:

"I was hoping that this was going to be a teaching experience rather than a punitive experience. I am requesting training to learn what I am missing in these new times so I can fit in to the your society [sic]. Make it what you will, you seem to be in charge now. I would like the Head of HR to send me a note that you threatened me during the the [sic] meeting yesterday and I brought it to her attention. If you don't serve my people I will have to hold you accountable for any in action or lack of verve in supporting the people of the 7th ward. We are here to serve the city. Thanks for your time."

68. Warner replied on June 13th, saying:

“Thanks for your correspondence. When someone violates people’s rights, the corrective measures put in place may certainly feel like a punishment, and should. As you were previously informed, you can communicate with myself or Brian Heyer in my office. Written communication by email will be most efficient. As far as constituent matters, the most efficient way for those to be handled is to direct your constituent to the appropriate staff person (e.g. Tell the citizen to call DNSD) or to the call center where our folks can direct them to the appropriate staff person for a response and follow up. Additionally, many items can be handled if the constituent uses our web-based complaint system as Ald Lee and Bob demonstrated the other night at your joint ward meeting.

Alison can schedule some training for you. Alison, also is free to document our interaction from the last part of our meeting a few weeks back (if she hasn’t already) which began with you stating “Maybe I’ll take your job”, followed by an attempt by you to stare me down. That statement is retaliatory in nature and followed me explaining to you that a communication protocol was being put in place due to your behavior. If she decides to document I would also request that she add in the retaliatory threat in the email below: “If you don’t serve my people I will have to hold you accountable.” Please put down the shovel. Thanks.”

69. HR Director Fleming informed Alderman Cornette that she would arrange some training for him and advised him to let Warner or Heyer know when he would be available for it.

70. Fleming also informed Cornette that it would not be appropriate for Human Resources to provide documentation to an employee/elected official in matters like this.

71. Fleming did inform Alderman Cornette that if he wanted to provide her with documentation about the incident he could do so through Warner or Heyer.

Incident 7

72. On or about August 28, 2023, the city administrator sent a email to Mayor Matson with a copy of a voicemail message that she had received from Alderman Cornette.

73. Cornette had left the voicemail on the city administrator's phone on Friday, August 25th.

74. Cornette's voicemail message opened, "Hi, Corri. Derek Cornette. Still love you, babe."

75. At the end of the voicemail Cornette acknowledged that the city administrator probably wouldn't talk to him because he hadn't called Corporation Counsel Warner first to get permission to talk to her. He said he would call Warner next to ask for his permission to communicate with the city administrator.

Incident 8

76. On or about Wednesday, August 30, 2023, Alderman Cornette left a voicemail message on city female employee 2's phone.

77. The voicemail, intended for Alderman Gripp, had to be listened to by city female employee 2 and 3 so they would know where to direct it.

78. City female employees 2 and 3 were people that Alderman Cornette had previously asked if he had ever said or done anything offensive to and both advised him he had done so and often.

79. They forwarded Alderman Cornette's voicemail message to City Administrator Spiegel and Corporation Counsel Warner.

80. The voicemail message that City female employees 2 and 3 had to listen to was:

"Hey. Mr. Gripp. I . . . was just calling up to see if you'd return my call because . . . uh . . . I've called ya several times and you haven't returned 'em so I guess you're not talking to me because of the protocol and that you're such a pussy that you won't funk in' debate me on anything. Umm . . . love to talk to ya. And . . . uh . . . ya know if you're gonna be that kind of at-large . . . uhh . . . person you know you don't need to represent the citizens of Davenport anymore. Huh. If you're only gonna be for big business you don't need to be for the people of Davenport. So I hope the hell that you lose in the elections. Umm. Ya know. I know you think you're the smartest man in the room but hey doesn't everybody think they're the smartest mane in the room. [laughs to self] Have a great day, sir. Call me if you wanna talk about anything. Instead of . . . spreading aspersionss annd rumors annd lies about me and trying to get other aldermen to vote against me on things you don't have any concept over. So! Ya know. Hey. If you're going stop being a dick. Uh. Ya know. Hey. And if you think that this is gonna be something that you can put out in the public please put it out in the public because I'll back up everything that I just said. Thank you very much sir."

Legal Standard

The burden of proof to establish that a public official has committed the charged acts of willful misconduct or maladministration in office is by clear, convincing, satisfactory evidence. State of Iowa v. Watkins, No. 17-0183 (Iowa 2018).

Clear, convincing, satisfactory evidence is that measure or degree of proof that produces in the mind of the trier of facts a firm belief or conviction as to the allegations; something less than beyond reasonable doubt, but more than a mere preponderance (more probable than not).

City Harassment Policy

The City of Davenport promotes a productive and safe work environment free of harassment, and does not tolerate any verbal or physical conduct that disrupts or interferes with another's work performance or which creates an intimidating, offensive, or hostile work environment.

Examples of harassment include threats, insults, slurs, unwelcome comments, gestures or physical contact, etc.

For purposes of consideration of the charges for removal, harassment occurs when submission to the harassment is a condition of the employee's employment and the harassing conduct has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive environment for the employee. defined as occurring when (a) submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment.

Retaliation against the complainant or persons investigating complaints of harassment constitutes harassment as well.

Count I

On or about February 28, 2023, Alderman Derek Cornette presented himself at a Management Update and Mayor/Council Discussion meeting while intoxicated (i.e., under the influence of an alcoholic beverage per Iowa Code §321J.2(1)(a)) in violation of his obligations as a public officer under Iowa Code §66.1A(6).

Count II

On or about May 3, 2023, Alderman Derek Cornette presented himself at a Davenport Committee of the Whole meeting while intoxicated (i.e., under the influence of an alcoholic beverage per Iowa Code §321J.2(1)(a) having provided a PBT showing a blood alcohol concentration of .072 after the conclusion of the one hour meeting) in violation of his obligation as a public officer under Iowa Code §66.1A(6).

Count III

On or about May 3, 2023, Alderman Derek Cornette – having been previously informed by Corporation Counsel Warner and HR Director Fleming on February 28, 2023 that addressing female city employees using pet names such as sweetie and dear was inappropriate – forcefully took the hand of city female employee 1, referred to her to her face as “his little mama” and told her “you’re so beautiful,” all in violation of Alderman Cornette’s duty to provide a safe work environment. Said conduct constituting a breach of duty committed knowingly with a purpose to do wrong, so as to constitute willful misconduct or maladministration in office in violation of Iowa Code §66.1A(2).

Count IV

On or about May 18, 2023, Alderman Derek Cornette – having been previously advised that he could not engage in retaliatory actions against those complaining of his harassment or those investigating those complaints of harassment, threatened Corporation Counsel Tom Warner by stating that he was thinking about applying for Warner’s job – a position within the city hierarchy that the city council directly supervises. Said conduct constituting a breach of the alderman’s duty to provide a safe working environment. Said conduct committed knowingly with a purpose to do wrong, so as to

constitute willful misconduct or maladministration in office in violation of Iowa Code §66.1A(2).

Count V

On or about May 18, 2023, Alderman Derek Cornette – having been previously advised that he could not address female city employees by pet names – left a voicemail message for the city administrator which he closed by saying, “Love ya, babe!” Said conduct violated Alderman Cornette’s duty to provide a safe work environment. Said conduct constituting a breach of duty committed knowingly with a purpose to do wrong, so as to constitute willful misconduct or maladministration in office in violation of Iowa Code §66.1A(2).

Count VI

On or about June 7, 2023, Alderman Cornette emailed Corporation Counsel Warner; said email included a threat that Cornette would hold Warner accountable should he not serve the people of the 7th Ward. Said conduct constituting a breach of the alderman’s duty to provide a safe working environment. Said conduct committed knowingly with a purpose to do wrong, so as to constitute willful misconduct or maladministration in office in violation of Iowa Code §66.1A(2).

Count VII

On or about August 28, 2023, Alderman Cornette left a voicemail on the city administrator’s phone in which Alderman Cornette opened his message by saying, “Hi Corri. Derek Cornette. Still love ya, babe!” Said conduct was in violation of Alderman Cornette’s duty to provide a safe work environment. Said conduct constituting a breach of duty committed knowingly with a purpose to do wrong, so as to constitute willful misconduct or maladministration in office in violation of Iowa Code §66.1A(2).

Count VIII

On or about August 30, 2023, Alderman Cornette left a voicemail on the city council phone, knowing that city female employee 2 and 3 would be required to retrieve and listen to said voicemail and further knowing that city female employees 2 and 3 had complained about Alderman Cornette’s conduct of

addressing them using pet names and excessively touching them inappropriately, while in said voicemail Alderman Cornette referred to a colleague on the city council in a derogatory manner referencing a female body part by a slang term and a male body part by a slang term. Said conduct was in violation of Alderman Cornette's duty to provide a safe work environment. Said conduct constituting a breach of duty committed knowingly with a purpose to do wrong, so as to constitute willful misconduct or maladministration in office in violation of Iowa Code §66.1A(2).

Conclusion

If you determine that the City of Davenport has met its burden of proving that Alderman Cornette violated his duty to provide a safe working environment for city employees and/or appeared at city council functions in an intoxicated state (under the influence of an alcoholic beverage per Iowa Code §321J.2(1)(a)) by clear, convincing, and satisfactory evidence, then you should vote to remove Alderman Cornette from the Davenport City Council.

Respectfully submitted,



Brian Heyer
Assistant Corporation Counsel