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Jerry McDonald, Esq.  
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**Re: *Huber Heights Council/Rob Schommer***

Dear Jerry:

On July 6, 2017 Janell Smith called Rob Schommer around 5:30 p.m. to complain about the street banner program. At that time Rob was in his truck along with his 13 year old son Nathan and a friend of his son, who I believe is 12 years old on the way to a local school field to practice football. Rob had his phone on speaker (Bluetooth) because he was driving. Ms. Smith proceeded to engage in a very unprofessional conversation and used expletives frequently. Rob immediately advised Ms. Smith that he had two young boys in the car and requested she stop using expletives. Her immediate response was, "I don't give two shits...I'm in front of my 91 year old mother and she is hearing everything I say" and continued her diatribe. Rob tried to be professional, as he always is, and suggested that this conversation be held at another time. Smith, using more expletives, advised Rob that she was a Council person and he would talk to her now. She then pursued a rant over the next several minutes, with more expletives and finally hung up the phone after advising him that he might not be working for Council much longer. Earlier Rob had received kudos from the Council about how happy they were about the street banner program. Rob suspects that Ms. Smith's anger was generated by Rob denying Ms. Smith's request for her daughter to be paid as a volunteer for working on the program, as he believed this would violate the City's ethics policy.

Rob called Glen Otto and Tom McMasters and myself shortly after this incident. I want you to know that Rob has requested that I investigate what civil, injunctive or criminal relief may be available to him in respect to Ms. Smith's newest actions. Janell Smith, in my opinion, is an extremely disruptive force on the Council. This isn't the first time she has crossed over the line of respect and decency and this time she went way too far. It should never be appropriate for any elected official to use profanity and expletives in the presence of minors. Rob's son was visibly shaken by the encounter, which also included threats by Ms. Smith in respect to Rob's employment. Ms. Smith then proceeded to post additional negative comments about Rob over

the weekend on Brick City Town Hall, a public Facebook page, including comments on not helping her with the street banners and his non residency.

Rob has been patient and has persevered under some prior inappropriate behavior and statements by Ms. Smith and the inability of Council to control her. Last night Ms. Smith's conduct and statements were angry, abusive and threatening far beyond what Rob has previously experienced. This extreme and out of control behavior has contributed to and escalated his hostile work environment. As you know Rob has extensive experience in police work and believes Ms. Smith's behavior could foreshadow more violent outbursts on her part. Rob has an obligation to protect his family, his staff and frankly himself from threats such as these. Further, the Council has a legal obligation to protect Rob from a hostile work environment. If people are not held accountable for their actions, you can guarantee future, similar and potentially more serious actions. We want the Council to hold Ms. Smith accountable for her actions of July 6, 2017. Free speech does not trump the rights of minors to not be subjected to this indefensible behavior.

Further, Ms. Smith's actions violate Section 6.08 of the City of Huber Heights Personnel Manual since Ms. Smith's actions were intimidating, harassing and constituted coercion. Ms. Smith's actions serve to alter the conditions of Rob's employment with the City and have created a hostile, abusive and intimidating work environment for him. Note that the City policy applies to conduct both on and off City property and specifically covers "verbal assault for the purpose of intimidation and/or coercion," which clearly applies to Ms. Smith's actions of July 6, 2017. We hereby demand that "such conduct be met by the strongest legal action by the City" and that such action is immediate. We would also request that you advise the Council that any further retaliatory action must immediately cease. Finally, based on recent events, we are going to discontinue any additional conversations about Rob establishing an interim residence in the city while continuing his permanent domicile in Englewood. We do not wish to engage in any actions that are not totally transparent and establishing an interim or additional residency in Huber Heights is not a satisfactory resolution of the residency issue. Further, the Ohio legislature and the Ohio Supreme Court have created the applicable law on this matter as you and Alan Schaeffer have advised the Council on numerous occasions. Thank you.

Very truly yours,

DUWEL LAW

David M. Duwel

DMD/naw

CC: Rob Schommer