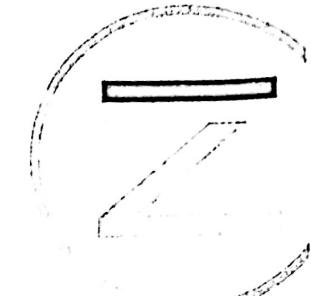


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April 12, 2024

TO: Sarah Exten, Village of Bellville Solicitor  
FROM: Drew C. Piersall  
RE: Relationship Between Mayor Teri Brenkus and Administrator Larry Weirich

Solicitor Exten:

I was retained to investigate the relationship between Mayor Teri Brenkus and Administrator Larry Weirich. My investigatory activities included reviewing the Village Employee Handbook (which are codified as Village Ordinances), pertinent provisions of the Ohio Revised Code pertaining to the employment of Village employees, as well as Mayor Brenkus' Facebook posts regarding her relationship with Administrator Weirich. I conducted an interview of Administrator Weirich on April 5, 2024.

Mayor Brenkus retained legal counsel. I spoke with the Mayor's counsel on April 9, 2024 and all parties agreed that an interview of the Mayor was unnecessary as the facts in this matter are not in dispute and there was no additional information that could be provided by Mayor Brenkus germane to the investigation.

## I. FACTUAL ANALYSIS

Larry Weirich serves as the Administrator of the Village of Bellville. In this capacity, he oversees the following Departments: Streets, Water, Sewer, and Cemeteries. He supervises 7 of the 26 employees employed by the Village. He has held this position since 2015. Mayor Brenkus was elected in approximately 2017.

According to my interview with Administrator Weirich, he began a romantic relationship with Mayor Brenkus after he separated from his wife in July 2023. The two have continued to maintain this relationship and are presently dating one another. It is not in dispute that Administrator Weirich has a dual reporting structure: he reports to both Village Council and Mayor Brenkus. Administrator Weirich contends that Mayor Brenkus does not provide much oversight over him, and her supervision is generally limited to signing off on his time off sheets. This reporting structure has been the same since he began employment in 2015.

Administrator Weirich confirmed that he was not coerced or pressured into entering into the relationship. He denied any concerns related to a hostile work environment or sexual harassment. He denied engaging in any inappropriate activity on Village grounds.

The first time he disclosed his relationship with Mayor Brenkus was when he was questioned about it by Council members Justin Enix and Jason Guilliams during a February 2024 council meeting. Administrator Weirich reports that he essentially shared the same information with the two Council members as he did during his investigatory interview.

Administrator Weirich has not made any social media posts regarding this situation, although he is aware of Mayor Brenkus' Facebook posts admitting the relationship and declining to resign from her position.

## II. LEGAL ANALYSIS

The "Village Administrator" position is authorized by Ohio statute and created in each village by codified ordinance. In Bellville, the powers and authority of the Village Administrator are coterminous with the list of powers in R.C. § 735.273.<sup>1</sup> The Mayor is the appointing authority of the Village Administrator, subject to hiring approval by Council.<sup>2</sup>

Under Ohio law, Village Administrators are employed on an "at-will" basis and serve at the pleasure of the Mayor and Council.<sup>3</sup> R.C. § 735.271 states in pertinent part:

The village administrator shall serve at the pleasure of the mayor and legislative authority of the village and may be removed without cause by the mayor with the consent of a majority of the members elected to the legislative authority of the village; or he may be removed without cause by the affirmative vote of three-fourths of the members elected to the legislative authority of the village, without the consent of the mayor.

See, *Jamison v. Galena*, 2015-Ohio-2845, 38 N.E.3d 1176 (5th Dist., 2015) (affirming summary judgment decision upholding removal of village administrator without cause under R.C. § 735.271).

The Village Handbook/ordinances confirm the at-will nature of the position, stating that a Village Administrator "may be removed without cause by the Mayor with the approval of a majority vote of Council, or by Council by a vote of three-fourths of its members without the consent of the Mayor."<sup>4</sup>

The Village Administrator serves as the appointing authority for employees in the utilities, streets, and parks departments.<sup>5</sup> Other personnel within the Village must be removed for "just cause," which is defined by reference to a list that mirrors R.C. 124.34.<sup>6</sup> The procedures for discipline within the police department incorporate the Ohio Revised Code. However, there are no "due process" disciplinary

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<sup>1</sup> Bellville Ord. § 31.01(A).

<sup>2</sup> Bellville Ord. § 38.060(A).

<sup>3</sup> Bellville Ord. § 31.01(D).

<sup>4</sup> Bellville Ord. § 38.060(A).

<sup>5</sup> Bellville Ord. § 38.060(C).

<sup>6</sup> Bellville Ord. § 38.350.



requirements for the removal of the Village Administrator, apart from the legislative consent/authorization specified in R.C. § 735.271.

In general, Village employees are entitled to a pre-disciplinary conference, after which the disciplinary decision is to be rendered within fourteen (14) days.<sup>7</sup> Employees who are discharged are to be notified of such discharge in person by their immediate supervisor and/or the Mayor.<sup>8</sup> Again, however, these due process requirements are not applicable in the case of a Village Administrator, who has no property interest in his or her at-will position.

A Village may elect to follow a different process: R.C. § 733.35 (Mayor shall file charges against delinquent officers) allows a Village to bring charges against a Village Administrator to remove him or her *for cause*. Or, the Village may proceed with a removal *without cause* under R.C. § 735.271. Neither option is exclusive. *In Re Removal of Dan Anslinger*, 2d Dist. Montgomery Case No. CA 5632, 1978 Ohio App. LEXIS 11168, at \*8 (Aug. 4, 1978). The "with cause" process involves serving the employee a statement of charges (akin to a criminal "bill of particulars"), scheduling and conducting a quasi-judicial evidentiary hearing before Village council, a removal vote requiring a two-thirds majority of Council, and serving notice of the removal on the employee. (See R.C. § 733.35-39). It is generally necessary for such a removal notice to include a statement of findings of fact, served on the employee at the time of removal. Removals for cause from employment with a Village are appealable under R.C. Chapter 2506. Additionally, a removal under R.C. § 733.35 is initiated by the Village Mayor, who is responsible for generating and serving the notice of charges.

There is no separate right of appeal in the Village ordinances, apart from reference to general right(s) of appeal in the Revised Code. "Appeals from disciplinary actions may be taken in accordance with, and to the extent provided by the Ohio Revised Code. This policy does NOT grant or authorize any right of appeal not otherwise granted by the Ohio Revised Code."<sup>9</sup>

Several Village policies are potentially implicated by the ongoing relationship between the Mayor and Village Administrator. The Village's nepotism policy<sup>10</sup> prohibits "immediate family relationships" where one person is "exercising supervision over the other or otherwise having the ability to influence the terms or conditions of the other's employment." The policy does not include a dating or romantic relationship within its definition of "immediate family relationships," and thus the relationship between the Mayor and Village Administrator does not fall strictly within its prohibition. Notwithstanding, the ordinance expresses a policy for avoiding any appearance of impropriety, noting (in the context of employees "grandfathered" into nepotism exemptions at the time of the policy's enactment) that "Department managers shall assure that supervisory and work assignments of said employees minimize the **appearance of and opportunity for conflicts of interest or impropriety**." The undersigned counsel is of the opinion that the relationship between the Mayor and Village Administrator does not violate the "letter" of the nepotism policy, but is incompatible with its "spirit." It is **not** recommended that the Village rely on the nepotism policy for a "for-cause" dismissal under R.C. §733.34.

<sup>7</sup> Bellville Ord. §38.351.

<sup>8</sup> Bellville Ord. §38.370.

<sup>9</sup> Bellville Ord. §38.352

<sup>10</sup> Bellville Ord. §38.060(D)



### **III. CONCLUSION**

It is undersigned counsel's opinion that there is a clear conflict of interest present in this situation as there is no dispute that Mayor Brenkus enjoys supervisory authority over Administrator Weirich. The level of supervisory authority exercised is not the appropriate focus – the focus is on whether the authority exists, which it certainly does. Mayor Brenkus and Administrator Weirich should have notified Village Council of a potential relationship prior to entering into a romantic relationship so that any potential conflict of interest/appearance of impropriety could have been addressed at that time. Undersigned counsel was not asked to opine on the potential disciplinary action to be taken; that is within the province of Village Council.

Please advise if you have any further questions or concerns. Thank you for the opportunity to assist the Village.

Very truly yours,

ZASHIN & RICH CO., L.P.A.

*/s/ Drew C. Piersall*

Drew C. Piersall

