



“The City with a Heart”

Rico Medina, Mayor
Marty Medina, Vice Mayor
Tom Hamilton, Councilmember
Linda Mason, Councilmember
Michael Salazar, Councilmember

GOVERNOR’S EXECUTIVE ORDER N-25-20**** CORONAVIRUS COVID-19

On March 17, 2020, the Governor of California issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the CDC’s social distancing guidelines which discourage large public gatherings, the San Bruno City Council is now holding meetings via Zoom.

If you would like to make a Public Comment on an item not on the agenda, or comment on a particular agenda item, you may address the Council orally during the meeting, or you may email us at mthurman@sanbruno.ca.gov. The length of all emailed comments should be commensurate with the three minutes customarily allowed per speaker, which is approximately 300 words total. Emails received before the special or regular meeting start time will be forwarded to the City Council, posted on the City’s website and will become part of the public record for that meeting. If emailed comments are received after the meeting start time, or after the meeting ends, they will be forwarded to the City Council and filed with the agenda packet becoming part of the public record for that meeting.

Individuals who require special assistance of a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the agenda, agenda packet or other writings that may be distributed at the meeting, should contact Melissa Thurman, City Clerk 48 hours prior to the meeting at (650) 619-7070 or by email at mthurman@sanbruno.ca.gov. Notification in advance of the meeting will enable the City of San Bruno to make reasonable arrangements to ensure accessibility to this meeting, the materials related to it, and your ability to comment.

AGENDA

SAN BRUNO CITY COUNCIL SPECIAL MEETING

September 17, 2021

5:00 p.m.

Zoom Meeting Details:

<https://sanbruno-ca-gov.zoom.us/j/86830904535?pwd=enVuODA4UXB5SzlUOWEw3NFRFCZWluQT09>

Webinar or Meeting ID: 868 3090 4535

Webinar or Meeting Password: 658168

Zoom Phone Line: (646) 558-8656 (same webinar ID and password as above)

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA**

Individuals allowed three minutes. It is the Council’s policy to refer matters raised in this forum to staff for investigation and/or action where appropriate. The Brown Act prohibits the Council from discussing or acting upon any matter not agendaized pursuant to State Law.

4. **CONDUCT OF BUSINESS**

- a. Discuss Investigation Involving Mayor Rico E. Medina and Consider and/or Take Actions Regarding the Findings

5. **ADJOURNMENT:** The next Regular City Council Meeting will be held on September 28, 2021 at 7:00 p.m.



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: September 17, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Marc Zafferano, City Attorney

SUBJECT: Discuss Investigation Involving Mayor Rico E. Medina and Consider and/or Take Actions Regarding the Findings

BACKGROUND

On June 16, 2021, the City retained an independent investigator to investigate certain allegations regarding Mayor Rico E. Medina. The investigator, a licensed attorney and experienced investigator who had never previously worked for the City, interviewed eight individuals, including the Mayor, and reviewed documentary information and evidence. The investigation concluded that the Mayor: (1) spoke to City staff in a harsh or belittling manner and that on several occasions staff reasonably felt threatened by such conduct; (2) attempted to direct the work of a staff member to circumvent the City Manager; (3) contacted staff on several occasions while under the influence of alcohol and impaired, and (4) participated in a City Council meeting while impaired.

The City Attorney and the City Manager's office have taken the necessary steps to ensure that the important work of all City employees, especially those who participated in the investigation, continues unaffected. All staff have been made aware of the investigation, its findings, and the measures implemented as described below.

The Mayor has been instructed to refrain from contacting staff directly and advised to work through the City Manager or City Attorney directly. Additionally, the Mayor has been advised to refrain (during business hours or otherwise) from entering internal staff workspaces at City Hall or other facilities unless he is conducting legitimate business as a resident or property owner, or presiding over or attending an in-person meeting or event in furtherance of his duties as Mayor. The City will provide a conference room at City Hall that is accessible from the public lobby by appointment for any in-person meetings with constituents or others that the Mayor needs to conduct.

Attached is an Executive Summary of the investigative report.

DISCUSSION

The City Council may discuss the findings and what actions it may wish to take regarding the Mayor. As the Mayor is an elected official, the City Council may consider actions such as making a motion or adopting a resolution to: 1) restrict travel for official business paid for by the City; 2)

ITEM 4.a.

remove from committees, regional bodies or other entities to which the City Council has appointing authority; and/or 3) censure or otherwise express their position regarding the conduct.

FISCAL IMPACT:

None.

RECOMMENDATION:

Discuss Investigation Involving Mayor Rico E. Medina and Consider and/or Take Actions Regarding the Findings

DISTRIBUTION:

None

ATTACHMENTS:

1. Executive Summary

DATE PREPARED:

September 16, 2021



OPPENHEIMER
INVESTIGATIONS
GROUP LLP

ATTACHMENT 1

**Executive Summary of Report
Concerning Complaints Against:**

Mayor Rico E. Medina

Client: City of San Bruno

Date: September 3, 2021

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

I. INTRODUCTION

On June 16, 2021, the City of San Bruno retained the Oppenheimer Investigations Group to conduct an impartial investigation of concerns raised that Mayor Rico E. Medina had engaged in abusive conduct; had contacted employees by phone, seemingly impaired and/or under the influence of alcohol; and had attended a June 11, 2021 closed session City Council meeting, seemingly impaired and/or under the influence of alcohol.

Alezah Trigueros was the principal investigator. Once the scope of the investigation was determined and agreed upon, the investigator operated with complete independence as to witness identification, interview content, and preparation of findings.

The investigation consisted of interviews with Mayor Medina and seven witnesses. Witness interviews were completed between June 22 and 28, 2021, whereas Mayor Medina's interview took additional time to schedule and ultimately took place on July 22, 2021, with a follow up call occurring on July 27, 2021. The investigation also included a review of documents, including emails and contemporaneous notes.

II. FINDINGS AND DISCUSSION

The investigator's findings do not reach questions of law or policy, but instead are factual findings. The investigator analyzed the facts and determined whether the allegations were with or without merit under a preponderance of the evidence standard.

A. Did Mayor Medina speak to City staff in a harsh or belittling manner, or threaten City staff?

Sustained. A preponderance of the evidence supported a finding that Mayor Medina spoke to City staff in a harsh and belittling manner and that City staff reasonably felt threatened by his behavior.

While Mayor Medina denied having spoken to staff in a harsh or belittling manner and seemed saddened by this allegation, there were detailed and credible accounts from three witnesses who experienced the behavior firsthand. Mayor Medina was credibly reported to have engaged in the following:

- Cutting off an employee, putting up his hand, and walking away before the employee finished responding to his question, on multiple occasions;
- Calling an employee after hours and accusing the employee of "not doing anything" on a project and of using understaffing as an "excuse," saying he was "tired of hearing about how understaffed the City was"; and
- Accusing an employee of having "a problem" with him coughing in City Hall, responding sarcastically to the employee when the employee told him staff were concerned, and asking the employee, "Was it you? Do you have a problem with me?" and, "If you have a problem with me . . . you needed to come and talk to me, not have your boss come and talk to me about it."

EXECUTIVE SUMMARY

Thus, while there was no indication that Mayor Medina had overtly threatened any City employee, given his position of authority in the City, it was reasonable that the above employees felt intimidated by his pointed questioning and attitude in these scenarios.

B. Did Mayor Medina give orders to City staff who were subordinate to the City Manager?

Sustained. A preponderance of the evidence supported a finding that Mayor Medina gave one City employee orders by phone on June 10, 2021.

While Mayor Medina denied giving the employee orders or direction during the call, the employee was found to be credible due to contemporaneous reporting and documenting of the conversation and lack of motive to fabricate a complaint against Mayor Medina. The employee described how, on June 10, Mayor Medina said he would not get off the phone until they made a plan for addressing citizen concerns regarding a project and the employee committed to that plan. Later in the call, Mayor Medina asked the employee if he could contact them about similar issues in the future and, when told he would need to go through the City Manager, responded that the City Manager was “not a part of this” and that it was the employee’s responsibility to include the City Manager, not Mayor Medina’s.

This employee’s credible account supported a finding that on this occasion Mayor Medina directed the employee’s work by instructing them to make a plan and commit to it, and that he also questioned the need to involve the City Manager in such discussions. These comments can be reasonably viewed as circumventing the City Manager and reasonably made the employee feel uncomfortable.

C. Did Mayor Medina contact City staff by phone while under the influence of alcohol or otherwise impaired?

Sustained. It was uncontested that Mayor Medina contacted City staff by phone while under the influence of alcohol, and a preponderance of the evidence supported a finding that Mayor Medina was at least somewhat impaired in some of these cases.

Mayor Medina acknowledged contacting City staff on the evenings and weekends after he had been drinking alcohol at social events such as barbecues and ball games.

Two witnesses suspected Mayor Medina had been drinking when he called them but did not feel Mayor Medina was impaired. Three witnesses felt Mayor Medina was impaired when they received these calls. These witnesses credibly reported Mayor Medina slurring his words, giggling, being unable to focus on one topic, yelling, going through emotional shifts, not understanding what he was told, and becoming incoherent.

It was found Mayor Medina likely underestimated the extent to which his alcohol consumption affected how he came across in these calls. While Mayor Medina said he often speaks in an impassioned manner, jumps from topic to topic, and repeats himself, and so these perceptions of his conduct were not necessarily related to his having been drinking, given the credible accounts of these witnesses, some of whom had worked with Mayor Medina for years and were presumably familiar with his usual communication style, and given Mayor Medina’s admission of having been drinking prior to the calls, it is more likely than not that his conduct during the calls was affected by his alcohol consumption, as the recipients of the calls suspected.

EXECUTIVE SUMMARY

D. Did Mayor Medina attend a June 11, 2021 closed session City Council meeting while under the influence of alcohol or otherwise impaired?

Sustained. A preponderance of the evidence supported a finding that Mayor Medina attended the June 11 Council meeting while impaired. However, a preponderance of the evidence did not support a finding that Mayor Medina was impaired due to being under the influence of alcohol.

Mayor Medina stated he had not been drinking prior to the Council meeting. Rather, he said he had taken medication for a medical issue. He said that some of his reported behavior in the meeting – such as jumping from topic to topic, speaking passionately, and repeating questions – is generally part of his personality and communication style. However, he conceded that the medication may have had an impact on how he came across in the meeting.

Ultimately, witness accounts of Mayor Medina appearing to be under the influence of alcohol were speculative, and the behavior described could plausibly have been brought on by medication. Given the lack of direct evidence of alcohol playing a role, there was not sufficient evidence for a finding that Mayor Medina was under the influence of alcohol during the meeting.

However, there were credible witness accounts of Mayor Medina being unable to follow the conversation, asking the same questions another elected had just asked, repeating himself, slurring his words, and becoming agitated about uncontroversial topics. Again, these witnesses had worked with and known Mayor Medina for years and so it was not credible that the behavior described is how he ordinarily conducts himself. Thus, it was found that Mayor Medina was more likely than not impaired during the meeting.

III. CONCLUSION

A preponderance of the evidence supported findings that, over approximately the past six months, Mayor Medina had spoken to at least three City employees in a harsh and belittling manner, gave one City employee orders despite their being subordinate to the City Manager, called City employees while under the influence of alcohol, and facilitated a City Council meeting while impaired.

In mitigation, Mayor Medina stated he would be willing to abstain from engaging in this behavior going forward. However, in aggravation, there was credible evidence that Mayor Medina had been counseled on his behavior on one prior occasion, by the City Manager and former Vice Mayor together, and that the conversation resulted in temporarily improvements in Mayor Medina's behavior, only for these issues to later recur.

Respectfully submitted,



Alezah Trigueros



Amy Oppenheimer