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Revisions are shown in red with yellow highlighting

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### Purpose: Request for Investigation Into the Actions of:

- (1) Williamson County District Attorney John Bradley
- (2) Georgetown City Council member Pat Berryman
- (3) Georgetown City Attorney Mark Sokolow

for their failure to act in accordance with the law, failure to investigate, and failure to correct, violations of the Georgetown city charter and State law, and their failure to act in accordance with their fiduciary responsibility to the citizens of the city of Georgetown and the state of Texas, with regard to:

the payment of \$13,600 from city revenues ordered by the city attorney to be paid to council member Pat Berryman as a reimbursement, yet waiving the requirement to produce receipts, such waiver of requirement being in contradiction of standing legal advice given to the City by the Texas Municipal League, and such waiver being made without the production of any legal theory for such contradiction, the entire action being performed without the direction of the Georgetown city council sitting in formal session.

### Summary of Issues/Actions Forming Basis for Request for Investigation

Timetable: June 30, 2008 to Present

June 30, 2008 Georgetown council member Pat Berryman, a state employee at the time, submits request for monthly payment from the City of Georgetown for recently approved "optional stipend" of \$800 a month. As a result of issues raised by city auditors, Georgetown city manager Paul Brandenburg contacts Texas Municipal League (TML) for a legal opinion. Berryman in her request asks for the \$300 also, clearly designated as a salary by the City of Georgetown.

July 16, 2008 Brandenburg informs Berryman that TML advises that employees of the State are ineligible to receive both state and municipality salaries and offers to provide reimbursement for actual expenses for mileage, meals, and cell phone use, requiring receipts for such reimbursement.

October 19, 2009: Mark Sokolow begins duties as the Georgetown city attorney.

December 15, 2009: Berryman emails the recently hired city attorney requesting compensation for expenses for the period between July 2008 and December 2009, during which period she remained a state employee. She provided a list of 16 types of expenses but no breakdown, no dollars, no receipts

December 18, 2009 (this was wrongly labeled February 12, 2010): Berryman receives a payment from the city finance office in the amount of \$13,600, providing no actual receipts. (Anecdotal evidence describes Sokolow as walking her to the finance office and ordering that payment be made on the spot.)

March 31, 2010: In response to open records requests made in conjunction with a press story claiming the Berryman payment was a violation of the Texas Constitution, Mr. Sokolow is quoted: "...if requested by the State, Council Member Berryman is quite willing to provide additional documents to state officials who so request."

May 4, 2010. The press article is published, written by investigative journalist Ken Martin, and published through the online new site The Austin Bulldog ([www.theaustinboxdog.org](http://www.theaustinboxdog.org)). Martin cites applicable law barring Berryman from receiving a salary from her council position while in the employ of the state, citing AG Jim Mattox opinion JM-1266, reinforced later by Letter Opinions 93-33 and 93-37 from AG Dan Morales. Full citation for the story:  
<http://www.theaustinboxdog.org/index.php/Main-Articles/Main-Articles/more-legal-problems-in-georgetown.html>

July 13, 2010: Georgetown city council meeting:

First, under agenda posting for "action from executive session" (posted as "F Sec. 551.074: Personnel Matters-Discussion regarding an employment contract with the City Attorney – Bill Sattler, Council member), Council member Patty Eason makes a motion for an investigation into matters relating to this issue and receives no second.

Secondly, under Item "Q," Eason's council colleagues attempt to block her call for citizen expression, by means including an improper attempt to call a council vote to remove the item from the agenda. Council member Berryman inappropriately participates on the dais instead of recusing herself [see Sec 2.24.170 of city code]. Berryman makes motions, first to table, then to postpone the item, receiving no second on either attempt.

Thirdly, in response to a citizen's call for an investigation of the funds under question, Council member Berryman, still seated on the dais, calls a point of order to state that Williamson County District Attorney John Bradley has investigated and found no evidence of wrongdoing in response to a complaint filed with his office. [No official findings have thus far been released to the public, nor any confirmation that an actual investigation took place.]

July 18, 2010 The Williamson County Sun publishes an account of an interview with District Attorney Bradley made 3 days earlier as part of its report of the council session proceedings. No details of complaint filed are given, but Bradley states he reviewed the supporting documents of Ken Martin's story, and also reviewed unnamed documents presented to him by attorney Sokolow and Council member Berryman, all of which lead him to conclude there is insufficient evidence to indicate criminal wrongdoing. The matter, states Bradley, is for the civic arena. Bradley states to the Sun newspaper that Attorney General opinions are advisory and not binding, and that other AG opinions can be found to support Berryman's claim. No supporting opinion and no further detail is presented by the Sun.

## General Background

The city attorney is hired by, and serves at the will of, the Georgetown city council. Since the city attorney has no charter grant of administrative authority, the described action on his part, taken independently, is outside the purview of his authority.

The City Attorney role is defined in the City Charter as follows.

### Sec. 5.06. City Attorney.

The City Council shall appoint a competent attorney who shall have practiced law in the State of Texas for at least two (2) years immediately preceding the appointment. The City Attorney shall be the legal advisor of, and attorney for, all of the offices and departments of the City, and shall represent the City in all litigation and legal proceedings. The City Attorney shall draft, approve, or file written objections to every ordinance adopted by the Council, and shall pass upon all documents, contracts and legal instruments in which the City may have an interest.

There shall be such assistant City Attorneys as may be authorized by the Council and appointed by the City Attorney with the approval of the City Council, and such assistant City Attorneys shall be authorized to act for and on behalf of the City Attorney. The City Attorney(s) and any assistant City Attorney(s) serve solely at the will of the Council.

(Res. No. 050603-B, 5-3-03)

The City Organizational Chart Updated 2009 clearly shows the City Attorney at peer level with the City Manager (both under the Council), and with no direct contact with administrative staff under the City Manager's authority. Required by definition to provide advice to department directors, presumably the city attorney may interact directly with lower staff members, but the protocol is clearly shown to flow through the City Manager.

The organizational chart is attached as a pdf file, and may also be viewed online here:

<http://www.scribd.com/doc/34563572/City-Organizational-Chart-Updated-December-2009-With-Names>

With regard to the Berryman payment and the overturning of Texas Municipal League formal opinion that made the payment possible, the council had not directed the city attorney to provide legal review of this matter, let alone take this action; indeed, the mayor did not even know of it until the journalist Ken Martin raised the issue. (The last clause regarding the mayor, George Garver, cites Ken Martin's account. Garver and City Manager Paul Brandenburg both signed the check according to Martin, but the documentaion showing this hadn't been yet released when Martin interviewed Garver, who at the time professed being unaware of the matter.)

Despite press and citizen inquiries, no corrective action or explanation has come from Berryman or from Sokolow or from any member of the council.

Irregularities of council procedure abound, both within the Berryman case and with other matters handled by the City Attorney. While other improprieties are a matter for the Georgetown system to correct, they illustrate a pattern of improper conduct by the city attorney, which further lends persuasion to the need to investigate the Berryman payment.

Stories and allegations regarding City Attorney Sokolow's violations of procedure and law may be studied more fully at The Austin Bulldog website previously cited, stories further explored by the Williamson County Sun (no website posting).

This series of events represents a culture of continuing and egregious violation of procedures, law, and fiduciary responsibility to the citizens of Georgetown. However, the events enumerated above speak for themselves for the purpose of this request.

With regard to the purported investigation of this matter, no formal information appears to exist or have been published by which the public can know how deeply the Williamson County District Attorney pursued the

Berryman payment. District Attorney Bradley himself is a subject of controversy with specific regard to investigating his fellow elected officials. A story reported by News 8 Austin illustrates Bradley's lack of thoroughness in, and dedication to, the discovery of truth in these matters, and reveals patterns that may have repeated here.

See, "Residents upset about new Commissioner's Court rules" reported by Chelsea Hover and published to the website 11/14/2007. The link is here: [http://www.news8austin.com/content/top\\_stories/?ArID=195327](http://www.news8austin.com/content/top_stories/?ArID=195327)

## Questions Pertinent to Investigation

1. Williamson County District Attorney John Bradley. Did he investigate the previous complaint? If so, did he "exonerate" Ms Berryman? If so, what was the breadth/scope/process of that investigation and the legal basis for that finding? If he did not investigate, on what legal basis did he make that choice?
2. Council member Pat Berryman. Did she break, or was she complicit in breaking, any laws in obtaining those funds without actual receipts? Was her behavior a misuse of her office?
3. City Attorney Mark Sokolow. Did the city attorney's actions exceed the proper role of the city attorney under the laws of the State of Texas and the Georgetown city charter? Did he violate laws or Texas State Bar ethical standards, or the Georgetown city charter?

Final Note: This complaint does not charge wrongdoing on the part of the Georgetown City Council as a whole. However, it would seem appropriate that an investigation in this matter would extend to a review of Council procedures and actions in order to restore dignity to, and confidence in, future council actions.

It is my fondest wish that this rupture is simply a matter of their failure to act affirmatively, rather than complicity in the possible violation of laws, our charter, and the citizen's trust.

Ross Hunter  
July 21, 2010