

## Press Clippings 01/23/20

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### Elgin councilman violated ethics ordinance, according to city legal review

By: Elena Ferrarin



Terry Gavin

An Elgin councilman violated the city's ethics ordinance when he used his city iPhone and city email to respond to a resident who asked about recommendations in last year's election, while another council member was cleared of a conflict of interest complaint, according to a city legal review.

Councilman Terry Gavin engaged in "the misappropriation of any city property or resources for a prohibited political activity for the benefit of any campaign for elective office," as defined by the city's ethics ordinance, Corporation Counsel Bill Cogley wrote in his Feb. 17 opinion.

Cogley said the single violation can be considered "minor." He will recommend at a later date what "prosecutorial action" and penalty, if any, should be taken against Gavin. Under city code, which mirrors state law, anyone who "intentionally" violates provisions about prohibited political acts is guilty of a Class A misdemeanor, he said. That's punishable with a fine from \$75 to \$2,500, and/or with a prison sentence of up to a year.

"I take responsibility. I made a mistake, an honest mistake," Gavin said.

Gavin said his actions were inadvertent -- they would have been OK from a personal email, Cogley said -- and didn't involve any taxpayer dollars or harm anyone, he said.

Cogley also found that Councilwoman Rose Martinez didn't violate the city's ethics ordinance when she voted last year on matters involving Elgin Area School District U-46, for which she worked at the time. Cogley said he chose to include and clear Councilwoman Carol Rauschenberger in his review because she, too, works for U-46.

The legal review stemmed from ethics complaints filed earlier this month by two Elgin residents, Anthony Ortiz and Jose Bosque, who had obtained emails via a Freedom of

Information Act request and alleged Gavin had engaged in electioneering. Cogley said "electioneering" is not the correct term for what Gavin did.

Bosque and Ortiz said they alleged the conflict of interest by Martinez but not Rauschenberger because they didn't know Rauschenberger also works for the school district.

The email that Gavin was found to be in the wrong about was sent by Gavin on March 28 to a resident who asked for the councilman's recommendations regarding the April 2 election.

Gavin responded saying whom he supported and whom he considered problematic.

Bosque and Ortiz also alleged an ethics violations regarding an email exchange Gavin had with another resident on April 28 about proposed changes to parking violations. At one point, Gavin mentioned candidates in the election that had just taken place. Cogley found that exchange did not violate the city's ethics ordinance.