



Introduced and Read on: January 25, 2021

Read and Adoption: January 25, 2021

**THE TOWN OF CAPITOL HEIGHTS
RESOLUTION 2021- 13**

Drafted by Special Counsel Kevin J. Best
Introduced by Council Member Elaine Williams

A RESOLUTION TO TEMPORARILY SUSPEND THE MAYOR FROM OFFICE IN ACCORDANCE WITH SECTION 219 (SUSPENSION OF ELECTED OFFICIAL) OF THE TOWN CHARTER

EXPLANATORY STATEMENT: In anticipation of a possible vote of no confidence to initiate the process, the purpose of this Resolution is to begin the process, provide notice and explain or describe the justification for the suspension of the Mayor from office for a period not to exceed 70 days.

WHEREAS, Section 205 (Forfeiture of Office) of the Town Charter states that the Mayor or a Councilmember shall forfeit office if he or she (1) lacks at any time during the term of office any qualifications for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter or fails to perform an affirmative duty or responsibility as prescribed by this Charter, (3) is convicted of a felony or, (4) fails to attend three consecutive regular meetings of the Mayor and Council without being excused by the Mayor and Council; and

WHEREAS, Section 219 (Suspension of Elected Official) of the Town Charter states that any violation of an express prohibition of the Town Charter or failure to perform an affirmative duty or responsibility as prescribed by the Charter, as determined by an affirmative vote of at least four members of the Mayor and Council, shall be grounds for suspension from office for a period of not more than 70 days, and that the suspension from office shall only be affected with a favorable vote of four (4) members of the Mayor and Council; and

WHEREAS, Section 219 further states that the decision of the Mayor and Council to suspend an elected official shall be approved by a resolution which shall set forth the reasons for suspension and that the resolution to suspend may be introduced or called for by the Mayor or a sponsoring councilmember or members named in the resolution provided that an affirmative vote of no confidence of at least four (4) members is previously passed and recorded in the minutes of the Mayor and Council, and thereafter, a copy of such proposed resolution shall be personally served upon the elected official or mailed by first-class U.S. Mail to the official's residence and mailed electronically to the elected official's town email address if any; and

WHEREAS, Section 219 further states that upon recording a vote of no confidence and preparation of the proposed resolution of suspension, the elected official shall have four (4) calendar days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than four (4) days nor later than fifteen (15) days after such hearing is requested, and at the public hearing, any interested party may be heard, and the facts shall be established as to whether the elected official shall be suspended, from office and the performance of duties, in accordance with this section, and after the public hearing, if one is requested, and after consideration of the matter, the Mayor and Council by a favorable vote of four (4) members may adopt a final resolution of suspension, and the suspended elected official shall continue to receive full compensation throughout the period of suspension unless removal or forfeiture of office proceedings under Section 206 or Section 205 of the Charter, as applicable and is provided otherwise; and

WHEREAS, the Town Council reaffirms that the principles that govern procedures in proper governing body decision making are as follows: (i) the Mayor and Council as a group must have legal authority to take an action for the municipality; (ii) unless a law states otherwise, authority to make a decision is vested in the body as a group and not its individual members; (iii) notice is required to allow all members to attend and validate actions; (iv) a quorum must be present to provide sufficient representation of the body to conduct business; (v) a question usually in the form of a motion or resolution and answered by an affirmative or negative vote must be placed before the body to make a decision; (vi) there must be an opportunity for debate on the question; (vii) the question must be decided by taking a vote obtained in a fair manner; (viii) a majority vote or other legally required number of votes must be taken to decide a question; (ix) there must be no fraud, trickery, repressive conduct or deception resulting in injury or injustice to another member; and (x) to be valid, any action or decision of a body must not violate applicable law, the Town Charter or constitutional provision.

WHEREAS, the Town Council further finds it to be in the best interest of the Town to temporarily suspend the Mayor from office with regular compensation, and said suspension shall entail a cessation of all municipal powers and duties previously vested in the Mayor by Charter and will include, but is not limited to, no longer chairing or attending meetings, not representing the Town at public or private events or ceremonies, not acting as a Town spokesperson, not being allowed to participate in Town organized Zoom or in person meetings other than in the same capacity as a regular citizen, and no official contact with employees, staff, Councilmembers, ATA/TA, contractors, vendors, or any affiliated or intergovernmental contacts with the Town of Capitol Heights for assistance, coordination or information other than in the same capacity as a regular citizen; however, the ATA/TA may be contacted by said suspended official from time to time to obtain general information relating to said suspension or other pertinent information relating to suspension of lawful duties or the payment of compensation, and the Mayor Pro Tempore or Senior Elected official in lieu of the Mayor shall chair all public meetings, sign checks, and legislation and perform all other duties, responsibilities and tasks in the absence of the Mayor as provided in the Town Charter or ordinances for a period of 70 days with the potential that he be returned to full and regular duty as Mayor or otherwise duly removed from his term of office and/or be properly determined to have forfeited his office.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, BY THE MAYOR AND COUNCIL OF THE INCORPORATED TOWN OF CAPITOL HEIGHTS, this 25th day of January 2021 as follows:

1. In addition to the above recitals, which are incorporated by reference herein, the Council makes the following allegations, findings, resolutions, assertions, approvals, and conclusions in support of its decision to suspend Mayor, Shawn M. Maldon from office for a period not to exceed 70 days.
2. This Resolution 2021-13 to suspend has been introduced or called for by a sponsoring councilmember or members named above in this Resolution provided that an affirmative vote of no confidence of at least four (4) members was previously passed and recorded in the minutes of the Mayor and Council on the 19th day of January 2021.
3. A copy of this Resolution 2021-13, as initially prepared, has been personally served upon Mayor Maldon or mailed by First-Class U.S. Mail to the Mayor's residence and mailed electronically to the Mayor's Town email address, if any.
4. A vote of no confidence, being a statement that the chairperson or other elected official is no longer deemed fit to hold the position on a daily basis without engaging in repressive conduct or other violations of the chairperson's or elected official's duties and responsibilities, as further explained herein, was moved and seconded, at a public meeting and followed by debate with the Mayor permitted to speak first and last on the 19th day of January 2021.
5. Upon recording the vote of no confidence in the minutes and completion of preparation of this proposed resolution of suspension, as approved by the vote of the Council, the Mayor is and was provided four (4) calendar days in which to reply in writing, and upon his request, if any, is and was afforded a public hearing, which occurred not earlier than four (4) days nor later than fifteen (15) days after such hearing was requested, and at the public hearing, if so requested and held, any interested party was allowed (i.e., 3 min.) to be heard, and the facts were established as to whether the Mayor shall be suspended from office and the performance of duties, and after consideration of the matter, the Council by a favorable vote of four (4) members adopted this final resolution of suspension, including any amendments made hereto, for a period of 70 days unless the Council later vote to remove or terminate the suspension before such period ends.
6. As a basis for suspension, a violation of an express prohibition(s) of the Charter or failure to perform an affirmative duty(ies) or responsibility(ies) as prescribed by the Charter has been found to have occurred or committed, and the reasons for suspension are as follows:
 - a. Failure to perform an affirmative duty or responsibility as prescribed by the Town Charter, Section 508 (Checks), to wit: on the 4/17/2020 and 7/15/2020, and for the periods of approximately 4/17/20-6/17/2020 and from 7/15/20-9/15/2020, Mayor Maldon did refuse, neglect, delay or fail to timely sign a check or checks (Check

No.'s: 21646 and 21480), (kindle payment), (lawnscreping check), issued in payment of salaries or other municipal obligations of the Town of Capitol Heights. Copies of said checks (redacted) are attached hereto, as Exhibit A, and incorporated by reference herein.

- b. Failure to perform an affirmative duty or responsibility as prescribed by the Town Charter, Section 504 (Appropriations) requiring that no public money shall be expended without having been appropriated by the Mayor and Council to wit: Mayor Maldon signed a check or checks for \$15,000 made payable to and issued to the Local Government Insurance Trust contrary to the stated agreement and intent of the Council to keep said check on hold and delay payment until further notice. Copy of said check (redacted) is attached hereto, as Exhibit B, and incorporated by reference herein.
- c. Failure to perform an affirmative duty or responsibility as prescribed by the Town Charter, Section 208 (Meetings of the Mayor and Council), to wit: on the 14th, 21st, 28th of September and the 11th day of January, 2021 Mayor Maldon did refuse, neglect or fail to properly preside at the meeting(s), and maintain good order and decorum by not allowing votes to be finally taken, recognized and/or announced; by maliciously or intentionally failing to recognize council members to speak or assume the floor, allow them time to speak and/or allow their motions to be made; by not allowing or recognizing the seconding of motions; by refusing to allow the body to finally decide, consider or debate an appeal of his procedural decisions; by not following or properly amending the agenda; by allowing non-members of the governing body (i.e., the public) to participate or speak out of order and to disrupt, delay and/or dominate the meeting and to impugn, argue with and/or berate members of the Council despite the public being limited by Charter, Section 208 only to speak at the designated time on a municipal issue; by excessively delaying the meeting and/or not passing the gavel or orderly control to the Mayor Pro Temp during his temporary and repeated absences or self-imposed recesses; and
- d. Failure to perform an affirmative duty or responsibility as prescribed by the Town Charter, Section 901 (General Provisions – Oath of Office) and as prescribed by oath, to wit: Mayor Maldon, during the period of July 2018 until the present, did refuse, neglect or failed to the best of his skill and judgment, to diligently and faithfully; without partiality or prejudice, execute the office of Mayor by refusing to provide the Council with information regarding the Town's business and other meetings attended by the Presiding Officer-Mayor without Council approval; by behaving in a manner causing citizens to allege numerous improper actions by the Mayor and bringing discredit to the Town; by willfully operating a business in Town without obtaining a Town business license to do so; by misappropriating, and misusing Town employees and a contactor to perform personal work for certain citizens and councilmembers without proper authority and for improperly using the prestige of the Mayor's office for himself or others; by intentionally and


deceptively withholding or failing in good faith to provide pertinent and material information to the Council during public meetings regarding actions of the Council; by removal of Town checks from the Town Administrator's Office without Council or ATA approval and providing them to another unauthorized person or custodian; by inappropriately and disruptively bringing guests onto a telephone conference call during public meetings to ridicule and embarrass members of Council and citizens; by refusing, after a duly passed motion of Council, to show or share demanded receipts to the Council for Committee revenues and expenses; by the Council setting up a meeting with an elected official and the Mayor obstructed the business by the Council and divert its attention from other priority matters; by repeatedly engaging in intimidation and bullying of members of Council; by repeatedly issuing threats to Council members; by disregarding the chain of command and pressuring or interfering with staff working under the Acting Town Administrator ("ATA") to pay certain vendors without verifying work performed (i.e., ATA); by overriding and ignoring a Council vote by giving a raise to an employee against the express and recorded will of the Council; by conducting a campaign or pattern of behavior to wrongly and inappropriately prosecute, defame, cajole, accuse and sabotage Councilmembers and Council Committees, as well as, coerce or encourage citizens to tamper with voting by residents at the next election (i.e., citizens indicated that if you run they will see to it you won't win, also on meeting recording; by holding up or delaying the meeting and voting process of Council by waiting or unduly recessing for certain council members to return to the meeting; by accepting money on behalf of the Town from Town vendors without notification to or from Council.

- e. Failure to perform an affirmative duty or responsibility as prescribed by the Town Charter, Section 901 (General Provisions – Oath of Office) and as prescribed by oath, to wit: Mayor Maldon did refuse, neglect, or failed to the best of his skill and judgment, to diligently and faithfully; without partiality or prejudice, execute the office of Mayor by properly performing his Charter duties in properly presiding at the public meeting(s), and maintaining good order and decorum, and by executing checks in a timely manner or holding checks from payment as further explained in the above subparagraphs of this Paragraph 6 and the above recitals.

AND BE IT FURTHER RESOLVED AND ORDERED that after the commencement of the period of suspension as approved and ordered by this Resolution, effective immediately and in accordance with the Town Charter, the Council, as stated hereinabove, will further consider taking additional actions or measures as deemed further necessary and proper to justify and effectuate the possible forfeiture or permanent removal from office of the Mayor.

THE TOWN OF CAPITOL HEIGHTS, by and through its Mayor and Common Council:


Renita A. Cason
Mayor Pro Tempore/Councilmember
Resolution 2021-13




Caroline Brown
Councilmember
Resolution 2021-13

Faith T. Ford
Councilmember
Resolution 2021-13

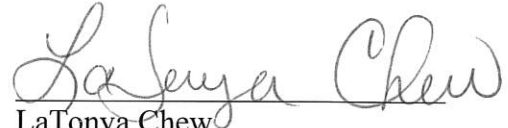
ATTEST:




Darrell Miller
Acting Town Administrator
Resolution 2021-13



Rhonda Akers
Councilmember
Resolution 2021-13



LaTonya Chew
Councilmember
Resolution 2021-13



Elaine Williams
Councilmember
Resolution 2021-13

Shawn M. Maldon
Mayor
Resolution 2021-13