

CITY COUNCIL STRATEGIC PLANNING MEETING
300 WEST CROWELL STREET
MONROE, NORTH CAROLINA 28112
MAY 10, 2022 – 4:30 P.M.
AGENDA
www.monroenc.org

1. Diversity, Equity and Inclusion Committee Update
2. Citizens Appointment Committee Timing of Recommendations to City Council
3. Approval of Order Memorializing Removal of Angelia Nikole James from City Council and Discussion on Process to Replace Vacant Council Member Seat

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- **Agenda** is tentative and is subject to change up to and including the time of the meeting.
 - At the discretion of City Council, **Agenda Items** listed above that are not discussed at the Strategic Planning Meeting or moved at the request of Council, may be carried forward to the City Council Regular Meeting at 6:00 p.m. to be considered.
 - **Cell Phones/Pagers:** As a courtesy, please turn off cell phones and pagers while Meeting is in progress.



STAFF REPORT

TO: City Council

VIA: Brian J. Borne, Interim City Manager

DATE: May 10, 2022

FROM: Debra Chestnut Reed, Director of Human Resources

PREPARED BY: Debra Chestnut Reed, Director of Human Resources

SUBJECT: Diversity, Equity, and Inclusion Committee Update

SUMMARY STATEMENT

The Chair of the Diversity, Equity, and Inclusion Committee, Surluta Anthony, will provide City Council with an update on the Diversity, Equity, and Inclusion Committee.

REVIEW

During the April 6, 2022 meeting of the Diversity, Equity, and Inclusion Committee, the Committee requested to take a recommendation back to Council to change the committee member number from twenty-five participants to fifteen participants and establish bylaws for members.

The Committee will also share the mission statement developed for the Diversity, Equity, and Inclusion Committee.

RECOMMENDATION

The Diversity, Equity, and Inclusion Committee is requesting City Council to approve the recommendation to change the meeting schedule from quarterly meeting to monthly meetings.



TO: City Council

VIA: Brian J. Borne, Interim City Manager

DATE: May 10, 2022

FROM: Brian J. Borne, Interim City Manager

PREPARED BY: Brian J. Borne, Interim City Manager

SUBJECT: Citizens Appointment Committee Timing of Recommendations to City Council

SUMMARY STATEMENT

To discuss the timing of recommendation(s) of the Citizen's Appointment Committee to City Council.

REVIEW

Citizen's Appointment Committee Chair, Mayor Pro Tem Gary Anderson and Council Members Freddie Gordon and Julie Thompson would like to discuss the timing of the recommendation(s) of the Citizens Appointment Committee going to City Council for approval.

RECOMMENDATION

For discussion, recommendation and action.



STAFF REPORT

TO: City Council

VIA: Brian J. Borne, Interim City Manager

DATE: May 10, 2022

FROM: S. Mujeeb Shah-Khan, City Attorney

PREPARED BY: S. Mujeeb Shah-Khan, City Attorney

SUBJECT: Approval of Order Memorializing Removal of Angelia Nikole James from City Council and Discussion on Process to Replace Vacant Council Member Seat

SUMMARY STATEMENT

City Council is requested to approve a written order memorializing the April 7, 2022 removal of Angelia Nikole James from the City Council and to discuss a process for filling the now vacant seat on the City Council. The Council will not fill the seat at this meeting.

REVIEW

Beginning in November of 2021, the City Council began the process of an action based on common law doctrine of amotion to allow the City Council to remove Council Member Angelia Nikole James (“Council Member James”) from the City Council. Following a two-day hearing on January 27 and 28, 2022, the City Council held a hearing on April 7, 2022. The result of the hearing was to remove Angelia Nikole James from the City Council by a 6-0 vote.

Under the Rules of Procedure for Amotion Process approved by the City Council on December 13 2021, removal of Council Member James was effective upon the vote of Council. However, a written order would be drafted that Council would adopt, modify, or reject. The proposed Order is before Council, and has been provided to the attorneys for the City and former Council Member James.

Council is asked to approve the Order.

Council will also be asked to discuss a process for filling former Council Member James' now vacant seat. Prior to the meeting, Council will be provided with potential options for its consideration. As part of an Order entered by United States District Court Judge Robert Conrad, the Council cannot fill the seat until after the Court has considered former Council Member James' Motion for Preliminary Injunction on May 20, 2022. Council is not asked to fill the vacant seat today; the discussion is only related to process options.

RECOMMENDATION

That the City Council adopt the Order of the City Council on Amotion Hearing, and then discuss a process for filling the vacant Council seat.

Attachment: Order of the City Council on Amotion Hearing

BEFORE THE CITY COUNCIL OF THE CITY OF MONROE

In the Matter of

The City of Monroe, a North Carolina
Municipal Corporation,

Complainant,

v.

Angelia Nikole James,

Respondent.

**ORDER OF THE CITY
COUNCIL ON AMOTION
HEARING**

This cause came on for hearing before the City Council of the City of Monroe on April 7, 2022 on the Amotion Proceeding Concerning Councilmember Angelia Nikole James. The City of Monroe (“Complainant” or “City”) was represented by Tara Bright and Robert Hagemann of the firm of Poyner Spruill, LLP and Angelia Nikole James (“Respondent,” “James,” or “Councilmember James”) was represented by Bo Caudill and Sophia Pappalardo of the firm of Villmer Caudill.

The Amotion proceeding was commenced by the City Council’s approval of Resolution R-2021-89 (“R-2021-89”) on November 9, 2021. R-2021-89 noted the availability of the common law action of amotion, and directed the City Attorney for the City of Monroe to prepare amotion procedures for the City Council’s adoption. R-2021-89 also directed the City Attorney and/or his designee to prepare a petition in amotion to remove Respondent from office. The City of Monroe Rules of Procedure for Amotion Hearing (“Amotion Rules”) were adopted by City Council on December 13, 2021.

In accordance with the Amotion Rules, the April 7, 2022 hearing before the City Council was the second part of a two-part process that began with a hearing held before Hearing Officer

Valecia McDowell (“Hearing Officer McDowell”) on January 27 and 28, 2022. The hearing was scheduled following the service of the January 6, 2022 Petition in Amotion to Remove Angelia Nikole James from the Monroe City Council (“Petition”). In accordance with Section IV (A) of the Amotion Rules, Hearing Officer McDowell issued a report to the Monroe City Council on March 25, 2022 which included proposed findings of fact, proposed conclusions of law, and a recommendation with respect to whether Ms. James should be removed from office.

The April 7, 2022 Hearing was scheduled in accordance with Section V (A) of the Amotion Rules which requires the hearing to be scheduled no earlier than seven days after transmittal of the Hearing Officer’s Report.

Prior to the Hearing Officer presenting her report and recommendations to City Council, the City Council had a preliminary matter to address. In accordance with a motion made by Mayor Pro Tem Gary Anderson, seconded by Councilmember James Kerr, the Council considered excusing Councilmember James from sitting on the hearing and voting on the matter of amotion in accordance with North Carolina General Statutes Section 160A-75, on the grounds that this matter involved her official conduct and creates a direct financial impact for Councilmember James. The City Council voted 5-2 (For: Mayor Holloway, Mayor Pro Tem Anderson, Councilmember Kerr, Councilmember Keziah, and Councilmember Thompson; Against: Councilmember James, and Councilmember Gordon) to approve the Motion. Councilmember James was then excused from the dais and took a seat with her attorneys for the remainder of the hearing.

The City Council, having considered the materials that were part of the hearing record, the Hearing Officer’s Report, and the arguments of counsel, hereby enters the following findings of fact, conclusions of law, and disposition.

FINDINGS OF FACT

1. Findings of fact were proposed by the Hearing Officer as part of her March 25, 2022 Report. At the April 7, 2022 hearing, by a 6-0 vote, the City Council adopted the proposed findings of fact from the hearing officer.

2. The findings of fact were based on the Hearing Officer's thorough consideration of all evidence in the record.¹ The findings pertained to the events that occurred on September 9 and 10, 2021, because the City of Monroe's allegations in the Petition pertain to those two dates. (Petition, Record No. 1)(All citations are to the Record provided to the City Council along with the March 25, 2022 Report of the Hearing Officer.).

A. Ms. James' Behavior on the Morning of September 9, 2021

3. These facts were presented by the Hearing Officer to contextualize the events on the morning of September 9 and 10, 2021. The City of Monroe did not allege that any of the details in this subsection demonstrate misconduct in office.

4. On September 9, 2021, Ms. James woke up early at approximately 5:00 am. (Jan. 27 Tr. 352:4-6).

5. Ms. James testified that "God woke [her] up" and told her to look at a house that had been for sale but was currently under contract. (*Id.* at 351:23-352:1, 352:20-353:5).

6. That morning, Ms. James called the real estate agent who listed the house about seven times prior to 9:00 am. (*Id.* at 353:22-354:1).

7. On the eighth attempt shortly after 9:00 am, the agent answered and told her that

¹ The record contains the motion petition to remove Ms. James, pre-hearing items, hearing transcript and video, exhibits introduced during the motion hearing, and post-hearing items (collectively, the "Record"). On February 22, 2022, the parties were emailed a list of proposed items to be included in the Record, and counsel were given the opportunity to provide feedback. The parties proposed no changes to the Record.

the house was under contract and not available for a showing. (*Id.* at 353:25-354:1, 354:18-355:8). After she persisted, the agent eventually told Ms. James that she could see the house in the afternoon. (*Id.* at 355:1-8, 15-24). In her testimony, Ms. James acknowledged that her behavior concerning the house was “strange.” (*Id.* at 359:22-25).

8. At approximately 10:00 am, Ms. James met a reporter from the Enquirer Journal at a local café to discuss the mayoral race. (Evaluation of Angelia James at 3, Record No. 26; Jan. 27 Tr. 356:2-11, 357:2-12). She had a smoothie during the hour-long interview but had not eaten anything else that morning. (Evaluation of Angelia James at 3-4, Record No. 26; Jan. 27 Tr. 355:9-14, 357:13-15; Jan. 28 Tr. 81:15-17).

9. Afterward, Ms. James called Police Chief Bryan Gilliard on his cell phone at roughly 11:15 am, but he was unavailable to speak. (Jan. 27 Tr. 47:12-47:19).

B. Initial Call with Police Chief Bryan Gilliard Telling Him to Retire

10. At approximately noon on September 9, 2021, Chief Gilliard returned Ms. James’ telephone call. (Jan. 27 Tr. 47:12-24). On the call, Ms. James asked him when he planned to retire from the police department. (*Id.* at 48:12-13). He explained that he was eligible in May 2022 but had a personal goal of remaining as police chief until the completion of the new police building, which was projected for 2023. (*Id.* at 48:14-19; Petition ¶ 10, Record No. 1). According to Chief Gilliard, Ms. James then “said that [he] needed to leave” in May 2022 and to promote Mark Isley to assistant police chief in December 2021.² (Jan. 27 Tr. 49:10-11, 50:5-8). She further

² Chief Gilliard was aware of the City’s human resource policies 19 and 20. Policy 19 provides that “[a]ll separations of employees from positions in the service of the city shall be designated as . . . Resignation, disability, voluntary retirement, dismissal, or death.” (Jan. 27 Tr. 71:13-72:17; HR Policy 19 – Separation and Reinstatement at 1, Record No. 16). It further provides that dismissal must occur in “accordance with the provisions and procedures of the Unsatisfactory Job Performance Policy.” (Jan. 27 Tr. 72:18-25; HR Policy 19 – Separation and Reinstatement at 2, Record No. 16). Under Policy 20, dismissal for unsatisfactory performance requires “several steps,” including “verbal and written warnings[.]” (*Id.* at 74:2-7; *see also* HR Policy 20 – Unsatisfactory Job Performance at 1-2, Record No.

added that Mark Isley would become the police chief in May 2022. (*Id.* at 50:5-8). Ms. James further said that if elected mayor, she had the votes to appoint a new city manager and remove Chief Gilliard. (*Id.* at 51:11-15).

11. Chief Gilliard testified that he experienced a “range of emotions” in response to this call because he had “worked [his] whole life to make this place the best police department [and] best community” he could. (*Id.* at 52:23-53:8).³

12. Afterward, Ms. James called or otherwise spoke to Chief Gilliard on his cell phone at least five more times that day. (*Id.* at 53:18-54:9, 55:6-17, 55:25-56:22, 57:6-58:10). Several of the calls are discussed further below.

C. Afternoon of September 9, 2021

13. This subsection, like with the first one, contextualizes the events that occurred on September 9 and 10, 2021. The City of Monroe did not allege that any of the details in this subsection show misconduct in office or that just cause exists to remove Ms. James from office on the basis of the details in this subsection.

14. Ms. James picked up her son from school at approximately 3:00 pm and took him to see the house that was under contract. (Jan 27 Tr. 358:2-13).

15. At approximately 4:00 pm, Ms. James and her son returned home, and Ms. James told her husband that she found a new house and that they were “going to sell this house, and that was it.” (*Id.* at 358:14-18). She recalls that Mr. James was “puzzled.” (*Id.* at 358:21-24).

17).

³ He also testified that his son called him on September 10, 2021, asking if he had been fired, and he told his son that he had not been fired but was “having a tough time here.” (*Id.* at 60:13-17).

According to Ms. James, to avoid an argument with her husband, Ms. James decided that she and her son would stay at the Fairfield Inn and Suites for the evening. (*Id.* at 359:5-7). In retrospect, Ms. James finds that her behavior concerning the house had been “strange” throughout the day. (*Id.* at 359:22-25).

D. Ms. James’ Conduct at the Fairfield Inn and Suites

1. Ms. James’ Arrival and Police Officers’ Initial Response to the Hotel

16. Ms. James testified that, after arriving at the hotel, she perceived that there were “some felons” in the hotel lobby. (Jan 27 Tr. 360:17-24). She further testified that she believed the bystanders to be felons because “God was speaking to” her and told her. (*Id.* at 360:21-24, 361:11- 18).

17. Ms. James approached a Black man in a “yellow worker’s vest” and asked him to take his mask off.⁴ (*Id.* at 360:24-361:5). The interaction with the man left Ms. James feeling unsafe, so she called Chief Gilliard directly to ask him to send an officer to “check out this hotel[.]” (*Id.* at 362:2-9). At the time, Ms. James was unaware that the hotel also contacted the police in response to her behavior. (*Id.* at 362:15-17).

18. Shortly before 7:00 pm, Officers Ragan Broome and Timothy Sykes responded to a call that a man in a yellow vest at the Fairfield Inn and Suites was potentially wanted for murder. (Incident Report at 3-4, Record No. 18; Jan. 27 Tr. 98:9-21, 99:4-13, 120:6-11, 217:3-7). A hotel employee told the officers upon arriving that a woman (Ms. James) had been “harassing customers and she needs to leave.” (Incident Report at 3, Record No. 18).

⁴ These events occurred during the Covid-19 pandemic when the wearing of face masks was recommended (and, in many instances, required) to reduce the spread of the virus.

19. Shortly thereafter, Officer Brantley Birchmore responded to the hotel and spoke to a hotel employee who told him that Ms. James had approached a man in the lobby and accused him of being a felon. (*Id.* at 12). The officers then spoke to Ms. James, who directed them to locate and arrest the individual in the yellow vest. (*Id.* at 15, 19; Jan. 27 Tr. 56:23-57:1, 130:13-131:3). The officers did not comply with Ms. James' instruction. (Incident Report at 15-16, 19, Record No. 18; Jan. 27 Tr. 100:15-19).

20. Ms. James then called Chief Gilliard on his cell phone again and asked him "to have the officers arrest the felons at the hotel." (Jan. 27 Tr. 53:18-54:2). Chief Gilliard told her that the officers could not do that. (*Id.* 54:2-8).

2. Ms. James' Inappropriate Interaction with Officer Broome

21. Following the call with Chief Gilliard, Ms. James made several negative remarks to Officer Broome about her facial expressions and body language. (Jan. 27 Tr. 101:3-21; Video Clip 5.b, Record No. 38). Ms. James then stated that she was "a City Council member" and that Officer Broome needs to "show respect" and "change her body language." (Video Clip 5.b, Record No. 38; Jan. 27 Tr. 366:14-19).

22. Ms. James called Chief Gilliard again on his cell phone and told him that Officer Broome "needed to change her character and her facial expressions." (Jan. 27 Tr. 55:6-17). Ms. James also asked Officer Broome which high school she had attended, and Officer Broome told her Weddington High School. (*Id.* 101:3-11; Video Clip 5.b, Record No. 38). According to Officer Broome, Ms. James commented that Officer Broome was being "uppity" because she went to Weddington High School and that having gone there "doesn't mean nothing." (Jan. 27 Tr. 102:6-10, 103:17-19, 128:3-16; Video Clip 5.b, Record No. 38). Officer Broome testified that she felt "very intimidated" by Ms. James, who she felt had "power over" her. (Jan. 27 Tr. 104:21-

105:2). In her testimony at the hearing, Ms. James acknowledged that she “deride[d]” Officer Broome for going to Weddington High School and admitted that her conduct was “not appropriate at all.” (*Id.* at 366:14-19, 367:11-13).

3. Ms. James’ Direction to Arrest Certain Innocent Men of Color

23. Several other police officers—Lieutenant Nick Brummer, Captain William Bolen, and Sergeant Adam Craig—also responded to the hotel. (Incident Report at 6, 12, 15, 18, Record No. 18.)

24. Ms. James told certain police officers that the Black male in the yellow vest, who was visible to the officers and Ms. James near the lobby, either was wanted for murder or was a wanted felon. (Jan. 27 Tr. 2 17:5-218:5; Incident Report at 15, Record No. 18).

25. Sergeant Craig and Lieutenant Brummer spoke to the man in the yellow vest, obtained his identification card, and ran searches for any warrants against him. (Incident Report at 15, Record No. 18; Jan. 27 Tr. 217:20-218:5). No warrants were found. (*Id.*)

26. Ms. James then accused other Black men in the hotel lobby of being felons and instructed the police to arrest them. (Incident Report at 13, 20, Record No. 18; Jan. 27 Tr. 282:14-17). The police officers did not comply with Ms. James’ instruction. (Incident Report at 6, 13, Record No. 18).

27. In her testimony, Ms. James acknowledged that “insist[ing] [police officers] go room by room check the hotel” was “strange.” (Jan. 27 Tr. 363:1-9).

4. Ms. James’ Interaction with Captain Bolen and Other Officers Outside the Fairfield Inn

28. Outside the hotel, paramedics checked Ms. James’ vitals and asked her some questions, which she permitted them to do. (Incident Report at 13, 16, Record No. 18; Jan. 27 Tr. 133:6-12, 244:12-13).

29. After the paramedics left, Ms. James had a discussion with Captain Bolen, Sergeant Craig, and Officer Birchmore. (Video Clip 1.a, Record No. 31). Ms. James said three times that Captain Bolen was a “captain for now.” (*Id.*).

30. Captain Bolen asked three times if Ms. James wanted his captain badge. (*Id.*; Jan. 27 Tr. 186:4-7). Ms. James then reached for Captain Bolen’s badge and attempted to remove it. (Video Clip 1.a, Record No. 31). Captain Bolen testified that her act was an assault on him. (Jan. 27 Tr. 178:16-18).

31. In her testimony, Ms. James admitted that she “attempted to take Captain Bolen’s badge off his chest[.]” (*Id.* 364:9-11; *see also* Jan 28 Tr. 22:12-14).

32. Ms. James then called Chief Gilliard again and said that “after tonight, [Captain Bolen] is no longer a captain . . . after tonight Brantley Birchmore is going to be the captain.” (Video Clip 1.a, Record No. 31).

33. Captain Bolen received the phone from Ms. James and told Chief Gilliard that he would give his badge to Ms. James, which he did to resolve the conflict. (Incident Report at 13, Record No. 18). A few minutes later (after Chief Gilliard was no longer on the phone), Ms. James said that Captain Bolen’s “job was done” and that she was going to “take his badge.” (*Id.* at 20).

34. Throughout her interaction with Captain Bolen, Ms. James asserted several times that Captain Bolen “don’t like Black people.” (Video Clip 3.a, Record No. 37; Video Clip 1.a, Record No. 31).

35. Ms. James testified that she regrets having tried to take Captain Bolen’s badge and having stated that he does not like Black people. (Jan. 27 Tr. 368:4-5; 369:3-11).

5. Arrival of Lieutenant Holt and Ms. James’ Husband at the Fairfield Inn

36. At approximately 7:50 pm, Chief Gilliard called Lieutenant Monique Holt, who

he described as “very versed in handling situations like this,” to ask her to respond to the Fairfield Inn. (Jan. 27 Tr. 57:10-14, 235:3-10; Incident Report at 22, Record No. 18).

37. Lieutenant Holt was off duty at a football game coached by Ms. James’ husband, Tony James. (Jan. 27 Tr. 235:5-10, 236:2-6; Incident Report at 22, Record No. 18). As requested by Chief Gilliard, she informed Mr. James of the events occurring at the Fairfield Inn. (Jan 27 Tr. 236:7-9; Incident Report at 22, Record No. 18).

38. Lieutenant Holt and Mr. James drove separately to the hotel, where they found Ms. James and police officers gathered outside. (Incident Report at 22, Record No. 18; Jan. 27 Tr. 236:15-25).

39. Mr. James then told Officer Birchmore and Captain Bolen that a similar incident involving Ms. James occurred between ten and twelve years earlier. (Jan. 27 Tr. 142:9-17).

40. According to Officer Birchmore, Mr. James said that they were at church when “something happened” in which Ms. James believed she had spoken to God, and after that, Mr. and Ms. James “had to remove themselves from the church[.]” (*Id.* at 142:18-23). She may have had “some arguments” at the church. (Jan. 28 Tr. 87:5-13).

41. Mr. James also told Officer Birchmore that Ms. James never sought mental or medical treatment. (Jan. 27 Tr. 141:23-143:1, 209:5-12).

42. At some point while outside the Fairfield Inn, Ms. James began crying and saying she was tired. (*Id.* at 238:9-11). Lieutenant Holt and Sergeant Craig helped Ms. James into her husband’s truck, so that she and Mr. James could return to their home, which was approximately seven minutes driving from the hotel.⁵ (*Id.* at 238:12-19). The police officers and Ms. James left

⁵ Based on information contained in the investigation reports, (Incident Report, Record No. 18), Ms. James lives slightly more than three miles, or about seven minutes driving, from the Fairfield Inn.

the Fairfield Inn at approximately 8:50 pm. (*See* Incident Report at 13, 20, Record No. 18).

E. Events at Ms. James' House Minutes Later

43. Between approximately 9:00 and 9:05 pm, Ms. James called Lieutenant Holt on her cell phone and said that her husband “was taking her son.” (Jan. 27 Tr. 239:9-12). Lieutenant Holt, who had been driving home from the Fairfield Inn, told Ms. James that she would drive to Ms. James' house. (*Id.* at 239:13-14).

44. Lieutenant Holt then called Chief Gilliard and Lieutenant Brummer to update them. (*Id.* at 239:16-17; Incident Report at 20, Record No. 18). She told Lieutenant Brummer that Mr. and Ms. James were “having an argument at their residence” and that officers should go there. (Incident Report at 20, Record No. 18; Jan. 27 Tr. 245:16-19).

45. While driving there and when Ms. James was calling her back, Lieutenant Holt got into a car accident and was subsequently transported to Atrium Health Union Hospital. (Jan. 27 Tr. 239:17-240:12).

46. At approximately 9:05 pm, Lieutenant Brummer requested assistance responding to Mr. and Ms. James' house via police radio. (Jan 27 Tr. 144:2-144:6; Incident Report at 13, 17, Record No. 18).

47. Lieutenant Brummer, along with Sergeant Craig, Officer Birchmore, and Captain Bolen,⁶ then responded to their house. (Incident Report at 7, 13, 17, 20, Record No. 18; Jan. 27 Tr. 143:16-145:3). After they arrived, the police officers requested EMS assistance because Ms. James said she felt pressure in her chest and felt like she was going to throw up. (Incident Report at 13, 17; Jan. 27 Tr. 145:15-21). Paramedics determined that her blood pressure and heart appeared normal. (Incident Report at 13, 21, Record No. 18).

⁶ Captain Bolen left Ms. James' house shortly after arriving.

48. Shortly thereafter, Ms. James told the police officers that she had “fired [Chief] Bryan [Gilliard] . . . so Mark Isley is the chief . . . so if y’all don’t like Mark Isley . . . as the Chief of Police for the City of Monroe, then you’re not going to be on the force.” (Video Clip 6.a, Record No. 39). She also told paramedics that certain officers, including Officer Birchmore, had been promoted to captain. (*Id.*; Incident Report at 13, 17, Record No. 18).

49. Separately, Ms. James directed Sergeant Craig to hold her water cup and to escort her to the bathroom and other parts of her house. (Jan. 27 Tr. 269:6-270:1, 271:1-5). Sergeant Craig testified that he allowed Ms. James to direct him in that manner because she was a councilmember. (*Id.* at 283:23-284:6).

50. Ms. James eventually allowed EMS to transport her to Atrium Health Union Hospital. (Incident Report at 18, 21, Record No. 18). The officers left the scene before EMS departed. (*Id.*).

F. Ms. James’ Conduct at Atrium Health Union Hospital

51. Ms. James arrived at Atrium Health Union Hospital sometime before 11:00 pm on September 9, 2021. (Incident Report at 9, Record No. 18). Officer Aycoth was at the hospital after responding to the car accident involving Lieutenant Holt and then following the ambulance there. (Jan. 27 Tr. 290:12-19). Officer Aycoth saw Ms. James in the waiting area around 11:00 pm and spoke to the paramedic who brought her in. (Incident Report at 9, Record No. 18; Jan. 27 Tr. 291:5-21).

52. Officer Aycoth had heard “a little about the situation earlier, in that the officers had been dealing with her earlier that night.” (Jan. 27 Tr. 292:2-4). According to Officer Aycoth, Ms. James was “kind of really manic” and “fidgety” and “all over the place.” (*Id.* at 291:8-10). He knew Ms. James from the community and considered them “friends.” (*Id.* at 289:14). Ms.

James also testified that she considered them to have been “friends” prior to these events. (*Id.* at 366:3).

53. Officer Aycoth tried to assist Ms. James with getting a private room because he “thought it best” “knowing her position” as a councilmember. (Incident Report at 9, Record No. 18; Jan. 27 Tr. 292:5-9). While inquiring at the nurses’ station about a private room, Ms. James “became irate and pushed away” from Officer Aycoth, “snatch[ing] the mask off [his] face.” (Incident Report at 9, Record No. 18; Jan 27 Tr. 294:1-13). North Carolina law required the wearing of face masks in hospital settings when this occurred.⁷

54. Officer Aycoth testified that Ms. James’ conduct toward him was an assault but that he did not arrest her “because she is a councilmember.” (Jan. 27 Tr. at 294:11-18). He testified, however, that he had discretion to arrest her under the circumstances. (*Id.* at 301:16-21).

55. Officer Aycoth requested assistance via police radio, and shortly thereafter, other police officers arrived at the hospital. (Incident Report at 10, 18, 21, Record No. 18). Ms. James then refused a hospital worker’s instruction to wear a face mask, which was required under North Carolina law. Video Clip 2.a, Record No. 33; NCDHHS COVID-19 Response, *supra* n.7. (Ms. James did not testify at the hearing about her refusal to wear a mask.)

56. Around the same time, hospital staff also complained that Ms. James was “going into other people’s rooms.” (Video Clip 2.a, Record No. 33).

57. Ms. James subsequently told several officers present—including Officer Andreas

⁷ These events on September 9 and 10, 2021 occurred during the Covid-19 pandemic when North Carolina required the wearing of face masks in hospital settings to reduce the spread of the virus and protect public health. See *Latest Updates*, NCDHHS COVID-19 Response, <https://covid19.ncdhhs.gov/about-covid-19/latest-updates#may-2021> (mandating masks in hospital settings, still in place in September 2021).

Bosnakis, Captain Bolen, Lieutenant Brummer, and Officer Aycoth—that they “were fired” or were “gonna be fired.” (Video Clip2.e, Record No. 36; Incident Report at 10, 21, Record No. 18). She further stated that Captain Bolen “got fired today because he doesn’t like black people.” (Incident Report at 14, Record No. 18).

58. Ms. James testified at the hearing that she regretted having stated that police officers were fired or were going to be fired. (Jan. 27 Tr. 369:12-17). She also regretted saying that Captain Bolen does not like Black people. (*Id.* at 369:7-11). She separately admitted to “pull[ing] Officer Aycoth’s mask off his face.” (*Id.* 364:12-14).

59. Shortly afterward, medical staff ran tests on Ms. James and administered two shots of medication to sedate her. (Incident Report at 10, 21, Record No. 18; Jan 28 Tr. 25:20-25). The physician’s assistant wrote in Ms. James’ medical chart that she had suffered from “acute psychosis.” (Jan. 28 Tr. 76:12-18).

G. Ms. James’ Characterization of Her Conduct throughout September 9th and 10th

60. In her testimony about her conduct throughout September 9 and 10, 2021, Ms. James confirmed her understanding that “God speaks to” her and at times tells her to do certain things. (Jan. 27 Tr. 341:8-14). She acknowledged that she “sometimes [does not] interpret what God says perfectly” and does not “always completely understand or appreciate what God is telling” her. (*Id.* at 352:13-19).

61. Her conduct in retrospect “surprise[d]” her because it “wasn’t the Angelia James that the community voted grew to love back in 2019,” “the Angelia James who the community voted for,” or “the Angelia James that they have grown to love and respect.” (*Id.* at 365:11-17).

62. She added that she “is a person who care[s] and respect[s] her community” and “works together with her community” and “build[s] relationships.” (*Id.* at 365:20-23).

H. Evidence in the Record Relating to Ms. James' Mental Health

1. Ms. James' Perception of Her Mental Health

63. In her testimony, Ms. James stated her belief that she experienced “some sort of mental issue or mental illness” on the evening of September 9, 2021. (Jan. 28 Tr. 21:2-5; *see also* Jan. 27 Tr. 368:25-369:2). Although she testified that she was not in her “normal state of mind” that evening (Jan. 27 Tr. 368:15-21), Ms. James described what happened to her as an “isolated incident” that could “happen to any one of us.” (*Id.* at 371:1-3).

64. Ms. James introduced no evidence that she has received or plans to receive mental health treatment or is otherwise taking steps to determine whether such events may occur again or to mitigate that risk.

2. Minimal Evidence in the Record from Her Treating Medical Professionals

- a. The record contains minimal evidence of medical treatment that Ms. James has received.

65. As it relates to September 9 and 10, 2021, no party introduced medical records or testimony from any of the many medical professionals who attended to Ms. James at the Fairfield Inn, her house, or Atrium Health Union Hospital.

66. Ms. James testified that she visited a therapist named Tia Coleman on October 1 or 2, 2021, and visited a psychiatrist named Kimberly Gordon on November 2, 2021 (Election Day), (Jan. 28 Tr. 26:20-27:10; Evaluation of Angelia James at 3, Record No. 26), but Ms. James offered little to no evidence about the treatment she had received from either of them.

3. Ms. James' Expert Witness

67. Dr. Dan Cotoman,⁸ a psychiatrist who Ms. James retained as her testifying expert witness, concluded that on September 9, 2021, Ms. James likely experienced an episode of “delirium”—a mental illness that occurs over a short period. (Jan. 28 Tr. 55:8-12, 64:8-13; Evaluation of Angelia James, Record No. 26). Dr. Cotoman testified that “hypoglycemia” was the likely “physical trigger” for the delirium onset. (Jan. 28 Tr. 59:8-17, 81:8-14). In his memorandum prepared in preparation for this hearing, Dr. Cotoman concluded that Ms. James experienced hypoglycemia, in part, because Ms. James “didn’t eat anything that day.” (Evaluation of Angelia James at 4-5, Record No. 26.)

68. Upon evaluating Dr. Cotoman’s testimony and memorandum as well as other evidence in the record, Hearing Officer McDowell concluded that Dr. Cotoman’s process in reaching his conclusion was not sufficiently thorough. In addition, his testimony and memorandum contained at least four inconsistencies. As a result of these defects, which are discussed directly below, Hearing Officer McDowell placed little weight on the evidentiary value of his testimony and memorandum. The City Council agreed with Hearing Officer McDowell.

a. Dr. Cotoman’s Process Was Insufficiently Thorough

69. With respect to his process, Dr. Cotoman failed to communicate with any of the medical professionals who treated Ms. James during and after the events of September 9 and 10,

⁸ Dr. Cotoman is board certified in general psychiatry, forensic psychiatry, and neurology. (Jan. 28 Tr. 44:24-45:1). He has been practicing general psychiatry since 2004 and forensic psychiatry since 2008. (*Id.* at 41:13-20). After graduating from a military medical program in Romania, Dr. Cotoman attended a residency program at Wake Forest Baptist Hospital in Winston-Salem, North Carolina and a forensic psychiatry fellowship at the State University of New York in Syracuse, New York. (*Id.* at 42:12-21, 43:8-12). He is also an active member of the American Academy of Psychiatry and Law. (*Id.* at 44:19-20). Although no *Daubert* hearing was conducted given the nature of this proceeding, Hearing Officer McDowell concluded that Cotoman had the education, background, and experience to testify in this proceeding.

2021.⁹ (Jan. 28 Tr. 77:20-78:4).

70. Although he testified that he reviewed medical records from Ms. James' visit to Atrium Health Union Hospital on September 9 and 10, 2021, he reached conclusions about those records and the diagnoses therein without speaking to any of the treating physicians or other medical professionals. (*Id.* at 49:12-20, 69:24-70:5, 77:20-78:4).

71. For instance, Dr. Cotoman observed that Ms. James received an "acute psychosis" diagnosis at Atrium Health Union Hospital the evening of September 9, 2021—a different diagnosis than delirium. (*Id.* at 76:15-18, 93:11-15; Evaluation of Angelia James, at 5, Record No. 26). He neither communicated with the doctor who gave the diagnosis or the physician's assistant who wrote it down and instead concluded that the treating physician who issued the diagnosis "*probably* . . . meant brief psychotic disorder." (Jan 28 Tr. 76:15-77:8; *see also* Evaluation of Angelia James, at 5, Record No. 26) (emphasis added).

72. Dr. Cotoman also did not speak with or acquire medical records from Tia Coleman, the therapist who Ms. James visited on October 1 or 2, 2021; nor did Dr. Cotoman speak with or acquire medical records from Kimberly Gordon, the psychiatrist who Ms. James visited on November 2, 2021 (Election Day). (Jan. 28 Tr. 26:23-27:10; 88:14- 89:9). Dr. Cotoman understood that Dr. Gordon had performed a "formal evaluation" but never requested or reviewed it. (Evaluation of Angelia James at 3, Record No. 26).

73. Dr. Cotoman also did not thoroughly investigate Ms. James' prior mental health

⁹ To evaluate Ms. James, Dr. Cotoman first met Ms. James in January 2022 via Zoom for approximately two hours and then later spoke with Ms. James by telephone for thirty minutes to an hour. (Jan. 28 Tr. 70:13-25, 86:6-9). In addition to his meetings with Ms. James, Dr. Cotoman reviewed (1) portions of video footage from September 9, 2021, (2) Ms. James' medical records from the evening of September 9, 2021 and the morning of September 10, 2021, and (3) police incident reports and supplemental reports from September 9, 2021. (*Id.* at 49:2-20). He also spoke to Mr. James for approximately fifteen to thirty minutes. (*Id.* at 86:13-15).

incident from approximately ten to twelve years earlier. (Jan 28 Tr. 86:20-87:8, 87:14-18). According to his own testimony, all that he did was speak to Ms. James about it for “a few minutes.” (*Id.* at 87:2-4). He admitted that he did not “have enough data to . . . say an opinion about the prior . . . incident.” (*Id.* at 87:5-8). Despite being aware of the incident, Dr. Cotoman did not address it in his memorandum. (*Id.* 82:25-83:15).

b. Dr. Cotoman’s Testimony and Memorandum Contained At Least Four Inconsistencies

74. First, Dr. Cotoman concluded that Ms. James’ purported delirium episode on September 9, 2021 was an “isolated incident.” (Jan 28 Tr. 82:8-10). As already established, however, he lacked enough information to opine whether she suffered delirium ten to twelve years earlier and failed to address that in his memorandum. (*Id.* at 87:5-8).

75. Ultimately, Dr. Cotoman conceded in his testimony that having suffered delirium in the past “can be” a risk factor for suffering delirium again in the future. (*Id.* at 83:21-84:14). And in further contradiction, he refused to acknowledge that Ms. James’ purported delirium episode on September 9, 2021, increased the chance that she would have another one in the future. (*Id.* at 83:17-84:14).

76. Second, Dr. Cotoman concluded in his memorandum that Ms. James experienced delirium from hypoglycemia because she “didn’t eat anything” on September 9, 2021. (Evaluation of Angelia James at 5, Record No. 26). When questioned on this point, Dr. Cotoman admitted in his testimony that Ms. James had a smoothie at approximately 10:00 am that day.¹⁰ (Jan. 28 Tr. 81:15- 17). He also wrote in his memorandum that Ms. James had a smoothie around

¹⁰ Dr. Cotoman’s position appeared to be that her behavior in the *late afternoon and evening* of September 9, 2021 can be explained by hypoglycemia having triggered delirium. (Evaluation of Angelia James at 4-5, Record No. 26; Jan. 28 Tr. 57:20-25, 61:19-62:3, 81:18-23). Dr. Cotoman, however, did not account for Ms. James’ admission that her behavior had been “strange” all morning and afternoon. (*See* Jan. 27 Tr. 359:22-25).

2:30 pm, (Evaluation of Angelia James at 4, Record No. 26), but the evidence does not indicate that she did. (Jan. 28 Tr. 81:15-17; Jan. 27 Tr. 357:2-12).

77. Third, Ms. James consumed the smoothie roughly two hours before her initial call with Chief Gilliard in which she directed him to retire. (Evaluation of Angelia James at 3-4, Record No. 26; Jan. 27 Tr. 355:9-14, 357:13-15; Jan. 28 Tr. 81:15-17). When asked whether Ms. James could have experienced hypoglycemia within those two hours, Dr. Cotoman did not offer an explanation. (Jan. 28 Tr. 81:8-81:23).

78. Later, he sought to clarify that a person can experience hypoglycemia if the person has not eaten for approximately six hours or half a day, depending on the person and the circumstances. (*Id.* at 90:9-21, 91:6-11). In short, hypoglycemia-triggered delirium does not appear to be an available explanation for Ms. James' conduct directing Chief Gilliard to retire on their initial call that day.

79. Fourth, Dr. Cotoman testified that "exhaustion" was potentially another trigger of the delirium onset. (*Id.* at 82:3-7). He did not identify "exhaustion" in his memorandum though. (Evaluation of Angelia James, Record No. 26).

80. Furthermore, Dr. Cotoman had not even met Ms. James in person. (Jan. 28 Tr. 71:1-6). Dr. Cotoman's assessment of Ms. James occurred via one videoconference on Zoom and one telephone call. (*Id.* at 27:18-28:2, 70:21-25). The videoconference lasted approximately two hours, and the phone call was between thirty minutes and one hour. (*Id.* at 86:3-9). During the videoconference, Dr. Cotoman spoke to Ms. James' husband for approximately fifteen to thirty minutes. (*Id.* at 13-15).

81. For these reasons, Hearing Officer McDowell placed little weight on the evidentiary value of Dr. Cotoman's testimony and memorandum. The City Council agreed.

I. Effects From the September 9, 2021 Incidents

82. According to Chief Gilliard, Ms. James' interactions with the police on the evening of September 9, 2021 had a "tremendous impact" on the police department, including by "affect[ing] the morale." (Jan. 27 Tr. 53:14, 60:3-4).

83. As noted earlier, Chief Gilliard experienced a "range of emotions" following his initial call with Ms. James on September 9, 2021. (*Id.* at 52:23). Several other police officers used the employee assistance program to seek counseling as a result. (*Id.* at 61:15-24).

84. With respect to the police officers who were the subject of Ms. James' statements about being fired or promoted, each one received the employee handbook explaining how personnel decisions are made within the police department. (*Id.* at 67:6-19, 96:1-4, 113:20-23, 163:3-11, 298:11-18).

85. The handbook does not provide that a councilmember can hire, fire, promote, or discipline a police officer. (*Id.* at 78:20-79:7). The officers, however, had varying understanding of Ms. James' authority and influence.

- Chief Gilliard understood that neither the Mayor nor an individual councilmember had the authority to fire him or make other personnel decisions within the police department. (*Id.* at 51:1-10, 51:16-52:4, 92:5-9). He understood, however, that the city manager had that authority to fire him and that the City Council could replace the city manager. (*Id.* at 51:1-4).
- Officer Birchmore did not know whether a councilmember could hire a police officer. (*Id.* at 161:1-7, 162:20-163:2). He "had an idea" that he would not be promoted to captain, and he was "playing into" Ms. James' promoting and firing of officers that evening. (*Id.* at 137:16-18, 161:8-11).
- Captain Bolen knew that a councilmember could not hire, fire, promote, or discipline an officer. (*Id.* at 189:7-20). Even so, he received Ms. James' remarks toward him to be a "threat to his employment status." (*Id.* at 172:18-24).
- Lieutenant Brummer knew that a councilmember could not hire, fire, promote, or discipline an officer. (*Id.* at 223:15-224:4). He understood, however, that a councilmember has "influence" over personnel decisions. (*Id.* at 224:7-15).

- Officer Aycoth was unsure whether Ms. James, as a councilmember, had authority to fire a police officer, although he had never heard of a councilmember hiring, firing, demoting, or promoting a police officer in his eight-year career. (*Id.* at 298:3-10, 300:4-8).
- Sergeant Craig knew that a councilmember could not hire, fire, promote, or discipline an officer. (*Id.* at 250:9-23). He does not have any “direct involvement” in personnel decisions but knows the process “generally.” (*Id.* at 249:16-21).
- Officer Bosnakis did not know Ms. James was a councilmember during his interaction with her. (*Id.* at 319:18-320:8). He did not testify to his understanding of a councilmember’s authority or influence over personnel decisions.

J. City of Monroe

1. Independent Investigation concerning City of Monroe Practices in 2012- 2013

86. On September 18, 2012, the City Council voted to conduct an independent analysis concerning the relationship between the Mayor, City Council, City Manager’s office, and senior staff of the City of Monroe. (Parker Poe Memorandum at 1, Record No. 20). The City Council hired the law firm Parker Poe Adams & Bernstein LLP (“Parker Poe”) to conduct the independent analysis. (*Id.*)

87. Parker Poe found, among other things, that “[s]everal Council members [we]re involved in trying to influence personnel decisions.” (*Id.* at 21-24). The City Council did not remove these councilmembers following Parker Poe’s findings. (*See* Jan. 27 Tr. 86:20-87:3).

2. General Principles and Code of Ethics

88. Effective as of December 7, 2010, the City adopted the General Principles and Code of Ethics (“City Council Code of Ethics”). (City Council Code of Ethics, Record No. 1B).

89. Under the City Council Code of Ethics, Councilmembers: (1) “should obey all laws applicable to their official actions as members of the council”; (2) “are not generally allowed to act on behalf of the council but may only do so if the council specifically authorizes it, and that

the council must take official action as a body”; (3) should “behav[e] consistently and with respect toward everyone with whom they interact”; (4) should “act as the especially responsible citizens whom others can trust and respect”; and (5) should “set a good example for others in the community.” (See City Council Code of Ethics, Record No. 1B).

CONCLUSIONS OF LAW

Based on the Findings of Fact Adopted By The City Council both on April 7, 2022, and as part of this Order, the City Council adopts the following Conclusions of Law:

1. The City of Monroe is a municipal corporation, duly organized and existing under the laws of the State of North Carolina, and was established in 1844. The City’s Charter is available as Session Law 2000-35, as amended by S.L. 2005-17 and S.L. 2014-92.

2. Amotion is a common law doctrine that allows a corporation to remove one of its officers for reasonable and just cause, including, but not limited to, noncriminal misconduct in office. The North Carolina Supreme Court provided in *Ellison v Alderman of Raleigh*, 89 N.C. 125 (1883) and again in *State ex rel. Burke v Jenkins*, 148 N.C. 25, 61 S.E. 608 (1908), that members of a governing board, such as the City Council, have the inherent power of amotion (just as any corporate body) to remove an elected municipal official for reasonable and just cause.

3. Amotion is a valid exercise of the authority of a local government’s governing body and has been recognized as such by North Carolina Business Court Judge James L. Gale in his opinion in the case of *Brian Berger v. New Hanover County Board of Commissioners*, 13 CVS 1942 (Sept. 5, 2013), slip op. at 17, ¶56.

4. The City Council is the governing body of a municipal corporation; as such, the City Council has jurisdiction to hear the proceeding in accordance with the common law doctrine of amotion.

5. On December 13, 2021, the City Council adopted the Rules of Procedure for Amotion Hearing.

6. Section VI (D) of the Rules of Procedure for Amotion Hearing provides that:

D. Cause for removal exists if the City Council finds that the Councilmember has committed one or more of the following:

1. Offenses not related to the office but so infamous as to render him or her unfit for any public office;
2. Offenses amounting to noncriminal misconduct in office; or
3. Offenses that are both criminal and constitute misconduct in office.

7. Council Member Angelia Nikole James Received Notice and an Opportunity to be heard and has not shown that the Amotion Process was decided by biased partial decision makers; and

8. Council Member James has engaged in misconduct related to the duties of her office as a Member of City Council, and just cause exists for her removal from City Council due to her committing assault and battery on Officer Aycoth, violating the City Charter and Code of Ethics in purporting to fire, demote and promote Police Officers, and by making multiple false reports to the Police.

DISPOSITION

Based On The Findings Of Fact And Conclusions Of Law Adopted By The City Council, the City Council finds that as Council Member James engaged in misconduct related to the duties of her office as a member of City Council, the appropriate sanction is the immediate removal of Council Member Angelia Nikole James From Her Seat As A Member Of The Monroe City Council as of 6:40 p.m. on Thursday, April 7, 2022.

This Order was approved by the Monroe City Council by a _____ - _____ vote on May 10, 2022

This the ____ day of May, 2022.

CITY COUNCIL OF THE CITY OF MONROE,
NORTH CAROLINA

Marion L. Holloway, Jr.
Mayor

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Order was served by electronic mail and also by depositing in the United States Mail, postage prepaid, to the following Counsel for Angelia Nikole James:

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This the ____ day of May, 2022.

OFFICE OF THE CITY ATTORNEY

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