

**Statement by Councilman Eddie Harrington to City Council on December 8, 2025
meeting regarding Resolutions 97, 98 and 99 of 2025.**

I want to take a moment to address why, in my opinion, this Council cannot legally or ethically authorize the City Attorney to represent the Mayor or any individual official in a matter that involves confidential investigations or potential personal-capacity exposure. I am making this statement as a concerned citizen and member of the Council and in no way am I giving legal advice to the City.

The issue here is not personal friction or political disagreement. The issue is that Louisiana ethics law, Louisiana case law, and the Louisiana Rules of Professional Conduct simply do not allow it. Bear with me as I go into further detail as to why I believe this is the case.

To begin with, the Louisiana Rules require that before a conflict can be waived, there must be what the law calls an informed waiver. Rule 1.7(b) of the Louisiana Rules of Professional Conduct, which are adopted and enforced by the Louisiana Supreme Court, allows a lawyer to proceed through a conflict only when each affected client gives "informed consent, confirmed in writing." The Louisiana Supreme Court has emphasized this requirement for decades. In *In re Warner*, 851 So.2d 1029 (La. 2003), the Court held that a client cannot waive a conflict unless the lawyer provides full disclosure of the conflict and its potential consequences. A client cannot make a knowing decision about a risk the client has not been fully informed of.

The problem here is that an informed waiver is legally impossible. The representation sought would involve matters that are governed by confidentiality under Louisiana Revised Statute 42:1141.4. Under that statute, ethics investigations and records are confidential. Because of this confidentiality, the City Attorney would be legally unable to disclose to us, as his client, the full facts, the risks, the theories, the potential liabilities, or the personal defenses of the individuals he is being asked to represent. Rule 1.4 requires an attorney to keep a client reasonably informed about matters materially affecting the representation. If the City Attorney cannot disclose the information to the City because it is confidential, then the City is incapable of receiving the information required for an informed waiver. If the City cannot be informed, it cannot legally waive the conflict. Likewise, no individual official can waive the City's rights, because the City is a separate client under Rule 1.13.

In addition to the informed-waiver problem, Louisiana law recognizes that public-entity conflicts of this type are non-waivable. Rule 1.7(b)(2) states that a conflict cannot be waived when representation is prohibited by law. Government lawyers are subject to Rule 1.11, which restricts dual representation when public duties are involved. The Louisiana Supreme Court has consistently held that a public-entity lawyer cannot represent individual officials or private parties in matters adverse or potentially adverse to the governmental entity. In *Louisiana State Bar Association v. Perez*, 550 So.2d 585 (La. 1989), the Court held that a parish attorney could not represent private interests against the parish and that this conflict could not be waived because public clients cannot

relinquish their right to loyal, conflict-free representation. The Court stressed that the protection belongs to the public, not to the individual officeholders.

The same reasoning appears in *State v. Wille*, 595 So.2d 1149 (La. 1992). The Court emphasized that government attorneys owe loyalty to the public entity and, ultimately, the public itself. Conflicts that compromise that loyalty cannot be waived by private agreement. Likewise, Attorney General Opinion 02-0152 concludes that a municipal attorney cannot represent individual officials in matters involving the municipality because no official has authority to waive the conflict on behalf of the entire public body. The Attorney General explained that a conflict that interferes with a government lawyer's independence and loyalty cannot be cured by consent.

Louisiana Revised Statute 42:263 adds another limitation. Municipal attorneys must serve the entity alone, and the entity cannot authorize conflicting representation that would undermine that duty. The Louisiana Supreme Court reaffirmed this in *Morial v. Smith & Wesson Corp.*, 785 So.2d 1 (La. 2001), explaining that government counsel's duty runs to the organization and the public, not the transient officeholder. For that reason, a waiver that might be valid between two private parties is not legally possible when the client is a governmental entity.

For these reasons, I believe we cannot lawfully or ethically approve the City Attorney representing individual officials in this matter. The City Attorney cannot fully inform us of the risks, which makes an informed waiver impossible under Rules 1.7(b) and 1.0(e). The City cannot waive a conflict that it does not fully understand, and the law does not permit such a waiver in matters involving public duties. The Louisiana Supreme Court, the Attorney General, and the Rules of Professional Conduct all say the same thing: a public lawyer cannot serve two clients whose interests may diverge, especially when confidentiality prevents one client from being informed. When the government lawyer cannot disclose the information that would be required to obtain informed consent, the conflict is non-waivable.

For all those reasons, both legal and ethical, I believe this Council must vote no. Our duty is to follow the law, protect the integrity of our legal representation, and act in the best interest of the public we serve. If you vote to allow this then you, in your official capacity, are voting against the Louisiana Supreme Court, the board of ethics, the attorney general's office, and the code of professionalism.