

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

STEVEN CONN,
1111 Van Buren Street
Annapolis, MD 21403,

Plaintiff,

v.

Case No. _____

FRIENDS OF KENNY KIRBY,
Serve: Sandra Johnson, Treasurer,
160 Conduit Street,
Annapolis, MD 21401,

and

KENNY KIRBY,
1236 Crow's Nest Court,
Annapolis, MD 21403,

and

CHARLES WEIKEL,
160 Conduit Street,
Annapolis, MD 21401,

Defendants.

COMPLAINT AND JURY DEMAND

COMES NOW, the Plaintiff, Steven Conn, Independent Candidate for Alderman of Ward 6 in Annapolis, MD, by and through counsel, and sues the Defendants, Friends of Kenny Kirby, Sandra Johnson Treasurer, Kenny Kirby, and Charles Weikel, and for cause states as follows:

The Parties and Related Entities

1. Plaintiff Steven Conn is a resident of the State of Maryland and the City of Annapolis, who resides at 1111 Van Buren Street, Annapolis, MD 21403.

2. Defendant Friends of Kenny Kirby is a political committee established for the election of Kenny Kirby as Ward 6 Alderman. It is headquartered at 160 Conduit Street, Annapolis, MD 21401.

3. Upon information and belief, Kenny Kirby is a resident of the State of Maryland and of Annapolis who resides at 1236 Crow's Nest Ct Annapolis, MD 21403.

4. Charles Weikel is a resident of the State of Maryland and of Annapolis and resides at 160 Conduit Street, Annapolis, MD 21401.

Jurisdiction and Venue

5. This Court has jurisdiction over this action under Md. Code, Cts. & Jud. Proc. §§ 6-102 and 6-103.

6. This Court has jurisdiction over the parties to this action under Md. Code, Cts. & Jud. Proc. § 6-102, as the natural persons who are parties to this action are domiciled in and/or maintain their principal places of business in Maryland, and the entity party to this action is organized under the laws of Maryland. This Court has jurisdiction under Md. Code, Cts. & Jud. Proc. § 6-103 as the tortious conduct giving rise to this action occurred in Annapolis, Anne Arundel County, Maryland.

7. This Court is the proper venue for this action under Md. Code, Cts. & Jud. Proc. § 6-201(a), as all parties to this action carry on a regular business, are employed, and/or habitually carry on a vocation in Anne Arundel County.

Facts Common to All Counts

8. Plaintiff Steven Conn is an Independent (Unaffiliated) candidate for Alderman of Ward 6 in Annapolis, MD.

9. Defendant Friends of Kenny Kirby is a political committee established for the purpose of re-electing Kenny Kirby as Alderman of Ward 6 in Annapolis. *See* Certificate of Candidacy, attached hereto as Exhibit 1. Friends of Kenny Kirby has an address of 160 Conduit Street, Annapolis, MD 21401. *Id.* Sandra Johnson is the Trustee and Treasurer of Friends of Kenny Kirby. *Id.*

10. Defendant Kenny Kirby is the incumbent Alderman for Ward 6 in Annapolis, MD. Kirby's present term ends on December 7, 2013. He is running for re-election.

11. Defendant Chuck Weikel is a resident of Annapolis and supporter of Kenny Kirby.

12. The Annapolis City Elections, including the election for Alderman of Ward 6, is scheduled for November 5, 2013

13. Throughout the course of the campaign for Alderman of Ward 6, Defendant Kirby, Defendant Friends of Kenny Kirby, Defendant Johnson, and Defendant Weikel (together, "Defendants") published known false statements regarding Plaintiff.

14. On or about September 4, 2013, Defendant Weikel emailed Mike Mallinoff, Mayor Josh Cohen, Carl Snowden, Rhonda Charles, Classie Hoyle, Kenny Kirby, and Ian Pfeiffer and stated that "I am...able to provide you with the criminal records of Steve Conn....how is that someone with 7 charges and 4 repeated violations of law would be allowed to be a member of an Annapolis Police Unit." *Id.* Defendant Weikle continued on to compare Plaintiff to George Zimmerman and "vigilantism." *See* Weikel e-mail, attached hereto as Exhibit 2.

15. Plaintiff has never been "arrested" and does not have "7 charges" or "criminal records."

16. Plaintiff was given a citation for possession of an open container of alcohol in Baltimore City in 2004. He was not arrested, and this citation was entered *nolle prosequi* by the

State's Attorney for Baltimore City. Any remaining "charges" referenced by Defendant Weikel in his September 4th email are minor motor vehicle infractions, such as speeding tickets.

17. Plaintiff volunteered with the Annapolis Police Department Auxiliary Unit since 2011.

18. Prior to his service, Annapolis City Police Department completed a full background investigation, at which point any prior relevant history in the criminal justice system was revealed. No additional charges were "found" by Annapolis City Police Department subsequent to his completed and satisfactory background investigation.

19. Plaintiff resigned from the Annapolis City Police Department Auxiliary Unit in or about September 2013 when he became a candidate for Alderman of Ward 6.

20. Plaintiff resigned for the purpose of avoiding any appearance of political impropriety and for no other purpose or reason. *See* E-mail to Chief Howard, attached hereto as Exhibit 3. His resignation was completely unrelated to any "undisclosed charges."

21. At the time Defendant Weikel made the statements in his September 4th email, Defendant Weikel knew the statements that Plaintiff had multiple "arrests" and "criminal charges" was false, or acted with a reckless disregard for the truthfulness of these statements.

22. On or about October 28, 2013, Defendants Friends of Kenny Kirby and with the authority of Kenny Kirby distributed a flyer to numerous residents of Ward 6 in Annapolis containing known false statements ("the Flyer"). *See* Flyer, attached hereto as Exhibit 4.

23. Specifically, the Flyer states that, "[Plaintiff] says he is on the Annapolis Auxiliary Police, but he resigned when they found 7 undisclosed charges." *Id.*

24. This flyer was published with the Authority of Friends of Kenny Kirby, Sondra Johnson, Treasurer. *See* Flyer backside, attached hereto as Exhibit 5.

25. Defendants published these false and defamatory statements to the voters and potential voters in Ward 6.

26. Defendants knew that the statement that, “[Plaintiff] says he is on the Annapolis Auxiliary Police, but he resigned when they found 7 undisclosed charges,” was false.

27. Despite knowing the falsity of the statement and/or acting with reckless disregard for the truth, Defendants published the foregoing statements regarding Plaintiff’s alleged criminal history, the reason for Plaintiff’s resignation, and Plaintiff’s candor to the Annapolis City Police Department. *See* Ex. 1 and 2.

28. On or about October 29, 2013, Defendant Weikle wrote to two *Capital Gazette* reporters and stated, “[Plaintiff’s] undisclosed record of repeated charges caused him to resign the day after they were disclosed to the city (see my email trail below).” *See* Weikel e-mail to *Capital Gazette*, attached hereto as Exhibit 6.

29. Defendant Weikel knew that his statement that Plaintiff had criminal records and “repeated criminal charges” was false at the time he sent his October 29th email.

30. Defendants published each of these statements with the purpose of harming the character and reputation of Plaintiff and of harming his candidacy for Alderman of Ward 6.

31. As a result of the false and defamatory publications, Plaintiff campaign for Alderman of Ward 6 has been harmed and his image among voters or potential voters has suffered. Plaintiff has also suffered harm to his image as a community activist and member of the community, humiliation, and mental anguish.

Count I
(Defamation v. Weikel)

32. Plaintiff incorporates by reference the substance of all the foregoing factual allegations.

33. On or about September 4, 2013, Defendant Weikel emailed Mike Mallinoff, Mayor Josh Cohen, Carl Snowden, Rhonda Charles, Classie Hoyle, Kenny Kirby, and Ian Pfeiffer and stated that "I am...able to provide you with the criminal records of Steve Conn....how is that someone with 7 charges and 4 repeated violations of law would be allowed to be a member of an Annapolis Police Unit." *Id.* Defendant Weikle continued on to compare Plaintiff to George Zimmerman and "vigilantism." *See* Weikel e-mail, attached hereto as Exhibit 2.

34. On or about October 29, 2013, Defendant Weikle wrote to two *Capital Gazette* reporters and stated, "[Plaintiff's] undisclosed record of repeated charges caused him to resign the day after they were disclosed to the city (see my email trail below)." *See* Weikel e-mail to *Capital Gazette*, attached hereto as Exhibit 6.

35. Plaintiff has never been "arrested" and does not have "7 charges," "criminal records" or "repeated criminal charges."

36. Defendant Weikel knew the foregoing statements were false or acted with reckless disregard for their veracity.

37. Nonetheless, Defendant Weikel published these statements to Mike Mallinoff, Mayor Josh Cohen, Carl Snowden, Rhonda Charles, Classie Hoyle, Kenny Kirby, and Ian Pfeiffer.

38. Defendant Weikel acted with malice when he published the foregoing statements. He published these statements with the purpose of harming the character and reputation of Plaintiff and of harming his candidacy for Alderman of Ward 6.

39. As a direct and proximate result of the known false and defamatory publications, Plaintiff's campaign for Alderman of Ward 6 has been harmed. Plaintiff's image among voters or potential voters has suffered. Plaintiff has also suffered harm to his image as a community activist and member of the community, humiliation, and mental anguish.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court enter judgment against Defendant Wiekel for compensatory damages in an amount to be determined at trial, but exceeding \$75,000 per Rule 2-305, and for punitive damages exceeding \$75,000, per Rule 2-305; plus interest, costs, and any and all other relief to which this Court finds Plaintiff is entitled.

Count II
(Defamation v. Friends of Kenny Kirby and Kenny Kirby, Individually)

40. On or about October 28, 2013, Defendants Friends of Kenny Kirby and with the authority of Kenny Kirby (together “Kirby Defendants”) distributed a flyer to numerous residents of Ward 6 in Annapolis containing known false statements (“the Flyer”). *See* Flyer, attached hereto as Exhibit 4.

41. Specifically, the Flyer states that, “[Plaintiff] says he is on the Annapolis Auxiliary Police, but he resigned when they found 7 undisclosed charges.” *Id.*

42. Defendants knew that the statement that, “[Plaintiff] says he is on the Annapolis Auxiliary Police, but he resigned when they found 7 undisclosed charges,” was false, or acted with reckless disregard for the truthfulness of this statement.

43. Despite this, Defendants published known false statements regarding the reason for Plaintiff’s resignation, Plaintiff’s alleged criminal history, and Plaintiff’s candor to the Annapolis City Police Department.

44. Defendants published these false and defamatory statements to the voters in Ward 6 and, specifically, the voters in low-income areas in Ward 6.

45. Defendants acted with malice when they published these statements with the purpose of harming the character and reputation of Plaintiff and of harming his candidacy for Alderman of Ward 6.

46. As a direct and proximate result of the known false and defamatory publications, Plaintiff's campaign for Alderman of Ward 6 has been harmed. Plaintiff's image among voters or potential voters has suffered. Plaintiff has also suffered harm to his image as a community activist and member of the community, humiliation, and mental anguish.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court enter judgment against Defendants Friends of Kenny Kirby and Kenny Kirby for compensatory damages in an amount to be determined at trial, but exceeding \$75,000 per Rule 2-305, and for punitive damages exceeding \$75,000, per Rule 2-305; plus interest, costs, and any and all other relief to which this Court finds Plaintiff is entitled.

Count III
(Invasion of Privacy – False Light v. all Defendants)

47. Plaintiff adopts and incorporates by reference the substance of all the foregoing paragraphs.

48. Defendants gave publicity to the known false statements regarding Plaintiff's criminal history and candor before the Annapolis City Police Department.

49. The false light Defendants portrayed Plaintiff in is highly offensive to the average person, and certainly to the average candidate for political office as it portrays Plaintiff, and his campaign, in an extremely negative light.

50. Defendants were aware of the falsity of their statements or, at minimum, acted with a reckless disregard for the truth.

51. As a direct and proximate result of the known false and defamatory publications, Plaintiff campaign for Alderman of Ward 6 has been harmed. Plaintiff's image among voters or potential voters has suffered. Plaintiff has also suffered harm to his image as a community activist and member of the community, humiliation, and mental anguish.

Count IV
(Preliminary and Permanent Injunctive Relief v. all Defendants)

52. The Plaintiff incorporates by reference the substance of all the foregoing factual allegations.

53. Defendants published known false statements regarding the reason for Plaintiff's resignation, Plaintiff's alleged criminal history, and Plaintiff's candor to the Annapolis City Police Department.

54. Defendants published these false and defamatory statements to the voters in Ward 6 and, specifically, the voters in low-income areas in Ward 6.

55. Defendants published these statements with the purpose of harming the character and reputation of Plaintiff and of harming his candidacy for Alderman of Ward 6.

56. Plaintiff has a high likelihood of success on the merits of his claims for defamation.

57. The Annapolis City Election, including the election for Alderman of Ward 6, is scheduled for November 5, 2013.

58. As a direct and proximate result of Defendants' publication of known false statements in days and weeks immediately preceding the election, Plaintiff has suffered, and will continue to suffer, permanent and irreparable harm and damage to his image and reputation, including, but not limited to, his image and reputation among voters and potential voters who learned of the false information disseminated by Defendants. Plaintiff's campaign and likelihood of

prevailing in his bid for Alderman of Ward 6 has been, and will continue to be, damaged by the false and defamatory statements.

59. Injunctive Relief is necessary to preserve the democratic process and ensure a fair election of Alderman for Ward 6 in Annapolis, MD. Without Injunctive Relief, Defendants' defamation of Plaintiff will compromise the very essence of the electoral process.

60. The benefits to Plaintiff in obtaining injunctive relief are equal to or outweigh any potential prejudice to Defendant.

61. The public interest far outweighs any potential prejudice to Defendant. Injunctive relief is necessary to provide the people Annapolis and of Ward 6 and Annapolis a fair election.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court:

b. Issue an Order granting Plaintiff a preliminary injunction restraining and enjoining Defendants from publishing or otherwise disseminating false and/or defamatory statements regarding Plaintiff ;

c. Issue an Order granting Plaintiff a permanent injunction restraining and enjoining Defendants from publishing or otherwise disseminating false and/or defamatory statements regarding Plaintiff ;

c. That this Court award the Plaintiff costs, fees, and any such other and further relief as in law and justice he may be entitled to receive.

JURY DEMAND


Plaintiff demands a trial by jury on all issues of triable fact.



Tamara A. O'Connell

Respectfully submitted,

JOSEPH, GREENWALD & LAAKE, P.A.



Timothy F. Maloney
Tamara A. O'Connell
6404 Ivy Lane, Suite 400
Greenbelt, Maryland 20770
301/220-2200
Fax: 240-553-1214
tmaloney@jgllaw.com
toconnell@jgllaw.com
Counsel for Plaintiff

City Clerk Watkins-Eldridge: _____

Deputy City Clerk Bucalo: _____

5. Verify Name as it is to appear on BALLOT: Kenneth A. Kirby

Appointment of Treasurer

1. Is certificate of appointment of Treasurer? YES: X / NO: _____
2. Verify Treasurer's voter registration, address, affiliation & ward. YES: X / NO: _____
(Attach proof of voter registration to Certificate of Candidacy) 4526297

Appointment of Campaign Manager / Committee Chair:

1. Is certificate of appointment of Committee Chair or Campaign Manager? YES: _____ / NO: X
2. Verify Committee Chair or Campaign Manager? Voter registration, Address, Affiliation, Ward #
YES: _____ / NO: X (attach proof of voter registration to Certificate of Candidacy)

Are all the forms complete: yes Legible: yesIndicate the date received on all forms: 8-2-13**PUBLIC INFORMATION:**Campaign Headquarters Address (Mailing): 160 Conduit St.Public Number for Distribution/ Website: 443-510-5241Public Candidate Email Address for Distribution/ Website: Ald. Kirby@Annapolis.Gov.Treasurer's Name & Email Address: Sandra Johnson

Campaign Manager Name & Email Address: _____

Optional / Bio - City Website YES: (X) / NO: _____Optional / Photo - City Website YES: (X) / NO: _____Processor's Signature: [Signature] Date: 8/2/13

Approved by City Clerk date: _____

Okayed for: Candidate Notification - Certification Process complete (call them) Ready for Website Update

EXHIBIT**1**

Begin forwarded message:

Begin forwarded message:

From: "Charles Weikel"
<cweikel@mac.com>

**Subject: Steven Conn Criminal
Records**

Date: September 4, 2013 5:41:57 PM
EDT

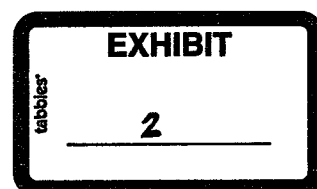
To: "Mike Mallinoff"
<mmallinoff@aol.com>

Cc: "Josh Cohen"
<eastportjosh@yahoo.com>, "Carl
Snowden"
<carl_snowden@hotmail.com>,
msfin@aol.com, "Rhonda Charles"
<pinchar1979@yahoo.com>,
cabneycarter@comcast.net, "Classie
Hoyle Hoyle"
<classiehoyle@yahoo.com>, "Kenny
Kirby" <aldkirby@annapolis.gov>, "Ian
Pfeiffer"
<ian@pfeiffergovernmentrelations.com>

Mike:

I am back home now and able to provide you with the criminal records of Steve Conn. See attached. I have included case numbers so there cannot be any confusion as to finding these records in the court system. These records were easily searchable on the internet and are available to all - and I make no representation that I have found them all.

What concerns us is that Steve Conn claiming to be a member of something call the 'Annapolis Police Auxiliary Unit' (see: <http://www.wardsix.org/aboutsteven.html>). Mr. Conn claims to be conducting 'administrative and



support' missions for APD. Administrative I get, but what does his 'support' of APD entail?

I have been in and around Annapolis City government for ten years but have never heard of anything called the 'Annapolis Police Auxiliary Unit'. I have been, and may still be, listed as a block captain for my block in neighborhood watch. But that organization, to my knowledge, never held itself out to be more than a loosely knit group of citizens that calls the police when there is a problem.

So, if there is a group calling itself the 'Annapolis Police Auxiliary Unit' then who are they, what do they do and what or who sanctioned them? How is it someone with 7 charges and 4 repeated violations of law would be allowed to be a member of an Annapolis Police Unit?

I don't think I need to remind you of what vigilantism can produce, most recently in Sanford, Florida in the form of George Zimmerman. I think all communities in Annapolis, especially those that have merited the attention of Mr. Conn, need to be concerned about his purported association with APD.

Chuck

Charles Weikel
410-919-8147

<CONN ARRESTS.doc>

From: Steven Conn
To: Cynthia Howard
Subject: Fwd: Re: Community Walks
Attachments: Re Community Walks.msg

Dear Captain Howard, I have enjoyed being a member of the Auxiliary Unit, and feel volunteering has helped to pay my "civic rent." However I have a concern I would like to discuss with you.

Recently neighbors and I decided to start doing community safety walks, to get us talking among ourselves, and out in the neighborhood walking together, visibly sending a message to criminals that they are not welcome to conduct their shenanigans on our corners.

On 24JUL I sent a message to Sgt. Kirchner asking for an APD resource officer to accompany us. Kirchner confirmed, and my neighbors and I set the date of our first walk, per APD's availability of 09AUG13. This effort was to be a grassroots effort, led by the community.

Then on 02AUG I received the below note from Joseph Hudson, advising that the resource officer would not be able to attend the walk on 09AUG and so the Chief, etc may attend, the walk would need to be rescheduled. Hudson's note was cc'ed to a string of politicians, including the Mayor, Aldermen, etc.

Obviously, word had gotten around about our grassroots efforts, and due to the spike in crime, the Chief, Mayor, etc became interested to turn our community led effort into a media spectacle, by requiring the event to be rescheduled, and resource officer canceled.

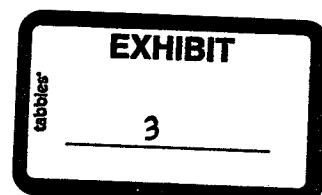
Neighbors and I decided we would continue with our walk, as planned, safety resource officer or not. We did, and it was a great success, and we're expanding to include new audiences.

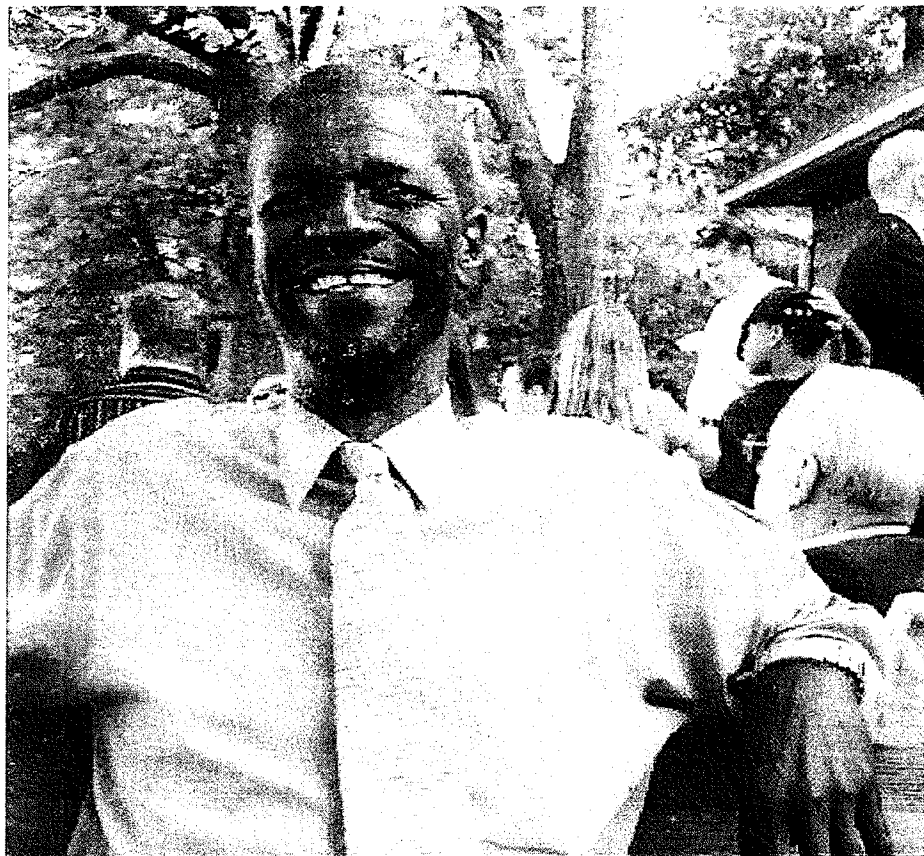
I enjoy acting as an Auxiliary Officer, however am disappointed that the agency with which I volunteer would take a grassroots effort, and take the idea and turn it over to politicians, etc. I hope you're able to understand my frustration.

Best regards, Steven

Steven Conn
Annapolis P.D. Auxiliary Unit
199 Taylor Avenue - Rm 208
Annapolis, MD 21401

SRConn@annapolis.gov
410-268-9000 x7215





Kenny KIRBY

for **ward 6
alderman**

KIRBY -- *Right for Annapolis*

Steven Conn says he is an Independent, but he worked for the Republican National Committee and bigoted Alabama politician Bob Riley. He says he is on the Annapolis Auxiliary Police, but he resigned when they found 7 undisclosed charges. He says he believes in fairness, but he tried to win by kicking Kenny Kirby off the ballot.



Vote Kenny Kirby
Tuesday
November 5th

CONN --

*Wrong for Annapolis
Wrong for Ward 6*



***Make The Right
Choice***


VOTE


Kenny Kirby

***Tuesday
November 5th***

Contact Kenny Kirby
1236 Crows Nest Court, Annapolis, 21403
443-510-5241

www.kennykirby.com

 www.facebook.com/kennykirbyforalderman

By authority of Friends of Kenny Kirby, Sandra Johnson, Treasurer 

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EXHIBIT

5

From: John Frenaye <jfrenaye@gmail.com>
Date: October 29, 2013 at 9:01:14 PM EDT
To: Steven_conn Conn <steven_conn@yahoo.com>
Subject: Fwd: Steven Conn Criminal Records

John Frenaye
Sent from my iPhone

Begin forwarded message:

From: CraigPurcell <craigpurcell@comcast.net>
Date: October 29, 2013 at 7:44:46 PM EDT
To: John Frenaye <jfrenaye@gmail.com>
Subject: Fwd: Steven Conn Criminal Records

Sent from my iPad

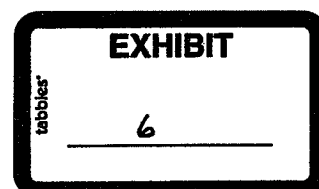
Begin forwarded message:

From: Charles Weikel <cweikel@mac.com>
Date: October 29, 2013, 7:04:07 PM EDT
To: Lenzi Christopher <stefaniejlenz@aol.com>, craig purcell
<craigpurcell@comcast.net>
Subject: Fwd: Steven Conn Criminal Records

Let's amp it up!

Begin forwarded message:

From: Charles Weikel <cweikel@mac.com>
Subject: Fwd: Steven Conn Criminal Records
Date: October 29, 2013 6:59:07 PM EDT



To: Steve Gunn <sgunn@capgaznews.com>, Jack Lambert <jlambert@capgaznews.com>

Jack & Steve:

I heard there was an article on the civil and criminal cases involving all the candidates today but I did not see it. Again second hand, I was told there was nothing reported on Steve Conn.

If so, then that is simply not true. A simple paid internet search has found a trail of issues Steve has had. In fact, his undisclosed record of repeated charges caused him to resign the day after they were disclosed to the city. See my email trail below.

Again, it is not the charges themselves I have taken issue with. It is the fact they were undisclosed to APD by Conn and the repeated nature of them.

I hope you will find a way to correct your reporting on this.

Chuck

Begin forwarded message:

From: "Charles Weikel" <cweikel@mac.com>
Subject: Fwd: Steven Conn Criminal Records
Date: October 29, 2013 10:54:39 AM EDT
To: barbara@wnav.com

Barbara:

Kenny asked me to send this to you. It is the original email I sent to City Manager Mike Mallinoff on Steve Conn's charges.

The issue for me and others were not the specific charges themselves (they are small), but the repeated nature of them, the fact that APD did not know of them and the implications of having a potential George Zimmerman serving on the Aux Police.

The next day (9/5/13) Mike Mallinoff told me Steve Conn had "resigned" from the Aux Police and that Chief Pristoop had not know of the charges.

Chuck

Charles Weikel
410-919-8147

Begin forwarded message:

Begin forwarded message:

From: "Charles Weikel"
<cweikel@mac.com>

**Subject: Steven Conn Criminal
Records**

Date: September 4, 2013 5:41:57 PM
EDT

To: "Mike Mallinoff"
<mmallinoff@aol.com>

Cc: "Josh Cohen"
<eastportjosh@yahoo.com>, "Carl
Snowden"
<carl_snowden@hotmail.com>,
msfin@aol.com, "Rhonda Charles"
<pinchar1979@yahoo.com>,
cabneycarter@comcast.net, "Classie
Hoyle Hoyle"
<classiehoyle@yahoo.com>, "Kenny
Kirby" <aldkirby@annapolis.gov>, "Ian
Pfeiffer"
<ian@pfeiffergovernmentrelations.com>

Mike:

I am back home now and able to provide you with the criminal records of Steve Conn. See attached. I have included case numbers so there cannot be any confusion as to finding these records in the court system. These records were easily searchable on the internet and are available to all - and I make no representation that I have found them all.

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<CONN ARRESTS.doc>