

City of Detroit
CITY COUNCIL

**REVISED RESOLUTION CALLING FOR THE RESIGNATION OF
KWAME M. KILPATRICK, MAYOR CITY OF DETROIT**

**By Council Member Kwame Kenyatta, Internal Operations Committee Chair
Council Member Brenda Jones, Internal Operations Committee Member
Council Member Martha Reeves, Internal Operations Committee Member
Council Member Sheila Cockrel, Budget, Finance and Audit Committee Chair**

March 18, 2008

WHEREAS, The Detroit Declaration of Rights, states that, "The people have a right to expect aggressive action by the city's officers in seeking to advance, conserve, maintain and protect the integrity of the human, physical and natural resources of this city from encroachment and or dismantlement;" and

WHEREAS, On September 11, 2007 a Wayne County Circuit Court jury found that Mayor Kwame M. Kilpatrick had violated the State of Michigan's Whistleblower Protection Act; and

WHEREAS, On October 23, 2007 the Detroit City Council approved a settlement based on an agreement presented to Council by the Mayor and the Law Department in the amount of \$8.4 million; and

WHEREAS, It became public knowledge that a confidential agreement had been agreed to without Council's awareness or approval, which determined the outcome of the settlement; and

WHEREAS, Council, being desirous of receiving information concerning the confidentiality agreement, passed a resolution opposing the mayor's appeal of Judge Colombo's ruling to release all documents related to the settlement of the Whistleblower Lawsuit; and

WHEREAS, The Mayor and the Law Department chose to appeal Judge Colombo's ruling; and

WHEREAS, the Michigan Court of Appeals upheld Judge Colombo's ruling and denied the Mayor and the Law Department's request to withhold the settlement documents; and

WHEREAS, Council again passed a resolution opposing the Mayor and the Law Department's appeal of Judge Colombo's ruling to the Michigan State Supreme Court and urging the release of all documents related to the settlement of the Whistleblower Lawsuit; and

WHEREAS, The Mayor and the Law Department chose to appeal the Michigan Court of Appeal's ruling by appealing to the Michigan State Supreme Court; and

WHEREAS, Once again, the Mayor and the Law Department's appeal was denied and the Michigan State Supreme Court granted Judge Colombo the authority to release all documents related to the Whistleblower Lawsuit; and

WHEREAS, Documents were released that apparently confirmed the existence of a confidential agreement previously unknown to Council; and

WHEREAS, Over the past six months, Detroit has received embarrassing coverage nationally and internationally, which has caused the mayor to be absent from his duties for a prolonged period of time and absent from the public; and

WHEREAS, The turn of events involving the confidentiality agreement created by the Mayor and the Law Department has compromised the integrity of the city's Law Department in its relation to the Detroit City Council; and

WHEREAS, Partly as a result of media exposes alleging that the Mayor perjured himself on the stand in the Whistleblower Lawsuit, the Wayne County Prosecutor announced an investigation into possible perjury charges against the Mayor; and

WHEREAS, The City Council had to approve the appointment of its own Special Counsel to represent its interests and to investigate the entire matter; and

WHEREAS, City Council is undertaking an investigation that may call into question the professional ethics of the Mayor, his staff, the Corporation Counsel, and lawyers in the Law Department, as well as outside counsel; and that such an investigation will, of necessity, raise concerns regarding the ability of the City of Detroit to function with Mayor Kilpatrick continuing to serve; and

WHEREAS, Mayor Kilpatrick repeatedly obfuscates the truth regarding documents in the settlement of the *Brown*, *Nelthrope* and *Harris* lawsuits, wherein he repeatedly claimed there were no secret documents and was very critical of news media, City Council and the highest Courts in the State of Michigan for seeking disclosure of the documents and claimed to be fighting on behalf of *all* litigants in the State of Michigan; yet, when the documents were disclosed, he declared the documents to be "nothing" and did not constitute evidence of a cover-up—a position so totally flawed both factually and legally that this Honorable Body remains deeply troubled by Mayor Kilpatrick's inability to discern the truth; and

WHEREAS, In light of the circumstances surrounding the *Brown, Nelthrope* and *Harris* settlements, the City Council will continue its legislative investigation into numerous legal and policy issues that have been brought to the fore; and

WHEREAS, The Mayor, during his tenure, has attempted and in some cases been successful in helping to revive the economic conditions of Detroit; Yet those efforts have not translated into the improvement of the delivery of services to the residents of Detroit; and

WHEREAS, Mayor Kilpatrick spoke to the City Council on February 20, 2008, and stated that he was fully engaged and it was "business as usual," and further stated the Administration would provide documents the following Monday regarding a proposed sale of the Detroit side of the Detroit-Windsor tunnel; however, the documents provided to Council were merely a summary of prior proposals regarding a sale of the tunnel with a short paragraph about a *potential* new structure for the transaction; and

WHEREAS, The Administration has been promising the City Council since the 2007 budget presentation that a transaction involving the Detroit side of the Detroit-Windsor Tunnel was forthcoming, would net the City \$58 million, and would resolve the City's structural deficit; yet, the transaction appears to still be in preliminary stages and it is unlikely it will be completed during this fiscal year; and

WHEREAS, The Administration's failure under Mayor Kilpatrick's leadership to timely file a Comprehensive Annual Financial Report (CAFR) with the State of Michigan Department of Treasury for fiscal years 2005/2006 and 2006/2007 has caused the State to withhold \$61 million in *desperately needed* revenue sharing funds from the City until a plan of action and timeline is presented to the State regarding the 2006/2007 CAFR; and

WHEREAS, The 2005/2006 CAFR identified numerous failings in the City's internal controls, and reportable conditions and material weaknesses have increased dramatically during the Kilpatrick Administration, and

WHEREAS, The failure to timely file the 2005/2006 and 2006/2007 CAFR and the number of reportable conditions and material weaknesses has and continues to jeopardize the City's ability to sell bonds and the City's credit rating; and

WHEREAS, Mayor George L. Grace, President of the National Conference of Black Mayors (NCBM), publicly stated that the decision to move the annual meeting from Detroit to New Orleans is directly related to the text messaging scandal involving Mayor Kilpatrick and the NCBM's desire to avoid publicity being focused on Mayor Kilpatrick and the scandal as opposed to the annual meeting; and

WHEREAS, the Administration denies that the decision to move the NCBM annual meeting has anything to do with the current crisis in Detroit and has to do with "logistics," despite the President of NCBM's statement to the contrary; and

WHEREAS, The move of the NCBM annual meeting caused the loss of substantial, greatly needed economic revenue to the City; is an example of how the controversy involving Mayor Kilpatrick and his former Chief of Staff Christine Beatty has had far reaching effects upon the reputation and economic health of the City; and is clear evidence that it is not "business as usual" in the City; and

WHEREAS, On a daily basis Council Members are engaged by citizens who are complaining re: streetlight outages, which has resulted in the death of at least one young Detroit resident, water flowing through the streets of Detroit, slow or no response time by police, high water rates, fees for garbage pickup and a host of other complaints and concerns; and

WHEREAS, While the Detroit City Council has tried to continue to function in a normal capacity, it has been very difficult under the present circumstances; and

WHEREAS, The City is currently experiencing the equivalent of a "constitutional crisis," as there is a fundamental degradation in the City's leadership, rooted in an apparently flagrant disregard for the rule of law and the sanctity of the Detroit City Charter; and

WHEREAS, Section 2-106 of the Detroit City Charter states, "The use of public office for private gain is prohibited," and Section 2-6-61 of the Detroit Code of Ordinances, states, "A public servant shall not engage in any act or omission in the discharge of his or her official duties for private gain; and

WHEREAS, Section 2-6-62 of the Detroit Code of Ordinances states, "A public servant shall not use confidential information that is acquired in the course of his or her employment for private gain; and

WHEREAS, There is an overwhelming and growing sentiment amongst citizens of Detroit that the City Council should stand firm against Mayor Kilpatrick and seek his resignation;

NOW THEREFORE BE IT,

RESOLVED, That the Detroit City Council, in the interest of preserving the integrity of city government, hereby calls for Kwame M. Kilpatrick to resign as Mayor of the City of Detroit forthwith.