

December 2, 2019

Mr. Ronald R Shaver, Esq.
Olathe City Attorney
100 E Santa Fe
Olathe, KS 66061

Via email to: rshaver@olatheks.org

RE: Hoedl ethics complaint

Dear Mr. Shaver,

The purpose of this letter is to respond to your letter dated November 21, 2019 and to respond to the November 20, 2019 ethics complaint filed by Brett Hoedl (received 11-21-2019).

As a starting point the facts must be reviewed. The complaint from Mr. Hoedl is a narrative he has created but it is not accurate. At a social event, I saw Mr. Robinson, a long-time acquaintance with Black & Veatch. I mentioned to him that Brett Hoedl identified his employer at the podium at an Olathe City Council meeting and that he had been speaking at several of the Council meetings during the year. The conversation then included both of our spouses and turned to another topic.

I made no request of Mr. Robinson. I certainly did not in any way infer Mr. Hoedl's job should be threatened. In fact, via text, Mr. Robinson indicated his job was not threatened. Mr. Hoedl has made it part of the public narrative that it was threatened. Please see Mr. Robinson's text. (Exhibit A)

The information I stated to Mr. Robinson is publicly available and part of the public record of the Council. The transcript of the June 4th meeting is attached for your review. (Exhibit B) I would be glad to make the audio recording available to you as well.

The June 4th meeting was notable because not only did Mr. Hoedl talk extensively about his employer, later in the meeting, he stormed out of the meeting shouting and cussing at the Council. Voices can be heard interrupting the meeting beginning at 2:44:40 (on the audio recording). The Mayor can be heard telling Mr. Hoedl: "Ok, hold on, Brett, we are not going to have this conversation like this." Moments later Mr. Hoedl shouts at the Council as he is leaving: "Have the god damn debate." Jim Randall speaks up and states: "Ok, out." The exchange ended at 2:46:36. Mr. Hoedl admits this behavior on his Facebook page. (Exhibit C)

As this Council is keenly aware, our own Acting Police Chief was concerned about our safety that evening. This was due to the elevated emotional state of the persons who remained in the lobby after their early exit from the meeting.

Mr. Hoedl's claims of me complaining of his poor behavior at our council meetings is not accurate. Given the notable events that occurred at the June 4th meeting (again, all a public record), I could have certainly related these things to Mr. Robinson. However, I did not. Further, anyone attending the June 4th meeting could have related Mr. Hoedl's public comments to his employer or anyone else.

As Council members, we have First Amendment freedom of speech rights that certainly include commenting on those things that are done or stated in the public realm. We need to recognize when someone is attempting to intimidate the Council and limit our ability to address the issues that come before us.

Mr. Hoedl was quite disappointed in the loss of Alan Marston in his race against John Bacon for the at-large city council seat. Please see his Facebook post on this topic. (Exhibit D) I think the genesis of this ethics complaint is clearly political.

As for the merits of Mr. Hoedl's ethics complaint, they are clearly without any basis whatsoever and he provides no supporting evidence of his claims. He claims I "attacked a private citizen at his employer for advocating issues..." Merely reciting publicly available information is not an attack. The June 4th meeting was very memorable due to the inappropriate behavior displayed by Mr. Hoedl. The issue was not the content nor the topic but the conduct. If someone else acted in this manner while advocating for sidewalks, for example, they would be asked to leave much more quickly than Mr. Hoedl was.

Mr. Hoedl claims the public cannot trust that I will use my position to harm them for speaking at council meetings. Again, this is baseless. I routinely encourage people to comment at Council meetings on various topics from the downtown project to the NDO. Mr. Hoedl has no evidence of his claim. Rather, I have tried to stand up for citizens who have been treated disrespectfully for speaking on the NDO topic. (See transcript of my comments at the end of 8-20-19 meeting.) (Exhibit E)

The third allegation Mr. Hoedl claims is that I used my position "for private gain to attempt to silence a citizen." First, I have no interest in silencing Mr. Hoedl (or anyone else) on any topic he wishes to discuss honestly and appropriately. Secondly, there has been no private gain in this process of disagreeing on Mr. Hoedl's topic. Rather, Mr. Hoedl has called any Olathean who dared to speak against the NDO 'bigots' on his Facebook page (see Exhibit E). None of us have gained on this topic. It has been very divisive for our community. Lastly, 'private gain' in this context I think infers monetary gain and certainly there has been none of that.

Lastly, Mr. Hoedl states that I am "supposed to represent all Olatheans..." I personally met with two individuals from Mr. Hoedl's side of the NDO. I attempted to meet with him but he rejected my request. Please see my email to him and his response. (Exhibit F)

Mr. Hoedl requests two things of this Council. He requests that I resign or that I "be voted out of office by the Olathe Governing body."

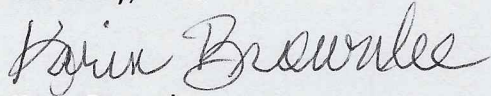
I will not resign. I was truthful in my discussion with Mr. Robinson. I have a First Amendment right as do each of you to share with others what is said before this body and everything said before this body is a public record. We cannot agree to govern in silence and secrecy. In fact, this body posts significant portions of its meetings on the City website.

In regard to Mr. Hoedl's request that you vote me out of office, with all due respect to my colleagues on this City Council, this Council does not have the authority to vote any elected representative out of office. Even if the Council had such power, it certainly could not do so in this case as retribution for my exercise of my First Amendment right to speak about the public proceedings of this governmental body. Every member of this Council is at some time asked to comment on matters that come before this City Council and it would be untenable to restrain members from being permitted to speak about what happens here in this public chamber.

I respectfully request that this City Council promptly dismiss this ethics complaint as without merit because I was truthful in my discussions with Mr. Robinson and because all of what Mr. Hoedl complains of me sharing occurred during a public meeting on the record. For this body to do anything other than dismiss this meritless complaint would be an infringement on my First Amendment right to speak openly about events occurring in this chamber.

Thank you for your thoughtful consideration of my response.

Sincerely,

A handwritten signature in cursive script that reads "Karin Brownlee".

Karin Brownlee
City Council At-Large
14725 S Chalet Dr
Olathe, KS 66062

Exhibits for Karin Brownlee's response to Brett Hoedl's Ethics Complaint 12-2-19

Exhibit A – Text with Clint Robinson

11/18/19, 3:09 PM

Clint, Do you have a few minutes for a phone call?
Karin Brownlee

On a call until 4 and then another that starts at 4 and runs until 4:45. What's up?

I sure did not intend to communicate I wanted to threaten Mr Hoedl in his job. Not my intent. He communicated he worked for B&V on June 4th at City Council. Mr Hoedl has written extensively on FB about me threatening his job to the point the KC Star has called about this.

To my knowledge his job was never threatened and certainly not by me! I am not aware of his FB but will certainly check it out! I reminded Brett that this is not a B&V issue and he should not identify this issue w B&V. I will see if our media team has been contacted.

Exhibit B – Transcript of June 4th meeting



Verbatim transcript of Bret Hoedl's comments from the June 4, 2019, Council Meeting, General Comments and Concerns.

Good evening Mayor and the Council. Bret Hoedl at 17446 W 161st Street. Ummm... As you've heard earlier, pride mo.... Pride month kicked off last weekend and.... which I was happy to celebrate with my family; I hung our large rainbow flag from the front of our house in preparation. Probably violating numerous HOA policies by doing so. Uhhhh....they haven't come at me yet though. Ummm.... But then on Friday I did check the City Council website. Ummm... I looked for the agenda. Ummm... I was refreshing all day. And I was fired up after seeing that it, it felt like it was getting punted again. Uhhhh...It's not ok. This is not how the City should be operating. I'm sure, well I know there are conversations going on behind the scenes. I've been party to some. But To the average gay or transgender citizen waiting on this council to do something, to do anything, the silence is deafening. Ummm... I know some folks think we're making a big deal out of nothing but usually that line of thinking comes from folks who have never faced any real discrimination.

(Sigh) I hate to go into personal anecdotes. I, I, I have one here. I hate that we have to rely on them to get stuff done. And that as a society we don't do the right things simply because it's the right thing to do. But, this happened just this uhhh....less than a month ago at my work. I work at a large engineering firm in uhhh... Johnson County. We are fantastic in our support of the LGBTQ community. We had a booth at Pride fest the past two years. We have a perfect score on the corporate equality index, ummm and I spoke at a recent work event about LGBTQ inclusiveness. Ummm... And how to, you know, treat employees and understand gender and everything. Afterwards, I had a co-worker who I have worked side by side with for 2 year stop by my office. Ummm... They've been in my office hundreds of times. They've seen my rainbow safe place stickers. I have pride flyers all over. There's no mistaking where I stand on gay rights. But it took 2 years for that person to feel ok coming out to me. And it was behind closed doors in hushed tones.

I asked them if there was something about our workplace that made them resistant to be open; to put a picture of their family up etc. I said we have a great company after all. Their response is they've tried that. They came out when they, Uh, when they were with their previous employer, which was a fortune 100 company in Kansas. Ummm... The fortune 100 company had a perfect HR policy. Their career still suffered. They were ... the attitudes in the office changed, their com... comradery they felt previously changed. Their career completely stalled out and they were getting excluded. So they left and found a career with Black &well....with my company, Sorry (Laughter) They shouldn't name them both that. Black and Decker (Laughter) Ummm... But even with our fantastic policies they didn't want to be put in a position that they were vulnerable anymore. They didn't want.... There is zero recourse if the discrimination does occur so it's easier to ensure their safety, their financial wellbeing, their career track by covering up an entire part of their life. Pretending their family doesn't exist. It's crushing to hear stories like this. But everyone that's come before you and...to ask you for these protections have either lived them or heard them. The City's inaction on that says that we just accept this, that this is how professionals and students should live their lives. That everything they do comes with an



"At your own risk" disclaimer. Gay's won the right to get married, but that very marriage and family can get them fired refused housing and kicked out of restaurants in Olathe. It's at your own risk here. And its unacceptable. Will the courts act or won't they? Will congress do something to address the injustice? Will the president sign it? Will Topeka get its dysfunctional act together and pass state wide protections? Nobody can answer those questions in this room. Not the Manager. Not the citizens. Not the City Attorney. Nobody. Not the council. The only question that the people in this room can answer is "are you as a council and the leaders in this community going to have the political courage to do the right thing and stand by your commitment to ensure this City does not tolerate discrimination of any kind. Including against our LGBTQ families and friends. That is the only question that this council can address. The Olathe school board showed the city what courage looks like. They passed it and every single member of that school board spoke in favor of it ummm and it was unanimous. The Cities in North East Johnson County that keep adding these protections have showed the community what courage looks like. Do not let the election year nonsense stand in the way of doing what's right. People won't remember the votes you took on zoning ordinances or business licenses. People remember those that stood up for equality and for our family and friends. People remember those that stood in the way. Can we expect it on the June 18th agenda?
(Pause)

I don't know, it was kind of interactive with the other guy so...(laughter) I mean.....It's two weeks. We've been waiting over 6 months. There can't be any more research that needs to be done on this. I would hope that somebody on the council will commit to getting this on the agenda for the 18th. Thank you.

CERTIFICATION

I, Brenda D. Long, Assistant City Clerk of the City of Olathe, Johnson County, Kansas, herby certify these verbatim comments to be true and correct as same appears of record in the offices of the City of Olathe.

Dated this 27th day of November, 2019.





Brenda D. Long, Assistant City Clerk

Exhibit C – Brett Hoedl admits g—d--- commit on Facebook



Brett Hoedl

November 18 at 7:17 PM · 🌐

...

I'm honestly not thrilled with the KC Star article that is out there. I think it's relevant and the information needs to be out there but I really was trying to do my damndest to keep my employer's name out of the spotlight.

I'm definitely not discouraging others from sharing it because the cat's out of the bag and folks need to know what Karin is doing.

I was asked for comment on Karin's statement and I asked for permission to reprint her entire statement not just the line that was included in the KC Star article.

I want to point out that I never mentioned my employer's name in the June 4th comments. I started to but changed it to another very similarly named company after a very awkward pause where I made it clear I didn't intend to use my company's name. This city council meeting is the meeting where we stormed out because we were told the NDO was too hot a topic in an election year and that they wouldn't deal with it till December...this was 6 short hours after being told by a council member that they committed to doing it in the summer so they should honor their commitment.

My "cursing" was in response to a Council member asking if folks want them to vote just so that everyone knows where they stand on the issue and I yelled that "we God Damn deserve to know where you all stand on the issue"...

Exhibit D – Marston loss from Mr. Hoedl's Facebook page



Brett Hoedl



November 6 at 8:56 AM · 🌐

Olathe hurts. We sat through another Council meeting where 17 bigots expressed their "love" for the gays but their fear for using a bathroom in Olathe if the LGBTQ folks are given equal rights. The current Council sat at the dais and said nothing. They didn't correct a single citizen that made blatantly false claims about what the NDO would or wouldn't do. They didn't explain that the NDO doesn't change a god damn thing about the bathroom situation. They allowed these bigots to spread lies and hate and said nothing. The City Attorney has still not been allowed or asked to provide an overview of the NDO. It's shameful. I hope the council moves forward with the NDO in December as the Mayor indicated last night and rectifies the mess they've made.

And then Alan's loss is brutal. Him and Jill did everything they could do. They ran a huge citywide election without any other progressive candidates on the ballot for city races. We didn't have candidates in Ward 1, 2, or the Mayor's race. He came within 200+ votes out of 12,775 cast. In the 2017 At-Large race...only 9,340 ballots were cast.

I have no idea if the NDO fight helped or hurt Alan. I really don't. What I do know is that while other politicians hid from the issue during the election and played games, Alan stood up on the side of equality for all Olatheans. I thank Alan for giving my family someone to rally around throughout this fight in Olathe!

Olathe made some bad choices last night but the far rights' margin of victory is slowly dwindling and Alan proved we are within striking distance in the city. We'll just keep pushing for change!

Exhibit E – Transcript of Karin’s comments at City Council 8-20-19



Verbatim transcript of Council Member, Karin Brownlee’s recorded comments at the conclusion of the City of Olathe August 20, 2019, Council Meeting.

Mayor Copeland – Mrs. Brownlee?

Council Member Karin Brownlee – Mayor, um, I would just like to express my concern that I don’t think what we’re doing with our public comments is effective. Um, I don’t think, um, we are providing an atmosphere where both sides are listened to and certainly, they’re not respected. And, I’m not sure how to change it. But I, I just want to express a very sincere concern, that it’s not working in our current format. So, I don’t know what we do uh, to, to make it more effective, but, um, there is a very serious misconception that to disagree is equivalent of hate. And, and that just is, totally false. We have to allow each other to have differences of opinion and that is not happening. And without maintaining a basic, respectful atmosphere, we’re not, we’re not doing what we need to be doing to facilitate, um, good government in Olathe. But I wanna be on board to know how to resolve that.

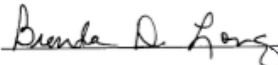
Mayor Copeland – Appreciate your comments and.....I am wide open for suggestions.

CERTIFICATION

I, Brenda D. Long, Assistant City Clerk of the City of Olathe, Johnson County, Kansas, do hereby certify these verbatim comments to be true and correct as same appears of record in the offices of the City of Olathe.

Dated this 22nd day of August, 2019.




Brenda D. Long, Assistant City Clerk

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Exhibit F – My email requesting a meeting w/ Mr. Hoedl (read from bottom to top)

Brett,

Thank you for responding. If you have a change of heart, I am open to visiting with you

Karin Brownlee
Olathe City Council At-Large
Sent from my iPad

On Aug 27, 2019, at 8:51 AM, Brett Hoedl <bhoedl@gmail.com> wrote:

Hi Karin,

Thank you for the invite, but this invite honestly frustrates me a lot. You are one of my at-large councilors and I've emailed you a dozen times since 2018, spoke at dozens of council meetings, and you are just now reaching out to meet and inviting 2 folks that have shown clear animus towards LGBTQ individuals. I don't need a working relationship with Gary or Jo. There are opportunities all around Kansas City for folks that want to learn about LGBTQ issues and why these protections are needed. They've witnessed the same testimony at the council meetings that you and I have seen. If that hasn't affected their perceptions on why this is needed then they are free to email me and I'm happy to respond but I don't have time to try and personally meet and sway every single person that has spoken out in Olathe.

I sat through 4 hours of testimony in Shawnee City Hall last night. It was the same arguments we heard in Olathe, arguments that just don't bear out. Shawnee voted 5 to 2 last night to pass an NDO in Shawnee. They are now the largest city in Johnson County to pass an ordinance. There was a lot of opposition there and it wasn't easy for a few of the councilors to vote YES but they did because it was the right thing to do for Shawnee. I've put countless hours into Olathe to try to move it forward and it is so frustrating to see all of these other cities move forward before us. Olathe has an NDO that has been drafted, the public comments on the website have been closed for a month now. We were told that we would get a vote on this and yet no timeline has been given to us on when that will happen. I've had Olathe City Councilors reach out to me stating that they are frustrated with the process right now and have no idea what the hold up is.

We should have met months ago to discuss this but I'm not willing to delay this process any longer to start developing this relationship now, when everything is in place to vote on this NDO and get it done. I'm happy to meet with you at some point to discuss the LGBTQ community and any other issues facing Olathe but I want to know where this process is in Olathe first. We don't have an opportunity to be first in JoCo anymore but we can still avoid being last. I hate to think that this is where we will end up.

If there are any items I can respond to by email, questions you have about ordinances around the metro or the country, I'm happy to.

Respectfully,

Brett Hoedl
17446 W 161st St
Olathe, KS 66062

On Mon, Aug 26, 2019 at 5:29 PM Karin Brownlee <KBrownlee@olatheks.org> wrote:

Brett,

I enjoyed meeting Jacob Moyer last week. We are planning to meet this Thurs, 4:30. I need to set the location.

Would you be willing to join Gary Kendall, Jo Klaassen and me at this meeting? The goal would be to listen, learn & try to develop a working relationship.

Thank you for considering this. Please let me know what you think.

Thank you,

Karin Brownlee