



**Final Investigative Report of
Ethics Complaint by Brett Hoedl**

Prepared for the Olathe City Council

by

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I. Executive Summary.

Olathe resident Brett Hoedl asserts that Olathe City Councilmember Karin Brownlee engaged in unethical conduct by complaining to his employer about his advocacy efforts before the City Council. Hoedl works at Black & Veatch, a large engineering firm based in Overland Park, Kansas. Black & Veatch often has contracts to do business with the City of Olathe. As a Councilmember, Brownlee votes on those contracts.

Over the last couple of years, Hoedl has advocated on behalf of the LGBTQ¹ community and urged the City of Olathe to adopt a non-discrimination ordinance (“NDO”). Hoedl contends that he has always advocated under his own name, or on behalf of Equality Kansas,² and that he has never indicated that he was advocating or speaking on behalf of Black & Veatch. Hoedl asserts that, in November of 2019, Brownlee, who opposed the NDO, complained to his employer about his advocacy efforts in Olathe. Hoedl contends that this was an unethical attempt by Brownlee to silence his advocacy or interfere with his employment.

The focus of Hoedl’s complaint involves a conversation between Brownlee and Clint Robinson, the Director of State and Local Affairs for Black & Veatch, at a fundraising event on November 9, 2019. Brownlee and Robinson have offered differing accounts of what was said in this conversation. In her interview, Brownlee said that she told Robinson something to the effect of: “One of your employees mentioned Black & Veatch’s name; it may have been accidental; he’s been speaking at several meetings.” Brownlee further asserted that, although she believed Hoedl had behaved inappropriately at Council meetings, she *did not* discuss his behavior with Robinson.

Robinson, on the other hand, recalled that Brownlee discussed Hoedl’s behavior and conveyed a message that Hoedl’s conduct could negatively affect Black & Veatch’s image or reputation. Robinson also recalled that Brownlee shared her personal belief in opposition to the NDO. For the reasons discussed in this Report, the undersigned concludes that the preponderance of the evidence supports Robinson’s account of the conversation, *i.e.* that Brownlee *did* discuss Hoedl’s conduct with Robinson.

The following week, on November 14, 2019, Robinson reached out to Hoedl at work by instant message. Thereafter, the two talked over the telephone. Robinson’s first question to Hoedl was whether he was using Black & Veatch’s name when he was advocating in Olathe. Robinson relayed to Hoedl that he had been contacted at an event by Brownlee, who indicated that Hoedl had used Black & Veatch’s name and acted inappropriately at Council meetings and cursed at the

¹ LGBTQ stands for lesbian, gay, bisexual, transgender, and queer or questioning. See USA Today, Nation Now, *What Does the Q in LGBTQ Stand for?* (published June 1, 2015, updated July 22, 2016) (<https://www.usatoday.com/story/news/nation-now/2015/06/01/lgbtq-questioning-queer-meaning/26925563/> (last checked January 10, 2020)).

² Equality Kansas is a group that advocates to end discrimination based on sexual orientation and gender identity. See About Equality Kansas, <https://eqks.org/main-menu/about/> (last checked February 1, 2020).

Council. Hoedl was taken aback and responded that he did not think he had acted inappropriately. They then discussed some of the events of the June 4 Council meeting where Hoedl, in his public comments, appeared to accidentally reveal that he worked at Black & Veatch and then, later in the meeting, became upset and yelled disruptive comments to the Council. The conversation ended with Robinson telling Hoedl that Black & Veatch was perfectly fine with him doing advocacy work on his personal time.

At issue in this investigation is whether Brownlee's conversation with Robinson on November 9 violated the City's Code of Ethics. The provisions of the Code are broadly-worded and provide little guidance as to the specific types of conduct that are prohibited. Faced with these limitations, the undersigned has nevertheless attempted to evaluate whether a violation of the Code occurred. In so doing, the undersigned concludes that one could view Brownlee's conduct as violating the duties to: (1) "avoid the appearance of improper influence" under Section J; (2) "maintain public confidence in the performance of [her] job duties" under Section B; and (3) be "dedicated to the ideals of honor and integrity in all public and personal relationships" under Section A.

In particular, the undersigned notes that, in light of Brownlee's position of power in voting on Black & Veatch's contracts with the City, one could view the November 9 conversation as creating an "appearance" of improper influence over Robinson or Black & Veatch, in an attempt to reign in Hoedl's advocacy efforts. Further, in light of Brownlee's duty as a Councilmember to uphold the public's Constitutional right to petition the government, one could find that her conversation with Robinson could reasonably result in intimidating Hoedl or other members of the public from speaking out at Council meetings, which could be viewed as violating the duties to "maintain public confidence in the performance of [her] job duties" and be "dedicated to the ideals of honor and integrity in all public and personal relationships."

II. Summary of Complaint, Response, and Reply.

A. Hoedl's Complaint.

On November 21, 2019, Brett Hoedl, an Olathe resident, submitted a complaint to the Olathe City Attorney regarding the conduct of Olathe City Councilmember Karin Brownlee. In his complaint, Hoedl asserts as follows.

For over a year, Hoedl worked with the Olathe Human Relations Commission to get a Non-Discrimination Ordinance ("NDO") protecting the LGBTQ community recommended to the Olathe City Council. Since January of 2019, Hoedl attended almost every Olathe City Council meeting, urging it to pass the NDO Ordinance. Hoedl has never indicated that he was advocating or speaking on behalf of his employer at the City Council meetings.

On November 14, 2019, Hoedl was "pulled out of a work meeting" by Clint Robinson, the Associate Vice President of State and Local Government Affairs of his employer, Black & Veatch. Hoedl Complaint at 1.³ Robinson wanted to inform Hoedl that, at an event where Robinson was representing Black & Veatch, Robinson was contacted by Councilmember Brownlee, who stated that Hoedl was "advocating at city hall under [his] employer's name." *Id.* Brownlee also "complained" that Hoedl was "acting inappropriately" to the Council. *Id.* Robinson was concerned and wanted to hear Hoedl's side of the story. Hoedl told Robinson that Hoedl never claimed to advocate under Black & Veatch's name and that Hoedl believed he had behaved in a professional manner.

Hoedl states that he is "acutely aware" that Black & Veatch does not want him to advocate on its behalf at a local municipality.⁴ *Id.* Hoedl asserts that having his employer "confronted" by Brownlee "sent a chill down [his] spine." *Id.* He further states:

My employer was concerned enough about Brownlee's comments to get me out of a meeting to discuss them. My employer informed me that [it] was not instructing me to cease and desist my advocacy and that I have the right to continue to speak up. I am a lucky one to have a supportive employer. There is no doubt in my mind that others may not be so lucky.

Hoedl Complaint at 2-3.

Hoedl alleges that Brownlee contacted Robinson in an unethical "attempt to silence someone that is advocating for a position that she doesn't support." *Id.* at 2. Hoedl further asserts: "You don't contact the employer of a citizen and complain about them and not expect something

³ Hoedl's Complaint does not identify Robinson or Black and Veatch; the names are included here for clarity.

⁴ Hoedl states that he previously asked his employer to provide statements of support for local NDOs and learned that the employer's policy is to not weigh in on local municipal matters.

to happen in return.” *Id.* Hoedl asserts that Brownlee has violated the City of Olathe’s Code of Ethics by using her public office “to intimidate or harm Olathe citizens that are using their [F]irst [A]mendment right to petition the government.” *Id.* at 3.

Hoedl further asserts:

[Councilmember] Brownlee has lost the trust of the public and either needs to resign or be voted out of office by the Olathe Governing body. If [Brownlee] remains on the [C]ouncil, then the public will lose all faith in the Olathe City Council and will no longer feel safe speaking up at the Olathe City Council meetings or in private discussion with the governing body. We cannot allow this abuse of power and completely unethical behavior to stand. Please act swiftly so the Olathe Governing body can start to regain the trust and respect from residents that feel completely violated.”

Hoedl Complaint at 3.

B. Brownlee’s Response.

On December 2, 2019, Councilmember Brownlee submitted a written response to Hoedl’s complaint. In her response, Brownlee states as follows:

At a social event, I saw Mr. [Clint] 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.

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 [Hoedl’s] job was not threatened. * * *

Brownlee Response at 1.

Attached to Brownlee’s Response is a screen shot of a text conversation between Brownlee and Robinson, in which Brownlee states as follows:

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.

Exhibit A to Brownlee Response. Robinson replied as follows:

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 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.

Id.

In her response, Brownlee states that the June 4th Council 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.” Brownlee Response at 1. Brownlee further states: “I could have certainly related these things to Mr. Robinson. However, I did not.” Brownlee Response at 2. Brownlee adds:

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.

Id.

Brownlee asserts the information that she conveyed to Robinson was truthful and publicly available. Brownlee asserts she has a First Amendment right to comment on things that are said or done in the public realm. Brownlee contends she did not act inappropriately. Brownlee stresses she was truthful in her discussion with Robinson, and the information that she shared was a matter of public record. Brownlee Response at 3.⁵

C. Hoedl’s Email Reply.

On December 2, 2019, Hoedl submitted an email in reply to Brownlee’s Response. In the email, Hoedl essentially states as follows. The transcript of the June 4th meeting shows that Hoedl went out of his way to not identify his employer. This is contrary to Brownlee’s assertion that Hoedl identified his employer and was advocating on behalf of his employer at the meeting. The issue is whether Brownlee stepped over the line to interfere with his employment.

Hoedl contends that, contrary to Brownlee’s assertion, no “public” record exists of the public comment portion of the June 4th meeting. He asserts that, although the Council keeps audio recordings of public comments, they are not generally available to the public and, similarly, transcripts of the meetings are not publicly available.

⁵ Brownlee also asserts that Hoedl’s Complaint is motivated by political animus in that he was quite disappointed that Alan Marson lost the election to John Bacon. Brownlee Response at 2.

III. Scope of Investigation.

On behalf of the Olathe City Council, the undersigned conducted an independent and impartial investigation into the alleged ethical violations discussed above. The scope of this assignment included making factual and credibility findings regarding the allegations and evaluating whether, based on those findings, the Code of Ethics for Elected and Appointed Officials and Employees of the City has been violated.⁶ Pursuant to the terms of engagement, this investigation did not involve making any legal determination as to whether a violation of any law or statute may have occurred. In conducting the investigation, the undersigned (1) reviewed the documents referenced in this Report; (2) interviewed Brett Hoedl,⁷ Karin Brownlee,⁸ and Clint Robinson;⁹ and (3) listened to portions of the audio recordings of the public comment sessions at the City Council meetings on June 4, 2019 and November 19, 2019.

IV. Findings of Fact.

Based on the investigation described above, the undersigned makes the following findings of fact.

1. Hoedl is an Olathe resident who works at Black & Veatch, a large engineering company based in Overland Park, Kansas. Over the last couple of years, Hoedl has advocated for the City of Olathe to adopt a non-discrimination ordinance (“NDO”) on behalf of the LGBTQ community. From January to June of 2019, Hoedl attended almost every Olathe City Council meeting and urged the Council to put the NDO on the agenda for its next meeting.
2. Karin Brownlee is an Olathe City Councilmember who opposed adopting the NDO that Hoedl supported. Brownlee has had a long career in state politics and currently works as a lobbyist in the state legislature. Over the years, in these capacities, Brownlee has crossed paths with Clint Robinson, the Director of State and Local Government Affairs for Black & Veatch. Robinson thinks of elected officials as

⁶ Resolution No. 98-1068 provides a Code of Ethics for officials and employees of the City of Olathe; Resolution No. 93-1122 sets forth procedures for investigating alleged violations of the Code of Ethics.

⁷ Mr. Hoedl was interviewed in person on January 15, 2020, at the Johnson County Bar Association’s office at 7400 W. 129th St., Suite 201, Overland Park, Kansas.

⁸ Ms. Brownlee was interviewed in person on January 20, 2020, at her attorney’s office at 10740 Nall Avenue, Suite 250, Overland Park, Kansas. Ms. Brownlee’s attorney, Michael J. Kuckelman, attended the interview.

⁹ Mr. Robinson was interviewed over the telephone on January 15, 2020, and in person on January 27, 2020, in the lobby of Black & Veatch, 11401 Lamar Avenue, Overland Park, Kansas.

his “clients.” Black & Veatch has contractual relationships with many local municipalities, including the City of Olathe. As a member of the City Council, Brownlee votes on the City’s contracts with Black & Veatch.

3. During the public comments portion of the Olathe City Council meeting on June 4, 2019, Hoedl spoke to urge the Council to put the NDO on its agenda for the next meeting.¹⁰ In so doing, Hoedl shared a personal anecdote about an incident that happened at his workplace, which he contends demonstrated the need for an NDO. The gist of the story was that, even though his workplace is openly tolerant of LGBTQs, and even though Hoedl is extremely open about his advocacy work, a co-worker whom Hoedl had known for two years was still reluctant to “come out” to Hoedl, because of discrimination the person had experienced by a different employer. In relaying the story, Hoedl stated that the person left the previous employer “and found a career with Black and – well, with my company, sorry.”¹¹ The audience laughed. Hoedl then stated: “I shouldn’t invoke that.” After a brief pause, he added: Black and Decker.” The audience then laughed more. Following Hoedl’s comments, it would be clear to many, if not all, that Hoedl worked at Black & Veatch.¹²
4. Later, in the same meeting, Hoedl became upset when Councilmembers stated they wanted to postpone addressing the NDO until after the upcoming election. Hoedl yelled that it was “ridiculous” and “political cowardice.” The Mayor said something to the effect of: “Brett, we’re not going to have the conversation like this.” Hoedl stormed out of the meeting but then returned and stood in the back of the room to hear the Council’s discussion. At some point in the conversation, Councilmember Marge Vogt asked: “Do people just want us to vote so they see where we stand?” In response, Hoedl yelled: “We deserve to have the God Damn debate so we know where you stand on the issue.” Councilmember Jim Randall said “out” to Hoedl, and a police officer walked Hoedl out of the meeting.

¹⁰ While the public comments session was open to the public, it appears that what occurred during this session would not be readily available to someone who was not physically present at the meeting. The Council televises and posts a video of Council meetings on the City’s website; however, the video portion ends before the public comments begin. The City retains audio recordings of the public comment session. Presumably, those recordings may be available to members of the public who make requests under the open record laws. It appears that a transcript of the June 4 meeting was made at Brownlee’s request. It is unclear whether a member of the public may request such a transcript.

¹¹ After saying the words “Black and,” Hoedl abruptly stopped and then quickly continued on with: “well, with my company, sorry.”

¹² The quoted statements in this paragraph are based on the undersigned’s review of the audio recording of the public comment session at the City Council meeting on June 4, 2019. The undersigned notes that these statements differ slightly from those contained in the transcript attached as Exhibit B to Brownlee’s response.

5. Following the June 4 meeting, Brownlee made a mental note to herself that, sometime when she saw Robinson, she would mention to him that Black & Veatch was named. Brownlee also recorded in her notes that Hoedl had behaved poorly and stormed out of the meeting.
6. Five months later, at a fundraising event on November 9, 2019, Brownlee initiated a conversation with Robinson about Hoedl's advocacy efforts before the Olathe City Council. Brownlee and Robinson have offered differing accounts of what was said during this conversation. In her interview, Brownlee stated that she told Robinson something to the effect of: "One of your employees mentioned Black & Veatch's name; it may have been accidental; he's been speaking at several meetings." Brownlee asserted that she shared this information because Black & Veatch should know when one of its employees is using its name without permission to do so. Although Brownlee believed that Hoedl had behaved inappropriately at Council meetings, she insisted that she did *not* tell Robinson about Hoedl's behavior, *i.e.* she only told Robinson that Hoedl had "named" the company in his advocacy efforts.¹³
7. Robinson, on the other hand, clearly recalled that Brownlee stated that Hoedl had acted inappropriately and was disrespectful to her friend(s) with opposing viewpoints. Specifically, Robinson said that Brownlee relayed the following information: (1) Hoedl identified that he was "with" Black & Veatch; (2) Hoedl used bad language; (3) Hoedl did not represent Black & Veatch well at the meeting, *i.e.* he was a poor reflection on Black & Veatch; and (4) Hoedl was disrespectful to Brownlee's friend at the Council meeting. Robinson also recalled that Brownlee shared her personal belief that the LGBTQ community did not need protected status. Robinson described it as a "purposeful" conversation on Brownlee's part; it was clear to him that this was something that had been bothering her. Robinson understood the gist of Brownlee's message to be out of concern that Hoedl's conduct was unbecoming of a Black & Veatch employee and could negatively affect the company's image or reputation. Robinson told Brownlee that he would talk to Hoedl and make sure Hoedl understood that he could not speak on Black & Veatch's behalf.
8. Faced with differing accounts of the conversation between Brownlee and Robinson, the undersigned finds that the preponderance of the evidence supports Robinson's account, *i.e.* that Brownlee *did* tell Robinson that Hoedl had behaved poorly. First, Brownlee's account seems illogical: if she thought Black & Veatch should know that its employee had used its name at the podium, it follows that it would also want to know that the employee was acting inappropriately, especially if the employee's

¹³ In her interview, Brownlee stated that she told Robinson that Hoedl had "gone after" her friend; but Brownlee said Robinson was busy looking at his phone and did not respond to her comment.

conduct was “notable” and “very memorable” and reflected poorly on the company. Moreover, if her only concern was that Hoedl had “named” the company, this seems relatively minor in light of the fact that the “naming” occurred only one time and even then, as Brownlee herself stated, it may have been accidental. It does not add up that, five months later, Brownlee would make it a point to inform Robinson about the “naming” of the company (that might have been accidental) and not also mention her strong belief that Hoedl had acted inappropriately.¹⁴

9. Robinson’s account, on the other hand, is logical. It makes sense that Brownlee would have mentioned Hoedl’s conduct, particularly when she strongly believed it was inappropriate, *i.e.* “notable” and “very memorable.” Otherwise, the mere fact that Hoedl had named the company once, and perhaps accidentally, is of much less consequence. Robinson consistently and credibly stated that Brownlee conveyed the message that Hoedl’s conduct was unbecoming of a Black & Veatch employee, *i.e.* it could reflect poorly on the company’s image or reputation. Robinson’s credibility is further buttressed by the fact that he is a third-party witness with no stake in the outcome of this investigation. Further, Robinson’s recollection is corroborated by the accounts that both Robinson and Hoedl gave regarding their subsequent conversation (discussed in the next paragraph).
10. The following week, on November 14, 2019, Robinson reached out to Hoedl at work by instant message, asking if he could talk for a minute.¹⁵ It was odd for Robinson to contact Hoedl in this way. Hoedl was in computer training and stepped out of the training to call Robinson.¹⁶ In the telephone conversation, Robinson’s first question to Hoedl was whether he was using Black & Veatch’s name when he was advocating in Olathe. Robinson relayed to Hoedl that he had been contacted by Brownlee at an event, and she indicated that Hoedl had used Black & Veatch’s name and acted inappropriately at Council meetings and cursed at the Council. Hoedl was taken aback and responded that he did not think he had acted inappropriately. They then discussed some of the events of the June 4 meeting. Hoedl’s take-away from the conversation was that Robinson wanted to understand what was said at the meeting. Robinson told Hoedl that Black & Veatch was not

¹⁴ The underlying facts do not seem to support Brownlee’s concern that Black & Veatch should know when an employee is carrying its message without permission to do so. Brownlee has never asserted that Hoedl said he was speaking on behalf of the company. At most, her concern seems to be based on an indirect inference that, in one instance, when Hoedl appeared to “accidentally” name the company, he may have actually done so intentionally to convey an indirect message that Black & Veatch supported the NDO.

¹⁵ In their interviews, Robinson and Hoedl gave similar accounts of their conversation on November 14; the undersigned finds both accounts of the conversation to be credible.

¹⁶ Contrary to some of Hoedl’s assertions, Robinson did not knowingly pull him out of a meeting.

saying he could not to do his advocacy work, and Black & Veatch was perfectly okay with employees advocating on their personal time.

11. Following the November 14 conversation with Robinson, Hoedl filed a complaint with the Olathe City Attorney, asserting that Brownlee violated the City's Code of Conduct by complaining to his employer about his advocacy efforts before the City Council. Hoedl also asserted these allegations on Facebook, at the City Council meeting on November 19, and in articles published in the Kansas City Star.

V. Applicable Sections of the Code of Ethics.

The Code of Ethics provides that:

Officials and employees of the City of Olathe shall:

- A. Be dedicated to the ideals of honor and integrity in all public and personal relationships.
- B. Conduct themselves so as to maintain public confidence in the performance of their job duties. * * *
- J. Avoid the appearance of improper influence . . . and should never lobby or attempt to influence others in the performance of their duties by any means which are not part of his or her authorized duties.

Resolution No. 98-1068.

VI. Analysis.

As noted, Hoedl alleges that Brownlee contacted Robinson in an "attempt to silence [Hoedl from] advocating for a position that she doesn't support." Hoedl Complaint at 2. Hoedl asserts that Brownlee has violated the City of Olathe's Code of Ethics by using her public office "to intimidate or harm Olathe citizens that are using their [F]irst [A]mendment right to petition the government." Hoedl Complaint at 3. Hoedl further asserts that Brownlee "has lost the trust of the public." *Id.*

As a preliminary matter, the undersigned notes that the provisions of the Code are broadly-worded and provide little guidance as to the specific types of conduct that are prohibited. The undersigned is not aware of any caselaw or other precedent that provides guidance on interpreting or applying the Code, and has conducted no independent legal research in this regard. In light of these limitations, the undersigned has attempted to evaluate whether a violation may have occurred based on a plain reading of the language of the Code.

At issue is whether Brownlee's conduct, namely her conversation with Robinson on November 9, violated the Code of Ethics. As discussed, in this conversation, Brownlee told Robinson, a Director of Black & Veatch, that Hoedl, a Black & Veatch employee, had been advocating for LGBTQ rights at City Council meetings. Brownlee told Robinson that Hoedl: (a) identified that he was "with" Black & Veatch; (b) acted inappropriately; (c) used bad language; and (d) disrespected her friend who expressed an opposing viewpoint. In essence, Brownlee conveyed a message that Hoedl's conduct could negatively affect the company's image or reputation. Other relevant facts include: (a) Brownlee shared her personal opinion against the NDO; (b) Black & Veatch does significant business with the City; and (c) as a Councilmember, Brownlee votes on those contracts.

In evaluating these facts in the context of a Councilmember's duties and obligations, as set forth below, it appears that Brownlee's conduct may have violated her ethical duties to: (1) "avoid the appearance of improper influence;" (2) "maintain public confidence in the performance of [her] job duties;" and (3) be "dedicated to the ideals of honor and integrity."

1. Avoid the Appearance of Improper Influence.

Section J requires City Officials to "[a]void the appearance of improper influence . . . [and] never lobby or attempt to influence others in the performance of their duties by any means which are not part of his or her authorized duties." As noted, the facts indicate that Councilmember Brownlee spoke to Robinson, the Director of State and Local Affairs for Black & Veatch, a company over which she had a say in its business contracts with the City, about the advocacy efforts of an employee whose viewpoint she openly disagreed with, and indicated that the employee's behavior reflected poorly on Black & Veatch and could hurt the company's image or reputation. Given her position of power over Black & Veatch's contracts with the City, one could view the conversation as an attempt by Brownlee to influence Robinson in his position as Director at Black & Veatch to reign in Hoedl's advocacy efforts, which was not part of her authorized duties. At the very least, the conversation could be viewed as creating an "appearance" of improper influence. Accordingly, it appears that Brownlee's conduct may have violated Section J of the Code.

2. Maintain Public Confidence in Performance of Job Duties.

Section B of the Code imposes a broad duty for City Officials to "[c]onduct themselves so as to maintain public confidence in the performance of their job duties." As a Councilmember, Brownlee has undertaken an oath and obligation to support the Constitutions of the United States and the State of Kansas, both of which provide the people the right to petition the government.¹⁷

¹⁷ See Video of Oath of Office at City Council Meeting on January 9, 2018, <http://olatheks.swagit.com/play/01092018-1564/3/> (last checked February 2, 2010). The First Amendment to the U.S. Constitution protects the right of the people "to petition the government for a redress of grievances." U.S. Const., 1st Amend. Similarly, the Kansas Constitution provides the people the right "to petition the government, or any department thereof, for the redress of

Here, it appears that Brownlee's conversation with Robinson could reasonably and foreseeably result in intimidating or discouraging Hoedl or other members of the public from speaking out at Council meetings, for fear that she might report their behavior to their employers.¹⁸ One could reasonably conclude that such conduct would detract from the public's confidence in Brownlee's performance of her duty to uphold the Constitutional right to petition the government, which would appear to violate the obligation to "maintain public confidence" under Section B of the Code.¹⁹

3. Be Dedicated to the Ideals of Honor and Integrity.

Section A of the Code imposes a broad duty for City Officials to "[b]e dedicated to the ideals of honor and integrity in all public and personal relationships." For the reasons discussed, to the extent one may view Brownlee's conversation with Robinson as an attempt to improperly influence Robinson or Black & Veatch, it appears such conduct would be contrary to "the ideals of honor and integrity" with respect to her public and/or personal relationships with them. Similarly, to the extent one may view her conduct as an attempt to discourage Hoedl from speaking out at Council meetings, it appears such conduct would be contrary to "the ideals of honor and integrity" with respect to her public relationship with Hoedl, an Olathe resident who petitioned the Council for the redress of grievances.

grievances." Kan. Const. § 3. The scope of this investigation does not include examining or determining whether any constitutional violations may have occurred.

¹⁸ The undersigned makes no determination as to whether Brownlee intended to interfere with Hoedl's employment or whether her actions in fact resulted in any such interference.

¹⁹ Brownlee has attempted to justify her conduct by stating that Black & Veatch had a right to know that its employee had "named" it at the podium, and she merely shared truthful information that occurred in a public forum. In the abstract, these assertions may be true. However, they seem to ignore Brownlee's obligations and duties as a City Councilmember to uphold the public's Constitutional right to petition the government. The undersigned notes that the Council presumably has other ways to control its forum, other than going to advocates' employers. For instance, if it is unclear whether an advocate is speaking on behalf of a company, the Council can ask for clarification and, if needed, for the contact information of someone at the company who can verify that fact. Similarly, the Council has independent means to control disruptive or inappropriate behavior.

VII. Recommendations.

Pursuant to the procedures established by the City Council for this investigation, the undersigned defers to the Honorable Gerald T. Elliott to make recommendations to the Council.

Dated: March 8, 2020.

Submitted by:

s/ Angela D. Gupta

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