

Olathe City Council

Attn: Mayor Michael Copeland

100 E. Santa Fe Street

Olathe, Kansas 66061



Re: Council Member Ethics Investigation Regarding Hoedl Complaint

This letter provides written findings and recommendations in this matter. They are based on the Investigator's Report of March 8, 2020 and constitute an independent and impartial review of the Report executed with my skill, training and professional experience. I was not empowered or expected to conduct any investigation beyond that conducted by the investigator. As anticipated and encouraged by the City, I have spoken with the Investigator concerning the Report and the underlying investigation to resolve any questions and make sure I understood the relevant aspects of the Report.

Findings:

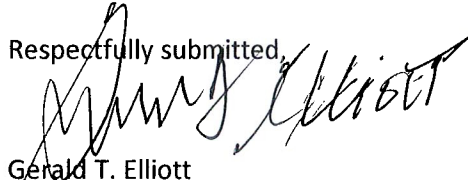
Paragraphs 1 through 11 contained on pages 1-11 of the Investigator's Report of March 8, 2020 together with the referenced footnotes are adopted as the Written Findings for the purpose of this Report.

The Complaint requires the Council to decide whether the statements made by Brownlee to Robinson were a violation of the Olathe Code of Ethics as found in Resolution 98-1068. The statements made were (1) that Hoedl, while speaking to the Council in Public Session identified himself as an employee of Black and Veatch and (2) that Hoedl's actions and conduct at the Council meeting were inappropriate (i.e. notable and very memorable) and unbecoming of a Black and Veatch employee, i.e., it could reflect poorly on the company's image or reputation. It seems that Hoedl is complaining that these statements constituted complaining to his employer about his advocacy efforts before the City Council.

It appears that Hoedl's identification and actions were made while at the Council meeting for the purpose of advocating but they were not advocating or a part of his advocacy. While advocacy can certainly take different forms in addition to words, in this instance (1) identifying his employer in the indicated context, or (2) behavior or words toward the Council or others following his comments in the public comment time seem clearly not to be a part of his advocacy. It follows that Brownlee's commenting on them to Robinson did not constitute complaining about Hoedl's advocacy effort before the City Council. That is the recommendation of this report and it is the further recommendation that therefore Brownlee's comments were not a violation of the Olathe Code of Ethics.

It is also the recommendation that there are no substantial facts, either direct or circumstantial which justify a conclusion that Brownlee's contact and conversation with Robinson constitutes a violation of the Olathe Code of Ethics.

It is also the recommendation that the Council may wish to consider the advisability of a review of the Code with reference to constituent education and enforcement procedures.

Respectfully submitted,

Gerald T. Elliott
District Court Judge, Retired