



BOARD OF ALDERMEN
Regular Meeting Agenda
CITY OF PARKVILLE, MISSOURI
Monday, March 21, 2022 5:00 PM
City Hall Board Room

The members of the Board of Aldermen will meet via telephone or video conference. Members of the public interested in this meeting are encouraged to watch the live stream on the City's website at <http://parkvillemo.gov/government/city-meetings/> or may listen in on the meeting via the following telephone number and access code – (312) 626 6799, Meeting ID: 836 0917 3326, Password: 125152.

Next numbers: Bill No. 3185 / Ord. No. 3125

- 1. CALL TO ORDER**
- 2. CITIZEN INPUT**
- 3. CONSENT AGENDA**
- 4. ACTION AGENDA**
 - A. Action on Municipal Officials Ethics Commission Report
- 5. STAFF UPDATES ON ACTIVITIES**
- 6. MAYOR, BOARD OF ALDERMEN & COMMITTEE REPORTS & MISCELLANEOUS ITEMS**
- 7. ADJOURN**



Parkville Municipal Officials Ethics Commission

Report, Advisory Opinion, and Recommendations Concerning Complaint of Elaine Kellerman against Mayor Nanette Johnston dated October 19, 2021

Executive Summary

The Parkville Municipal Officials Ethics Commission convened in November 2021 to address the complaint raised by Elaine Kellerman in a sworn complaint received by the City. The Commission proceeded over the course of several weeks to investigate the complaint. The Commission received the mayor's response, Ms. Kellerman's reply to the mayor's response, numerous emails from Ms. Kellerman and others concerning the complaint, and several affidavits of witnesses. The Commission heard testimony on two occasions, from the mayor on one evening and from Ms. Kellerman, Jason Maki, and Steve Coronado on another evening. The Commission deliberated on the allegations and evidence received. The Commission voted on the complaint broken into seventeen decisions amongst nine sections. The Commission did find that the Mayor violated eight of the seventeen counts. On the count of destruction of public records, the Commission determined there was not enough information to make a determination. **The unanimous recommendation of the Commission based on the totality of circumstances was a strongly written reprimand. In addition, a clause is added to the recommendation that if there were a longer term in office, the Commission could possibly have considered a stronger recommendation up to and including suspension.**

Role of the Ethics Commission

The Ethics Commission, "shall have the power and duty to render advisory opinions to the Board of Aldermen in all ethics complaints and to investigate and report on allegations of violations of the City Code of Ethics and ordinance provisions concerning conflicts of interest and financial disclosure by all elected and appointed officials..." Section 107.100.A, Parkville Municipal Code.

Obligations and Expectations of Parkville Officials from the Ethics Code

Parkville officials, "are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the Nation, State and municipality and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office, regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach." Section 107.020, Parkville Municipal Code.

Differentiation between Official Acts and Private Affairs

The first two sentences of Section 107.020 state that officials "are bound to" do certain acts. The third sentence states officials "should be" above reproach. Officials are *bound* to observe the highest standards of morality in their *official acts*, but the Code of Ethics only states that officials *should be* above reproach in their *private affairs*.



Consequences of Ethics Violations

The Commission shall issue a report and advisory opinion at the conclusion of its investigation and consideration of the complaint and evidence received. Section 107.100.A. The advisory opinion can include the Commission's recommendations. Section 107.100.D. Violations of the Ethics Code are punishable by a fine of up to five hundred dollars, or up to 90 days imprisonment, or restitution, or by any or all of the above. Section 107.060.A. Violations of the Ethics Code may also constitute a cause for suspension, removal from office, or other disciplinary action by the Board of Aldermen. Section 107.060.B. All final consequences of violating the Ethics Code are decided by either the Board of Aldermen or the courts. The Ethics Commission is not empowered to impose penalties or administrative sanctions. Section 107.060.C.

The Work of the Ethics Commission

The Ethics Commission met on the below dates. The Ethics Commission received evidence from the following individuals via the listed format:

1. November 8, 2021, The Commission met with a quorum of three Commissioners who took the oath of office. Parkville City Attorney Chris Williams provided an overview of Chapter 107 Code of Ethics and the Ethics Commission Role. It was our first meeting to acknowledge the receipt of the complaint and establish a timeframe for the Mayor's response. The Commission requested outside legal counsel from the Board of Alderman.
2. December 15, 2021, The Commission met in person with a quorum of three Commissioners. Action was taken to accept Joe Vanover as the Ethics Commission's legal counsel. A discussion regarding conflicts of interest surrounding the current Commissioners was had and consensus was there were no conflicts. The remaining meeting was used to discuss the timeline of the complaint as well as the timeline to recommend appointments to fill the two vacancies on the Ethics Commission.
3. December 17, 2021, The Commission delivered a letter to the Platte County Sheriff that requested the investigative reports related to alleged records destruction.
4. January 5, 2022, The Commission met in person. Abby LacKamp was sworn in, and we reviewed applications for Ward 1.
5. The Commission met via Zoom for a special meeting on January 13 to recommend Michael Pearl to the BOA to join the Commission. Mr. Pearl was approved and quickly sworn in.
6. The Commission met on January 19 via zoom for the first time as a full five-person commission. During this meeting the commission decided which segments of the complaint should be investigated further. At that meeting the Commission decided to continue to investigate the matter of Maki v. Parkville, as well as the Mayor's DUI. At this time, the Commission asked for Ms. McChesney, Joe Parente, and members of the BOA to testify. We also asked for written testimony from Chief Kevin Chrisman.



7. The week of January 27, the Commissioners received training on the Missouri Sunshine Law from the Missouri Attorney General's Office.
8. On February 2, the Commission met via Zoom. At that time, we anticipated hearing testimony from Melissa McChesney, Joe Parente, and David Rittman. We were informed via Chris Williams that they would not participate in person to give testimony. Instead, they gave sworn statements via signed affidavits. These were signed February 7 and delivered to the Commission via Joe Vanover February 7, 2022.
9. The commission received affidavits from Board of Alderman Members, dated February 7, 2022 from:
 - i. Dave Rittman
 - ii. Phil Wassmer
 - iii. Doug Wylie
 - iv. Brian Whitley
 - v. Tina Welch
 - vi. Marc Sportsman
 - vii. Greg Plumb
 - viii. Robert Lock

These affidavits are similar in nature. Each mention that the BOA met in an Executive Session on September 3, 2019. During this session the board did not vote, or otherwise provide any mandate that the City change its position and release the records to Mr. Maki without him complying with the requirement to pay the outstanding balance fee dues.

10. The Commission received an affidavit signed February 7, 2022 from City Employees:
 - i. **Police Chief Kevin Chrisman:** He did not feel that Mayor Johnston's decision to call him during her DUI arrest was unethical, and he did not speak to the arresting deputy.
 - ii. **Melissa McChesney:** followed normal procedures to fulfill Mr. Maki's records requests. She does acknowledge that there was a dispute between the City and Mr. Maki regarding an outstanding balance for records. Mr. Maki paid those fees and picked up the documents a few days later. Ms. McChesney states that she has no knowledge of any directive, mandate, or order from the Mayor and Board Members or Mr. Parente to withhold documents from Mr. Maki. Ms. McChesney does not know of any deletion of a city email account. The City also continues to post legal notices in the Platte County Landmark.
 - iii. **Joe Parente:** Mr. Parente states that normal procedures were followed to fulfill Mr. Maki's requests. At no time did he direct that records were not to be provided to Mr. Maki. He has no knowledge of a vote from the BOA to release the documents to Mr. Maki, or that the Mayor or BOA prevented Mr. Maki from receiving his documents. He does acknowledge that the Mayor tried to get the City to stop sending press releases and legal notices to the Landmark, but he told Ms. McChesney to continue to do so.



- iv. **Edward (Eddie) Seasholtz:** Mr Seasholtz is an employee of eNet LLC who contracts with the City to provide IT services. In his affidavit, Mr. Seasholtz shares that he received no direction from Mayor, or Alderman to withhold or release any documents regarding Mr. Maki's request for information. All of his communication and directions came from Mr. Parente or Ms. McChesney. He also has no knowledge of any destruction of City email addresses or City documents.
11. The Commission met on February 10, 2022 and heard testimony from Mayor Johnston.
- ix. During this testimony the **Mayor** shared that she did not direct any City employee to withhold documents from Mr. Maki. Ms. Johnston did not delete any emails regarding Mr. Maki's request. The only email account deleted was an RSVP account she used for a campaign event. The Mayor shared that during the executive session on September 3, 2019 there was never a vote to release or not release the documents to Mr. Maki. She also shared that she was personally disappointed that the City had settled the Maki case. She did direct the City to stop doing business with the Landmark but understood that the City continues to send press releases and legal notices.
12. Commission met on February 23, 2022 and heard testimony from Ms. Kellerman, Mr. Maki, and Mr. Coronado regarding the Maki v. Parkville lawsuit.
- i. **Ms. Kellerman:** shared her disappointment at the last-minute changes to the agenda and allowing Mr. Coronado to testify. She also shared her concern that Mr. Felker could not remain unbiased. She also shared that when she pulled Sunshine Requests from the City it was an easy process, and had not paid a fee.
 - ii. **Mr. Maki:** gave a statement regarding Maki v. Parkville. He reviewed the timeline of the case. He also shared his understandings of what his fees were for, and that the fees the city were charging him for research time were illegal. Specifically, the charging of review fees by city staff to determine if a record is open or not. When asked directly how he could tie the Mayor to withholding documents he could not give a clear answer. He also stated that affidavits given to the Commission by members of the Board of Alderman were perjurious. Mr. Maki believes that personal emails from the Mayor were also required to be submitted via the subpoena.
 - iii. **Mr. Coronado,** Lawyer for the City during the Maki V. Parkville suit. Mr. Coronado shared that the city complied by Subpoenas. The Mayor shared that all of her personal emails sent to a City email address were preserved and shared by the City.

See attached lists of affidavits and emails received by the Ethics Commission.

At the March 2, 2022 meeting, the Ethics Commission voted on the nine various aspects of the complaint totaling seventeen separate motions. Of those, eight motions were voted in



favor of an ethics violation. In regards to the complaint of destruction of public records, the Commission voted that there was not enough evidence to render a decision. (This matter is currently being investigated by the Platte County Sheriff's Department) After discussing the nine violations in their totality, a recommendation to the Board of Aldermen of a strong written reprimand of the Mayor was unanimously approved. In addition, a clause will accompany the recommendation that if there were a longer term in office, the Commission could possibly have considered a stronger recommendation up to and including suspension. (This clause was not unanimous) This report was prepared following that meeting. This report was approved by the Ethics Commission on March 7, 2022.

The Complaints

The complaints alleged against Mayor Johnston, and her responses, were separated as follows:

1. Violations of campaign finance laws in 2019
 - a. Complaint: Multiple violations of campaign finance laws before and after the 2019 election.
 - b. Response: Mayor denies attempting to conceal donations. Mayor admits to violating the corporate contribution prohibition and the large contribution notice requirement. Mayor asserts the matter has been fully resolved with the agency that has authority over it because she settled the complaints with the Missouri Ethics Commission.
2. Attempts to coerce companies doing business in Parkville
 - a. A commercial lease in 2016
 - i. Complaint: Mayor Johnston conspired to persuade a commercial property owner to "yank the lease" of an "undesirable" tenant in favor of a potential tenant with which the mayor had a personal relationship.
 - ii. Response: Mayor denies a previous relationship with the potential tenant. Mayor admits "yank the lease" was not well thought out.
 - b. A project in 2017
 - i. Complaint: Mayor engineered a deceptive façade of support to a project.
 - ii. Response: Mayor asserts there is nothing wrong with notifying proponents of the project of the opportunity to testify in favor.
 - c. The Landmark newspaper in 2019
 - i. Complaint: Mayor attempted to reduce distribution of The Landmark and stop advertising in it.
 - ii. Response: Mayor does not deny asking businesspeople to discontinue distribution of The Landmark. Mayor admits attempting to get Park University to stop providing content and advertising to The Landmark.
3. Instructing or pressuring city officials to violate the Code of Ethics



- a. Request to keep confidential the actions involving the commercial lease in 2016
 - i. Complaint: Mayor instructed employees to keep her actions confidential.
 - ii. Response: Mayor asserts it was appropriate to keep the possible lease deal confidential.
- b. The 2017 project
 - i. Complaint: Mayor instructed an employee to assist in engineering a deceptive façade.
 - ii. Response: Mayor admits she asked a city employee to notify a proponent of upcoming meetings.
- c. Attempting to get an alderman and others to take action against The Landmark in 2019
 - i. Complaint: Mayor attempted to get others to reduce distribution of The Landmark, stop advertising in The Landmark, and stop sending press releases to The Landmark.
 - ii. Response: Mayor admits she attempted to influence Park University to consider discontinuing providing content to The Landmark and to stop advertising. Mayor claims she had the right to ask the alderman to ask Rotary to discontinue sending press releases to The Landmark.
- d. Instructing city employees to stop delivery of The Landmark to city hall and stop publishing legal notices in it.
 - i. Complaint: Mayor instructed employees to stop publishing legal notices in The Landmark and stop receiving copies delivered to city hall.
 - ii. Response: Mayor admits The Landmark is no longer delivered to city hall, but the city still publishes legal notices in it.
- 4. Violations of Sunshine laws in 2018 and 2019
 - a. Misleading a reporter
 - i. Complaint: Mayor misled a reporter regarding retrieval of requested records by Jason Maki.
 - ii. Response: Mayor states she relayed to the reporter what she was told regarding retrieval of records.
 - b. Calling records requests harassment
 - i. Complaint: Mayor mischaracterized the records requests as harassment.
 - ii. Response: Mayor says her personal opinion is that the multiple records requests were part of Mr. Maki's non-stop harassment.
 - iii. Rebuttal: Ms. Kellerman claims the mayor breached the settlement contract with Mr. Maki by calling the records requests harassment.
 - c. Obstructing compliance with records productions



- i. Complaint: Mayor contradicted Board of Aldermen's decision to release records which resulted in approximately \$450,000 in legal fees and settlement costs.
 - ii. Response: Mayor denies involvement in records production and states the city settled with Mr. Maki. Mayor denies thwarting the release of records.
5. Driving while intoxicated in 2020
 - a. Complaint: Mayor drove while intoxicated and attempted to use her position as mayor to receive special favor from the arresting officer.
 - b. Response: Mayor admits the incident and asserts it was handled through the judicial process and addressed by the Board of Aldermen. She says she called the police chief because she was scared and to notify him. She denies asking the chief to get her out of the predicament.
6. Threatening a citizen in 2020
 - a. Complaint: Mayor threatened Weston Coble to have him investigated by a state regulatory agency (Missouri Ethics Commission).
 - b. Response: Mayor admits she threatened him. She says she was frustrated, was poked and ate the bait. Mayor denies her conduct was unethical.
7. Concealing her relationship with Creekside's attorney in 2018
 - a. Complaint: Mayor concealed her relationship with Creekside developer and his attorney.
 - b. Response: Mayor acknowledges she received a campaign contribution from the attorney in 2016.
8. Attempting to be appointed to hospital board of directors in 2018
 - a. Complaint: Mayor used her office in an attempt to be appointed to the board of directors of Saint Luke's North Hospital.
 - b. Response: Mayor says another member asked her to apply and she did from her city email address. The position is unpaid. Mayor says part of her mayor responsibilities is to network and showcase Parkville.
9. Destruction of public records in 2019
 - a. Complaint: Mayor destroyed public records while under a duty to preserve them, including destroying an email account the day after a judge ordered her to produce documents.
 - b. Response: Mayor asserts there are no court transcripts proving she destroyed public records. Mayor says the complaint to the Sheriff's Department is riddled with lies. Mayor denies the claims made in the criminal investigation. Mayor says it is inappropriate for her to comment further because it is a pending legal matter.
 - c. Note: On December 17, 2021, the Ethics Commission requested the Platte County Sheriff's Department provide the law enforcement reports related to this allegation. The sheriff's office would only provide us the incident report, which the mayor marked as exhibit 16 and 18, because the rest of the reports were closed due to still being under investigation. As of the



date of this report, no further information has been received from the sheriff's office. It is believed that the investigation has not concluded.

Decisions of the Ethics Commission

The Ethics Commission finds as follows and makes the following recommendations.

1. Violations of campaign finance laws in 2019
Motion made by Chairman Dehner that the Mayor violated the Ethics Code. Seconded by Commissioner LacKamp. Motion carried by a vote of 5-0.
Violation.
2. Attempts to coerce companies doing business in Parkville
 - a. A commercial lease in 2016
Motion made by Commissioner Pearl and seconded by Commissioner Felker that the Mayor did not violate the Ethics Code. Motion passed 3 to 2. **No violation.**
 - b. A project in 2017 (Creekside Project)
 - i. Motion by Commissioner Pearl and seconded by Commissioner Felker that the Mayor did not violate the Ethics Code. Motion passed by a 5-0 vote. **No violation.**
 - c. The Landmark newspaper in 2019
 - i. Commissioner Pearl moved and Commissioner LacKamp seconded that the Mayor violated the Ethics Code. Motion carried 4-1. **Violation.**
3. Instructing or pressuring city officials to violate the Code of Ethics
 - a. Request to keep confidential the actions involving the commercial lease in 2016
 - i. Commissioner Scott moved and Commissioner LacKamp seconded that the Mayor violated the Ethics Code. Motion carried 4-1. **Violation.**
 - b. The 2017 project (deceptive façade)
 - i. Commissioner Scott moved and Commissioner Felker seconded that the Mayor did not violate the Ethics Code. Motion carried 5-0. **No Violation.**
 - c. Attempting to get an alderman and others to take action against The Landmark in 2019
 - i. Commissioner Scott moved and Commissioner LacKamp seconded that the Mayor violated the Ethics Code. Motion passed 5-0. **Violation.**
 - d. Instructing city employees to stop delivery of The Landmark to city hall and stop publishing legal notices in it.
 - i. Commissioner Scott moved and Commissioner LacKamp seconded that the Mayor violated the Ethics Code. Motion carried 4-1. **Violation.**



4. Violations of Sunshine laws in 2018 and 2019
 - a. Misleading a reporter
 - i. Commissioner Felker moved and Chairman Dehner seconded that the Mayor did not violate the Ethics Code. Motion carried 5-0. **No Violation.**
 - b. Calling records requests harassment
 - i. Commissioner Felker's motion that the Mayor did not violate the ethics code did not receive a second and failed.
 - ii. Commissioner Felker moved and Commissioner LacKamp seconded that the Mayor violated the Ethics Code. Motion carried 3-2. **Violation.**
 - c. Obstructing compliance with records productions
 - i. Commissioner Felker moved and Commissioner LacKamp seconded that the Mayor did not violate the Ethics Code. Motion carried 5-0. **No Violation.**
5. Driving while intoxicated incident in 2020
 - a. The DWI incident itself
 - i. Commissioner LacKamp moved and Commissioner Scott seconded that the Mayor violated the Ethics Code. Motion carried 4-1. **Violation.**
 - b. Crossing the line in calling the Chief of Police.
 - i. Commissioner LacKamp motioned that the Mayor did violate the Ethics Code and did not receive a second. Motion failed.
 - ii. Commissioner Felker moved and Commissioner Pearl seconded that the Mayor did not violate the Ethics Code. Motion carried 4-1. **No violation.**
6. Threatening a citizen in 2020
Motion by Chairman Dehner and seconded by Commissioner Scott that the Mayor violated the Ethics Code. Motion carried with a vote of 3-1-1. **Violation.**
7. Concealing her relationship with Creekside's attorney in 2018
Commissioner Pearl moved and Commissioner Scott seconded that the Mayor did not violate the Ethics Code. Motion carried 5-0. **No violation.**
8. Attempting to be appointed to hospital board of directors in 2018
Commissioner Scott moved and Commissioner Felker seconded that the Mayor did not violate the Ethics Code. Motion carried 5-0. **No violation.**
9. Destruction of public records in 2019
 - a. Motion by Commissioner Felker that the Mayor did not violate the Ethics Code. Motion failed due to a lack of a second.
 - b. Motion by Commission Scott and Commissioner LacKamp seconded that the Mayor violated the Ethics Code. Motion failed in a vote 1-3-1.
 - c. Motion made by Commissioner Felker and Commissioner LacKamp seconded that there is not enough information to rule on this allegation and



that the Sheriff is investigating. Motion carried 4-1. **No decision rendered.**

10. Totality of the Circumstances

- a. Taking all violations into consideration Commissioner Scott moved and seconded by Commissioner LacKamp that the Board of Aldermen issue a written strong reprimand for the violations of the Ethics Code that took place as voted upon by the Ethics Commission Members. Motion carried 5-0. **Decision to recommend strongly written reprimand.**
- b. Commissioner Scott moved and Commissioner LacKamp seconded to include a clause in the report that the Commission **would have** recommended a suspension if there were a longer time in service. Motion failed 2-3.
- c. Commissioner Felker moved and Commissioner LacKamp seconded to add a clause in the report that the Ethics Commission **possibly could have** recommended a suspension if there were a longer time in service. Motion carried 4-1. **Decision to add a clause to the report in addition to the decision on the totality of circumstances which was a strongly written reprimand.**

Conclusion

The Ethics Commission was convened in November regarding a complaint from Elaine Kellerman. The earliest violation was alleged to have occurred in 2016. Outlined in the complaint section above, Mrs. Kellerman's complaint was broken into 9 sections. The Commission spent significant time and effort to review the information provided. Additional information was further requested by the Commission in the form of witness testimony, affidavits and documents outlined in the work of the ethics commission section above.

On March 2, 2022, the Commission met in person to reach a decision on the complaint. A total of seventeen motions received enough votes to make a decision. Eight of them resulted in a decision that an ethics violation occurred, eight resulting in a decision of no violation and one motion that we do not have enough information to make a decision regarding the destruction of public records.

Each of the Commissioners expressed their opinions and observations on what guided their decision. We encourage residents of Parkville to view the discussion themselves. Within the debate two of the eight ethics violations were identified to have already been handled in the appropriate manner. Those being the campaign violations and DWI charge. Our votes for those items were an acknowledgement that those behaviors do not meet the expectations of our municipal leaders and that it was not beyond reproach. As for six the remaining violations, those seemed to have a pattern of behavior in which the Mayor's human emotion resulted in behaviors not above reproach as the elected leader of this city. Above reproach is a very high bar.



Two decisions were made on the totality of the eight identified ethics violations based on our deliberation. First was a unanimous decision to recommend to the Board of Alderman a strongly written reprimand as a consequence for the Mayor. Second, the Commission could possibly have considered a stronger recommendation up to and including suspension if there was a longer time in office.

As we look to conclude this official duty of the Ethics Commission there are some items we would like to say for the record:

- We hope this not only concludes the ethics question, but instills confidence in the administration and the citizens of Parkville to move forward in a productive manner.
- We hope this decision does not impede a smooth and efficient transfer of power as a new Mayor and City Manager take office.
- We acknowledge that the Ethics Commission standard of "above reproach" is a very high standard and should be a cautionary tale for those serving or seeking public office.
- All of the items identified as violations were avoidable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Bryan Delner", is written over a horizontal line. Below the signature, the text "J. Bryan Delner", "Chairman", and "Parkville Municipal Officials Ethics Commission" is printed.

J. Bryan Delner
Chairman
Parkville Municipal Officials Ethics Commission

March 7, 2022

Date

This is my response to the recommendations made by the Parkville Ethics Commission who considered the complaints made against me by Mrs Elaine Kellerman.

The Ethics Commission has done an enormous amount of homework, spent many hours educating themselves, and has a good understanding of the complaints filed by Mrs. Kellerman and Mr. Maki. I do have some concerns, however, that there are some minor misassumptions and this resulted in votes that were not unanimous in some cases. I realize most of the Ethics Commissioners have had no prior experience in government and some of these complaints relate to complex matters such as city practices and procedures, or what is considered confidential, or constitutes a conflict of interest, etc. Therefore, I feel it is necessary to provide responses to the findings issued in their report to the Board of Aldermen.

I will address the allegations where the commission either found I violated or didn't have enough information to make a ruling.

Count 1: There were unusual circumstances with both my volunteer and hired legal counsel regarding the state ethics complaints filed by Mr Maki and his associate, Mr Carter. I did everything in my power at a great personal financial expense to comply with campaign finance law. At no time did I willfully attempt to conceal anything. The State Ethics Commission recognized my lack of intention to deceive and that my previous campaign reports and response to other complaints were mishandled by the firm I hired. As proof of their understanding of the situation, my campaign was fined a minimal \$100 on Mr Carter's complaint when it could have been \$5000.

I have been chastised numerous times through an organized and aggressive effort by Mr Maki's group to contact news, print and social media outlets. The state ethics commission has already ruled on this. The Parkville Ethics Commission does not have jurisdiction and in my opinion this count should not have been ruled on by the Parkville Ethics Commission.

Count 5a: I have apologized to the Board of Aldermen and residents regarding my DUI, received punishment through the court system and additional retribution due to this groups' extensive media outreach. I understand my actions were not above reproach and am deeply remorseful. By ruling on this, the commission reaffirmed my guilt. However, the Board of Aldermen have already discussed and made the decision not to ask for my resignation or impose additional sanctions.

Counts 2c, 3c, and 3d: In my opinion these could have been addressed in one count. They fall into one subject and by parsing them out, the number of violations is inflated. The Commission slightly revised the allegations in their deliberations and final report, probably for brevity therefore some of the intent of Mrs Kellerman's accusations are lost. Mrs Kellerman alleges that I "used my public office to coerce private market participants and to censor the media". The definition of coercion is the practice of persuading someone to do something by force or threats. The definition of censorship is the practice of limiting access to information to prevent knowledge or freedom of speech.

3d: Yes, I did ask for The Landmark to stop being delivered to city hall and asked staff to discontinue sending press releases. Asking that government notices and press releases not be sent to the Landmark does not meet the bar of censorship; I did not impose restrictions on the content of the media. The Landmark has always been free to report on anything and were never denied access to cover any meeting or event. Considering the seriousness of the unfounded allegations made by the editor and reporter, I didn't feel we needed to use city resources to send them content that they had the opportunity to get on their own. The commission misinterpreted City Administrator Joe Parente's intention when he instructed our City Clerk to disregard my request to discontinue sending releases and notices. He asked her to continue sending them because he felt the ramifications of not doing so could make revenge worse, he did not ask her to continue sending because

what I was asking was unethical. I do not feel the bar of coercion or censorship has been met and ask to you reconsider the commission's recommendation of violation.

2c: I politely asked other entities, and as you can see by Mrs Kellerman's own exhibits, did not attempt to persuade by force or threat. The reporting of unfounded allegations and claiming as fact, there to be corruption at City Hall and the use of a handful of persons as sources to further this group's agenda is not fair and unbiased reporting. Reporting on filings with the Attorney General and allegations of being investigated by the FBI were reported on or mentioned in columns several times, but there was no follow up when these allegations were found baseless. Many people agree the reporting to be irresponsible, biased, negative, retaliatory, and damaging to the reputation of the city where we've all spent years prioritizing responsible fiscal management and increasing transparency through a number of initiatives. I found in my files, the entire email string a part of which Mrs Kellerman used as proof of my misdeeds, and had she included the entire string, you would have known that the Rotary had already decided not to send press releases to the Landmark prior to my asking due to the same concerns I have expressed. My offers to meet with Ms Topi to discuss what kinds of positive things were happening in the city were refused. I do not feel the bar of coercion or censorship has been met in this case either and ask you to reconsider the commission's recommendation of violation.

3c: This is included in 2c and adds that I persuade other Aldermen, Greg Plumb specifically, to take action against the Landmark. As I stated in my reply to Mrs Kellerman's complaint, Alderman Plumb was only copied on the email as he is employed by the University, and I wanted to let him know what I was doing as a courtesy. Even though he is only cc'd and nothing else suggests I asked him to take action against the Landmark, the commission found a violation. I respectfully disagree with their finding.

3a: Refers to an email discussing a commercial lease. In it, I ask Lauren Palmer to keep it confidential. this was a private real estate transaction, not involving the city and I had an obligation to ensure the privacy of the new building owner, who asked me to keep his transaction confidential until the deal closed, thus the ask to remain confidential. There was no attempt to conceal anything other than the possible lease transactions. I also have an ethical responsibility to keep the private business affairs of the existing tenant private. The business is not a government enterprise, and not subject to disclosure. I disagree I pressured or instructed a city official to violate the code of ethics by my asking Ms Palmer to keep it confidential. I turned over to staff and the EDC to work through, or not, as it turned out. This is a prime example of taking a solitary email with no context and someone's attempt to interpret after five years what the content means. With complete knowledge of the facts, I do not agree with the commission's findings.

4b: Calling the records requests harassment. I want to state for the record that in order to address Mrs Kellerman's allegation, I had to speak to it personally, as the allegations were made against me personally. Considering the volume of requests and how the documents produced were used, I *personally* feel the Missouri Sunshine Law was used as a weapon. I also feel I am in a double jeopardy situation by answering this allegation honestly and then having my response count against me. However, I don't disagree with the commission's recommendation.

2b: Attempting to present a deceptive façade of support on a 2017 development. The commission did not find I violated, but I need to clarify for the record; the commission was under the false assumption that the email was in reference to Creekside, which it could not have been since Creekside wasn't presented until late 2018. After reviewing Mrs Kellerman's Exhibit 5 email, I recall the real estate agent/developer asked to be notified when the Apex development came before the Plan Commission and BOA. It is no more wrong to notify interested parties who are in favor of a development than it is to notify persons who are opposed. It is also entirely proper to ask staff to do the notification. I have on occasion, had residents call foul on notifying proponents, but to be fair, anyone who asks to be kept in the loop must be. No issues here, I just want to set the record straight as to the correct development.

6: Threatening a citizen. I should not have threatened to file a complaint with the Missouri Ethics Commission for his campaign violations. I was angry because I had taken the high road for not reporting him and the other losing candidates for their ethics violations and was angry that he continued to use it against me, make false public statements about my supposed role in Creekside and now he was poking the bear again and I bit. I agree with the commission's findings.

9. The commission was unable to come to a decision on the allegations of the destruction of Public Records. I find their inability to reach a definitive finding particularly troubling because of the deceitful "evidence" presented by Mr Maki.

Although Steve Coronado provided in-person testimony and took questions about the court's order, the commission felt they did not have enough information to reach a conclusion. If the testimony and accurate documentation had been provided, they should have had no difficulty reaching a conclusion. Among the documents Mr Maki presented as evidence of me being in violation of a court order; he presented the original order, which (relevant portion) states:

Requests for Production of Documents

1. Please produce all documents or communications regarding any open records request that Mr Jason Maki submitted to the City under the Sunshine Law.
2. Please produce all documents or communications about, concerning, or referencing Mr Maki
3. Please produce all communications regarding any open records requests submitted by persons other than Mr Maki

This is a blatant attempt to mislead the commissioners. If you recall, the judge told him he could submit a revised request for the production of documents, narrowing the scope. The order we responded to (relevant portion) states:

Requests for Production of Documents

1. Please produce all documents or communications regarding any open records request that Mr Jason Maki submitted to the City under the Sunshine Law.

Providing the commission with an irrelevant and unenforced RFP is an obvious attempt by Mr Maki and Mrs Kellerman to mislead the commissioners. (I wonder if this is also one of the reasons for the Sheriff's investigation.) Unfortunately, I was unaware the commissioners were still confused about this until it was too late, and they were no longer taking further testimony.

Another example of their blatant attempt to mislead the commissioners is when they combined a page from my 2016 campaign report with my 2019 report to make it appear as though I took a \$500 contribution from the attorney for the developer of Creekside in 2019. While the commission did not find I had violated ethics code on this count, there was much public discussion on this which has been used numerous times over the years to deceive and sow doubt in the minds of the public.

Another example of hypocritical behavior is during the February 23rd, 2022, meeting when Mrs Kellerman strongly objected to allowing Mr Coronado to testify by altering the agenda at around 3:30 the same day. She stated she did not think it was "fair". Just exactly what was unfair about getting to the truth? It made me feel as though her ethics complaint was a game that she and Mr Maki had to "win". Mr Krause was also present at the same meeting and didn't offer objection to her objection, although I had allowed him at least twice to amend the Board of Aldermen agenda last minute to allow him "public comment" which resulted in giving him a platform to air grievances and make serious allegations against me and aldermen. Mr Coronado's testimony was truthful, and his goal was to provide clarity. He did not use his opportunity as a platform to disparage the complainants.

I would like to note that during Mr Coronado's testimony he stated that I had possibly deleted emails from my private email account, and it had no consequence since they are stored on the city's servers anyway. The fact is that it's highly unlikely any were deleted. I file all email correspondence in folders by topic.

In these proceedings, Mr Maki testified under oath that as a result of the subpoena, he received few or no emails from me and pointed to two he had in his hand that he claimed I destroyed. As you recall, we were instructed to provide emails that did not include a city email address because those were already preserved on the city's servers and would be captured during the City's search. However, since I file my emails, it was difficult to differentiate which were sent through personal vs city, so to be cautious, I conducted a search of all my accounts and file folders, which included those to/from the city account during the dates requested and provided the attorneys with 413 emails using the search terms "Maki" or "sunshine". As Mr Coronado testified, the attorneys went through all of our emails and provided only those relevant to the subpoena. Therefore, the reason Mr Maki received few or no emails from me is because few or none of the hundreds I provided were without a city email account or did not meet the criteria of the court order. Looking over Mr Coronado's shoulder during his testimony, I could see the two emails Mr Maki presented were addressed to Joe Parente. Those would have been removed from what I provided by the City's attorneys due to duplicity. If he had them, they obviously had not been destroyed and the claim that I destroyed public documents is inaccurate.

It is also interesting to note that during his testimony, the commission asked him to stay on topic and asked him what proof he had of his serious allegation against me in which he claims I withheld or asked staff to withhold documents he requested under sunshine. Mr Maki was unable to give them any proof.

The truth is, I take the preservation of government documents, including emails very seriously and have a meticulous file system to enable me to pull up past emails on any topic should I need to.

One of the commissioners said, "We do not know the number of times she took the high road." No, no one knows because the goal of Mrs Kellerman et al, is to damage my reputation. Over the past 14 years there have been thousands of times where I did take the high road. The fact that out of 150,000+ documents provided to Mr Maki under his sunshine requests, that he could find only two or three instances where I did not, to me, says more about how I typically handle myself than the few contained in the complaint. I do deeply regret those times and freely admit to these lapses. I hope you take into consideration that these instances have been very few given the length of my time in office and the voluminous amount of information available with which to discover indiscretions.

In summary:

- I do agree with the Commission's findings regarding the count characterizing Mr Maki's sunshine requests as harassment and the threatening of a citizen with a campaign violation complaint. As noted above, I was under an extreme amount of stress related to an ongoing plot to assassinate my character.
- I do not believe the Ethic's Commission should have issued a finding regarding the state campaign complaint or the DUI. The State Ethics' Commission resolved the issue outside of city government. The Board of Aldermen has already discussed the DUI and made the decision not to ask for my resignation or impose additional sanctions.
- Regarding the counts involving the Landmark Newspaper, I do not feel the bar of coercion or censorship has been met and ask you reconsider the commission's recommendation of violation.

- In regard to the commercial lease, I do not believe the Ethic's Commission considered all of the facts. This is why I provided an expanded explanation. With complete knowledge of the facts, I do not believe the Commission's finding is correct.

Lastly, the recommendation to the Board of Alderman for censure is noted, I must point out that the recommendation about possible suspension or greater is misguided. I am not an employee of the city and cannot be suspended. The provision in the city Ethic's Ordinance regarding suspension is applicable to a complaint against an employee of the city. I am elected by the voters of the City of Parkville and the only recourse by the Board of Aldermen is removal. Ethics code states, such a removal may be reviewed by the courts to assure fairness, and importantly, to assure a high standard exists to protect the will of the voters and that such will is not disenfranchised, particularly in a politically hostile environment that we unfortunately have in our community. Based on this, I respectfully disagree with the Commission's recommendation.

The news coverage on this has been extensive already thanks to this group of concerned citizens. There have been numerous articles and news stories which began even prior to my knowledge of Mrs Kellerman's complaint. I began getting inquiries again from the media last week. The only way the media could have been aware is because someone in the group has informed them. This is pure revenge against me and clearly a coordinated effort to disparage me. They've gotten a lot of mileage already about Mr Maki's allegations to the Sheriff's office, it's being tried in the media and I'm guilty until proven innocent. What is the likelihood of a follow up story when nothing is found?

It's misleading when you consider that a handful of people have been the drivers behind ALL negative actions, filings, reports, complaints, negative social media, and news media coverage. The loudest is not the majority in this case. Their goal is to destroy my reputation, but in doing so have damaged Parkville too, and that's a sad outcome of their objective. Please consider the malicious intentions and the extensive punishment I have already taken and am currently undergoing, the toll these people have taken on my health, finances and relationships and I hope you conclude I've been punished enough. Mrs Kellerman's filing is only one part of a three-and-a-half-year plan conceived by Mr Maki and a handful of others, starting with the Creekside development in late 2018. With all facts considered, there is clear evidence of an organized plan of character assassination.

Please remember the many years and thousands of hours I have spent on behalf of Parkville, the greatly improved partnership with Park University under my tenure, and the better functioning relationships with our supporting entities. The Parkville Rotary, The Parkville Area Chamber of Commerce, and the Main Street Parkville Association, are all better partners with the city than before. I've prioritized volunteerism and encouraged our citizens to assist in making our city better and to take pride in their community. The city has received numerous national, state, and local recognitions and awards. Relationships with the media brought a large share of positive coverage considering our size relative to metropolitan area.

My founding of the Parkville EDC has brought millions of dollars in private investment to the city resulting in high quality developments over the past ten years. My involvement in regional priorities affecting Parkville has heightened the city's reputation and ensured we were not passed over when opportunities arose.

Even prior to my election as mayor, I worked tenaciously to prioritize state highway improvements in the city which led to obtaining the necessary funding. I've stepped up efforts to redevelop decaying areas of the city and encouraged greater codes enforcement.

I am proud to have led the Board of Aldermen for the past eight years, a functional body of diverse individuals representing their constituents in diverse areas of the city, has been devoid of special interests and has made thoughtful and informed decisions as a united body.

I have the utmost respect for the office of mayor and feel felt honored to have held the trust of our residents by being elected to three terms. I'm heartbroken to have lost the trust of some and I'm sick thinking about all the progress we have made being overshadowed by my own mistakes and the negative campaign against me and other elected officials.

I hold a sincere belief that as a privilege of being raised in a stable and loving environment, the opportunity of an education, my good health, and the sheer chance having been born in the United States, that it is an obligation to honor my good fortune with faith in God who guides me, assistance to those less fortunate, and service to my community. I have made mistakes for which I am sorry and humbly ask for forgiveness from those I have offended. It has been incredibly more difficult the past three and a half years, but I hope this period does not define me. I will never abandon my belief in giving back, and when my term as mayor ends, will find other opportunities to honor the blessings bestowed upon me.

Sincerely,

A handwritten signature in blue ink that reads "Nan Johnston". The signature is written in a cursive, flowing style.

Mayor Nan Johnston

Melissa McChesney

From: Nan Johnston
Sent: Monday, March 14, 2022 3:33 PM
To: Melissa McChesney
Cc: Alexa Barton
Subject: Packet for tomorrow

Melissa,

Please add the following to the packet after my letter to the BOA. Thank you.

March 14, 2022

Memo to the Board of Aldermen

On Sunday March 14, 2022, I became aware that The Landmark had published an article regarding the ethics commission's findings. The article was distributed to households in the city limits of Parkville, where they currently do not distribute without a subscription or dropping off at businesses. While the publication has the first amendment rights to publish nearly anything it wants about a public figure, this difference in distribution practice is further proof that the actions taken by Mr Maki, Mrs Kellerman, Mr Krause, Mr Hutsler, Mr Carter and possibly others were an attempt to smear my reputation and that of the city of Parkville. There have been at least four other times I am aware of where I have been the subject of front-page news in the Landmark, resulting in atypical distribution of its' product which meets the bar of malicious intention.

Mayor Johnston