



# CITY OF WATERLOO

715 East Mulberry Street, Waterloo, Iowa 50703

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Mayor  
QUENTIN  
HART

December 1, 2021

COUNCIL  
MEMBERS

To: Council Members Jerome Amos, Jr., Dave Boesen, Ray Feuss, Jonathan Grieder, Margaret Klein, Patrick Morrissey, Mayor Quentin Hart, Martin M. Petersen, and Kelley Felchle

MARGARET  
KLEIN  
Ward 1

RE: REPORT PURSUANT TO TITLE ONE, CHAPTER 4C, SECTION 3: RE:  
CENSURE

Jonathan  
Grieder  
Ward 2

I, Sharon Juon, Mayor Pro Tem, attach hereto and incorporate by this reference herein the investigative report of Kristine Stone, attorney at law and find as follows:

PATRICK  
MORRISSEY  
Ward 3

That sufficient evidence exists with regard to allegations 2, 4, 5, 7 and 9 of Patrick Morrissey's complaint filed December 1, 2021 to warrant censure. Accordingly, a resolution recommending censure shall be placed on a city council special session agenda for a vote within fourteen (14) days of today's date. I hereby direct the City Clerk to schedule such meeting in conformance with Waterloo City Code Section 1-4C-3(C).

JEROME  
AMOS, JR.  
Ward 4

Sharon Juon  
Mayor Pro Tem  
Council Member At-Large

RAY  
FEUSS  
Ward 5

SHARON  
JUON  
At-Large

Dave  
Boesen  
At-Large



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**TO:** Martin Petersen, City Attorney  
**FROM:** Kristine Stone  
**DATE:** December 1, 2021  
**RE:** Censure Complaint Report

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**Facts:** Title 1, Chapter 4, Article C of the Waterloo Municipal Code includes censure procedures which may be followed when an elected official wishes to take formal action against another elected official to “deter violations of this code and violations of adopted city policies.”<sup>1</sup> The censure ordinance was adopted in December of 2020. The censure procedures are outlined in Sec. 1-4C-3 and 1-4C-4 as follows:

**1-4C-3: COMPLAINT PROCEDURE:**

A. Any member of the city council may file a complaint concerning an alleged violation of this code or of city policy by a council member or the mayor. The complaint shall provide specific allegations and supporting evidence of specific conduct alleged to violate this code or adopted city policy. The complaint shall be filed with the mayor, or if the mayor is involved, with the mayor pro tem.

B. The mayor or mayor pro tem shall forward the complaint to the city attorney, police chief, human resources director, or other proper authority to conduct an investigation to determine whether the allegations in the complaint violate this code or city policy.

C. Within thirty (30) calendar days from the date a complaint is filed, the mayor or mayor pro tem shall produce a written report stating whether sufficient evidence exists to warrant censure. A resolution recommending censure shall be placed on the city council agenda for a vote within fourteen (14) days of the date of the report. If the report is in the negative, the complaint shall not proceed to censure. A negative report may recommend corrective action be taken by the accused to prevent further issue. (Ord. 5585, 12-14-2020)

**1-4C-4: CENSURE:**

A. A city council decision to censure shall be adopted by resolution. The resolution shall list the findings, based on sufficient evidence that the person accused has engaged in conduct that constitutes a violation of this code or adopted

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<sup>1</sup> City Code Sec. 1-4C-1.

city policy. The resolution shall be approved by five (5) affirmative votes of the council. The accused council member or mayor may participate in deliberations. The accused council member may vote on the censure resolution.

B. Immediately following an affirmative vote to censure, the mayor may address the censured council member by stating that the censured council member should take notice of the censure and govern themselves accordingly. The mayor pro tem may make this announcement if the mayor is the subject of the censure. (Ord. 5585, 12-14-2020)

According to Black's Law Dictionary, "censure" is defined as "an official reprimand or condemnation; an authoritative expression of disapproval or blame; reproach."<sup>2</sup> The mayor pro tem received a censure complaint from council member Morrissey on Nov. 1, 2021. The complaint relates to the actions and behavior of council member Klein.

Pursuant to city code, an investigation shall be completed within thirty days to determine whether the allegations within the complaint violate the city code or city policy.<sup>3</sup> The investigative report shall indicate "whether sufficient evidence exists to warrant censure."<sup>4</sup> Black's Law Dictionary provides that evidence is considered sufficient or satisfactory where it "is sufficient to satisfy an unprejudiced mind seeking the truth."<sup>5</sup>

The complaint includes nine separate allegations. I will address each allegation individually in this report. My investigation has relied on the information included within the complaint, as well as publicly available media reports. I have also had discussions with the city clerk, city attorney and mayor pro tem regarding the allegations.

**Allegation #1:** In July of 2018, Councilperson Klein made comments in a public setting to the effect, "Oh, if I was in a dark room with Morrissey (Councilman) and I had a knife." This was overheard by persons attending that public event.

**Analysis/Conclusions:** The Waterloo City Council has adopted its own rules of procedure regarding conduct at city council meetings.<sup>6</sup> This is allowed by Iowa Code sec. 372.13(5) and 21.7. The city code directs that the presiding officer is responsible for preventing "attacks on personalities and the impugning of council members' motives."<sup>7</sup> It further provides that council members "shall confine comments to the question under debate, avoiding inappropriate language and personal attacks."<sup>8</sup> City council members are therefore prohibited from making personal attacks at city council meetings. There are no provisions within the procedural rules which restrict a council member's conduct outside of the city council meeting setting.

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<sup>2</sup> Black's Law Dictionary (11th ed. 2019).

<sup>3</sup> City Code Sec. 1-4C-3(B) (emphasis added).

<sup>4</sup> City Code Sec. 1-4C-3(C).

<sup>5</sup> Black's Law Dictionary (11th ed. 2019).

<sup>6</sup> See City Code Title 1, Chapter 4, Article A.

<sup>7</sup> City Code Sec. 1-4A-9(A).

<sup>8</sup> City Code Sec. 1-4A-9(B).

I have also reviewed the general offenses listed in Title 5, Chapter 2 of the city code and do not find that this behavior would violate any of the prohibitions included within that Chapter. Because there are no provisions within the city code which specifically prevent these comments, I do not find that there is sufficient evidence presented within this allegation to demonstrate a violation of city code by council member Klein.

I note that this matter was referred to the Waterloo Police Department for investigation. However, after consultation with the city attorney and county attorney, it was determined that criminal charges could not be brought based on the comment.

Turning now to potential violations of city policy, I have reviewed the city's Discrimination, Harassment and Retaliation Policy as part of my investigation of this matter. The Policy provides that it applies to all city employees as well as "all individuals conducting business on behalf of or representing the City of Waterloo."<sup>9</sup> City council members clearly conduct business on behalf of the city, and the Policy is therefore applicable to them.

The Policy prohibits "discrimination and harassment based upon race, creed, color, national origin, citizenship status, religion, age, sex (whether or not of a sexual nature), pregnancy, mental or physical disability, military or veteran status, or any other characteristic protected by law."<sup>10</sup> The Policy defines harassment as

a form of discrimination and includes conduct towards another individual or identifiable group of individuals including, but not limited to, unwelcome comments or other conduct that unreasonably interferes with an individual's work or creates an intimidating, hostile, or offensive working environment.<sup>11</sup>

Based on the complaint, it appears that council member Klein's comments were clearly offensive to council member Morrissey. However, there is no evidence within the complaint to suggest that the comments were made because of council member Morrissey's race, gender, age or any other protected characteristic. I do not find that there is sufficient evidence presented within this allegation to demonstrate a violation of the city's Discrimination, Harassment and Retaliation Policy by council member Klein. No other city policies are implicated by this allegation.

**Allegation #2:** She made public comments insinuating that City leaders were hiding/covering up her "manufactured" fact – "that the City was dumping raw sewage in the River" bringing EPA into Waterloo. EPA found this accusation "untrue." Because of this, Councilperson Klein and all Council were visited by our Insurance carrier re: making damaging statements and liability. False accusations damage our City's interests – economically and image-wise.

**Analysis/Conclusions:** This allegation does not specify whether these comments were made in a city council meeting setting, or outside of a city council meeting setting. In discussing this allegation with city representatives, I learned that the comments were made at a city council

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<sup>9</sup> Discrimination, Harassment and Retaliation Policy.

<sup>10</sup> Id. (emphasis added).

<sup>11</sup> Id.

work session on March 19, 2018. These comments do not appear to include inappropriate comments or personal attacks and therefore do not violate the procedural rules included within the city code. While it is true that council members may expose themselves or the city to liability by making damaging statements against the city, this legal concept comes from state law, and not the city code.<sup>12</sup> Because there are no provisions within the city code which specifically prevent these comments, I do not find that there is sufficient evidence presented within this allegation to demonstrate a violation of city code by council member Klein.

In 2017, the Waterloo City Council adopted a five-year strategic plan by resolution.<sup>13</sup> The document states that one of the goals of the city council is to “Enhance the image of Waterloo and the City to residents and businesses inside and outside of the community.”<sup>14</sup> The strategic plan identifies the success indicator for this goal as “Sustained, positive media presence by 2022 and measured by tracking Google alerts.”<sup>15</sup> Any negative publicity about the city would therefore be counterproductive to this goal. The strategic plan further assigns specific action items to the city council related to this goal as follows:

Strategy 4.4: Develop initiatives that encourage and incent City employees to live in Waterloo.

Strategy 4.5: Maintain and develop community services and city facilities that support quality of place.

The Iowa Code defines a resolution as “a council statement of policy or a council order for action to be taken.”<sup>16</sup> The strategic plan, adopted by resolution, is therefore considered a city council policy. If council member Klein made public statements, which were publicized in the media, and which damaged the image of the city, she would be violating the above referenced goal included in the strategic plan. While the allegation does not include specific references to media coverage, I have confirmed that these statements were included in local media coverage in March of 2018. I therefore find that the allegation is sufficient to demonstrate a violation of city policy by council member Klein.

**Allegation #3:** Looking into the camera, she repeatedly distorted and was untruthful about her past actions, and doing so for her own personal political gain. (Please check YouTube) e.g. – “I always support the Police” - a) FY 2019 Budget Hearing her vote with 3 others would have cut Police to point of losing several officers; b) with her same majority, she denied Central Garage a budgeted mechanic (who had quit his job to take a City job he had been promised). This left the Garage short that mechanic to help maintain public safety vehicles and equipment; c) she voted to set up a committee to replace the patch; d) she voted against the purchase of new police uniforms; e) she voted against the purchase of equipment for the police.

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<sup>12</sup> See Iowa Code 670.8.

<sup>13</sup> Res. No. 2017-119.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Iowa Code 362.2(21).

**Analysis/Conclusions:** Similar to the last allegation, it is not clear whether these statements were made in a city council meeting setting or not. Regardless, however, there is nothing within the city code which would prohibit a city council member from making false or misleading statements for their own political purposes. Because these comments are not damaging to the image or reputation of Waterloo, there are no city policies implicated by these statements. I do not find that there is sufficient evidence presented within this allegation to demonstrate a violation of city code or city policy by council member Klein.

**Allegation #4:** On the 10-24-21 KWWL Steele Report she accused the Rebrand Committee of "being rigged." Again misleading the public on the facts through innuendo and false information thereby damaging our image. The Rebrand Committee was made up of 12 Voting members with six (6) supporting the old patch and Co-chaired by Major Leibold and six (6) seeking a change (of varying degrees) Co-chaired by Tavis Hall. Each Co-chair selected 5 with both chairs aware of all. This occurred in Fall of 2020 with all subsequent meetings being recorded. The final design came from WPPA and Council approved that WPPA design on 5-17-21.

**Analysis/Conclusions:** This allegation appears to focus on statements that council member Klein made on a television broadcast. The statements were made during the time period that she was running for mayor of Waterloo. There is nothing in the city code which would prohibit a council member from making false or misleading statements for their own political purposes.

As previously discussed, if council member Klein made public statements, which were publicized in the media, and which damaged the image of the city, she would be violating a goal included in the strategic plan. Because this allegation specifically refers to comments made to the media, and because she alleges misconduct on the part of the city, I find that there is sufficient evidence presented within this allegation to demonstrate a violation of city policy by council member Klein.

**Allegation #5:** She has accused one of our 2 African American developers of "fooling" the City Council regarding his Development Agreement. Not only regarding his extension requests but even making insinuations about his payment from the City. She has insinuated our CFO was hiding or sneaking his payment between smaller items (it was not, it was where it should be in alphabetical order). She proudly proclaims that her investigative work located this hidden amount when, in fact, another Councilperson located this. Both of these were shown to be statements that were misleading and devoid of any truth seeking. Tarnishing the name of any developer risks the potential for other developers to question developing in our City. Again, this violated City Council's policy of enhancing our City's image to attract economic development, create additional revenue, and lower taxes. This developer has fortunately stayed with his agreement and not been driven away by her.

**Analysis/Conclusions:** It is not clear from the complaint whether these statements were made in a city council meeting setting or not. In discussing this allegation with city representatives, I learned that the comments were made at a city council meeting on Oct. 18, 2021. As such, I find these statements violate City Code sec. 1-4A-9(B), which prohibits council members from making personal attacks in the city council meeting setting.

The city's 2017 strategic plan includes a goal to "Reduce the City's property tax levies through a responsible balance of cost reduction in City operations and increases in taxable property valuations to ensure that Waterloo is a competitive, affordable and livable city."<sup>17</sup> One of the specific strategies identified to support this goal is to "Continue efforts to foster new investments and development in the City's Urban Renewal Areas (TIF Districts) and Consolidated Urban Revitalization Area."<sup>18</sup> Making public statements which would deter developers from making investments in Waterloo would therefore violate this policy. Because council member Klein's comments did not result in the loss of a development project, however, I do not find that this allegation is sufficient to demonstrate a violation of city policy.

**Allegation #6:** Making statements accusing the Mayor and the Human Resources Director of improprieties in business dealings. If she had checked she would have discovered that there was and is no illegality, no conflict and the matter was vetted. Again, the Mayor is African American and is the City Administrator. This succeeded in getting her press as she labeled it "Ice Cream – Gate." Another "making of accusations before getting the facts." Her accusations result – lowering our City's image.

**Analysis/Conclusions:** It is not clear whether the comments within this allegation were made in a city council meeting setting. The city clerk has confirmed that they were not. These comments relate to concerns over a potential conflict of interest by the mayor. Waterloo does have a policy regarding conflicts of interest and it essentially mirrors the state code regarding conflicts.<sup>19</sup> There is nothing within the policy that dictates how concerns or allegations regarding conflicts of interest are to be reported. There is nothing within the city code which addresses perceived conflicts of interest by the mayor or city council members.

In reviewing this allegation, and news sources on the topic, it does appear that the mayor consulted with the county attorney and city attorney regarding any potential conflict of interest associated with his ownership of a local business. Council member Klein's statements could be viewed as being false or misleading in light of this information. As I have previously reported, there is nothing within city code or city policy which prohibits a city council member from making false or misleading statements for their own political purposes.

However, the city council's strategic plan does prohibit a council member from making statements, in the media, which are damaging to the image and reputation of Waterloo. The allegation does not include specific references to media coverage, but publicly available news sources indicate that the comments were provided to the media in a press release from council member Klein. It is important to note that these comments were made during the time that Klein was running for mayor. Whether these comments violate the strategic plan depends on whether they are considered damaging to the reputation and image of the city, or whether they are considered political campaign rhetoric. It is a close call and I therefore do not find that the allegation is sufficient to demonstrate a violation of city policy by council member Klein. The

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<sup>17</sup> Res. No. 2017-119.

<sup>18</sup> Id.

<sup>19</sup> Waterloo Conflict of Interest Guidelines.

city council may conclude otherwise, however, based upon the community reaction to the media coverage.

**Allegation #7:** Councilperson Klein, in September, chose to accuse the Mayor of having a “tradition of doing things behind closed doors...(creating) this latest stunt...reaffirming no interest in working with the City Council or our police Officers...rather he only cares about his hand-picked Chief.” These statements were made After her suggested PAC said the Mayor’s Fun Run for kids had t-shirts with Chief Joel Fitzgerald’s signature above the Public Safety Director title. This was on the back of the t-shirt next to the Mayor’s. She only had to do a little homework to find out that Leisure Services printed the shirts for our school children but erred in not changing the title. Director of Leisure Services took full responsibility for the oversight. Waterloo School District even responded as to how this event is “for the kids.” Again, she finds a way to embarrass and harm our City’s image by her un-checked, unfounded and false claims. Again, no apology, no retraction to anyone.

**Analysis/Conclusions:** This allegation appears to focus on written statements that council member Klein made to the media. The statements were made during the time period that she was running for mayor of Waterloo. There is nothing in the city code which would prohibit a council member from making false or misleading statements for their own political purposes.

As previously discussed, the city council’s strategic plan does prohibit a city council member from making statements, in the media, which are damaging to the image and reputation of Waterloo. Because this allegation specifically relates to comments made to the media, and because they are damaging to the city, I find that there is sufficient evidence presented within this allegation to demonstrate a violation of city policy by council member Klein.

**Allegation #8:** Unbelievably, in another public meeting, Councilperson Klein remarked that before she voted on an issue, she looked into the audience to certain individuals as to how she should vote (a nod, thumbs up or down). This shows nothing but disregard for our legislative purpose, for our duty to prepare prior to voting on issues, for our knowledge and respect for the issues we are expected to decide in the best interests of ALL in our community not just a handful in a Council Chamber room. We are to make Decisions for ALL the PEOPLE of WATERLOO! Her admission here is an abdication of her sworn oath to the citizens of Waterloo.

**Analysis/Conclusions:** This allegation focuses on the manner in which council member Klein has voted at city council meetings. There is nothing within the city code, or city policy, which would prohibit a council member from voting based on feedback from the audience. I do not find that there is sufficient evidence presented within this allegation to demonstrate a violation of city code or city policy by council member Klein.

**Allegation #9:** Finally, I bring to this complaint my belief that Councilperson Klein has, whether be commission or omission, jeopardized the venue for a criminal trial by comments from her and, even an ad, from her PAC (a PAC which was her idea). I worked 30+ years investigating child abuse – all forms. I abhor and condemn child abuse in its totality. Bringing child abuse out of the shadows can mean criminal action through our nation’s Criminal Justice system as laid out

in our Constitution. The Bill of Rights does include “the right to a trial by an impartial jury where the alleged criminal behavior occurred.”

But here, we have Councilperson Klein’s initiated PAC being the judge and jury, already convicting the accused by naming him and then saying, “We don’t need a Mayor who appoints sexual predators to police advisory boards.” This is a Mailer that was mailed to Waterloo citizens. Regardless of the crime, in these United States, a defendant has a right to a fair trial before his/her peers. Evidently the former law enforcement persons who created, paid for and mailed this overlooked this Rule of Law ensconced in our Constitution. Council person Klein does the same when on the 10-24-2021 KWWL Steele Report she drew all to embrace the same by accusing the Mayor of appointing a felon to the Rebranding Committee after she mentioned the sexual abuse arrest. She has neither condemned this Mailer nor has she asked for retraction as to its misleading, false, damaging, and racist content. The above shows her violation of her oath of office to uphold the Constitution, to honor the Rule of Law, to not bring harm to our City’s image/our reputation.

Furthermore, she has insinuated a total falsehood. The Rebrand Committee Members were chosen by the Co-Chairs in the Fall of 2020. This sexual offense arrest was made on 10-19-2021. Those Rebrand Committee members included 5 current or retired police officers. Those 10 persons were vetted by the Co-Chairs and then given to the Mayor as per Resolution. Her insinuations regarding the Mayor’s appointment are not factual and Councilperson Klein knew it. Again, this speaks to her honesty, due diligence in truth gathering and actions violating Council members decorum.

**Analysis/Conclusions:** There is nothing within the city code which addresses the comments made by council member Klein in this allegation. The city council’s strategic plan prohibits a city council member from making statements, in the media, which are damaging to the image and reputation of Waterloo. Because this allegation specifically relates to comments made to the media, and because they are damaging to the city, I find that there is sufficient evidence presented within this allegation to demonstrate a violation of city policy by council member Klein.

**Final Conclusion:** In conclusion, this report finds that five of the allegations included within council member Morrissey’s complaint include sufficient evidence to demonstrate a violation of city code or city policy by council member Klein (Allegation #2, #4, #5, #7, #9). Only Allegation #5 includes a violation of city code, all of the remaining violations relate to the city council’s 2017 strategic plan, which has been adopted by resolution and is therefore considered a statement of city council policy. These allegations specifically violate goal #4 of the plan, which is to “Enhance the image of Waterloo and the City to residents and businesses inside and outside of the community.”<sup>20</sup>

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<sup>20</sup> Res. No 2017-119.