

October 19, 2021

Dear Parkville Ethics Commission:

This complaint outlines Mayor Nanette Johnston's lengthy and voluminous pattern of unethical conduct that violates the Parkville City Code of Ethics, Parkville Code Ch. 107. Violation of any provision in the Code of Ethics may be grounds for fines, imprisonment, suspension, or removal from office. City Code § 107.060; RSMo § 79.240 (providing for mayor's removal from office).

Mayor Johnston's tenure has been plagued by unethical conduct that suggests public corruption and undermines confidence in fair governmental process. In light of her many and often egregious ethics violations, Mayor Johnston must be removed from office.

I. Mayor Johnston's conduct violates Parkville's Ethics Laws

Parkville's City Code requires that every elected official, including the Mayor, take an oath upon entering office to support the laws of Missouri and the City of Parkville and faithfully demean herself while in office:

Every officer of the City, elective or appointive, before entering upon the duties of his office, shall take and subscribe to an oath or affirmation before a proper officer, that he possesses all the qualifications prescribed for his office by law, that he will support the Constitution of the United States and of the State of Missouri, the provisions of laws of this State affecting cities of the fourth class, and the ordinances of the City, and faithfully demean himself while in office; which official oath or affirmation shall be filed with the City Clerk.

City Code § 100.030. The City Code also contains a Code of Ethics, which provides in pertinent part that:

The proper operation of democratic government requires that public officials and employees be independent, **impartial** and responsible to the people; that government **decisions and policy be made in the proper channels of the governmental structure**; that **public office** not be used for **personal gain**; and that the public have confidence in the integrity of its government.

City Code § 107.010 (emphasis added). It also provides that:

Public officials and employees are agents of public purpose and hold office for the benefit of the public. 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**.

City Code § 107.020. Finally, § 107.050(d)—the Ethics Code’s broad Conflict of Interest provision—states that:

. . . . [I]t is important to note **that the appearance of fairness and impartiality is as important as actual fairness and impartiality**.

In short, Parkville law requires its elected officials to:

1. Uphold federal, state, and local law;
2. Be impartial;
3. Make policy decisions in the proper channels of government;
4. Not use the public office for personal gain;
5. Uphold the highest standards of morality;
6. Conduct themselves above reproach in both official and private affairs; and
7. Avoid the appearance of impartiality or unfairness or other conflicts of interest.

Unfortunately, Mayor Nanette Johnston has violated these core ethical provisions.

A. Mayor Johnston has failed to uphold the law or conduct herself in a manner above reproach in private and official affairs by repeatedly flaunting the Missouri Constitution and statutes controlling campaign finance.

Missouri law demands that political candidates (who are held accountable for their campaign committees) disclose their contributions and expenditures through scheduled disclosure filings—and prohibits receiving donations from corporations. Public scrutiny of the Mayor mounted in advance of the April 2019 Mayoral election. Hoping to maintain her grip on the office, Mayor Johnston proceeded to repeatedly violate the campaign finance laws by:

- Accepting ten illegal corporate contributions corporate campaign contributions totaling \$7,409.55 in February and March 2019, in violation of Article VIII, Section 23.3(3) of the Missouri Constitution. Johnston did

not return those improper contributions until after the April 2019 election and only because a citizen-watchdog group's report of the illegal activity. *See Exhibit 1 at 74, 76, 83-85, 92.*

- Concealing three of the illegal corporate contribution received in February and March 2019 by falsely reporting them as contributions from individuals. *See Exhibit 2 at 4. See Exhibit 1 at 83-84*
- Concealing an illegal corporate contribution, in the amount of \$5,000, until after the April 2, 2019 election. Missouri law required her to disclose it within 24 hours of receipt (RSMo § 130.046.1 and 130.050.3); Mayor Johnston only reported the contribution (which was illegal in any event) after the election was complete and she became aware that a citizens-watchdog group had begun investigating her activities. *Exhibit 1 at 92*
- Concealing two in-kind contributions received in March 2019 until after the after the April 2, 2019, election and reporting them only because a citizen-watchdog group's report of the illegal activity. *See Exhibit 2 at 3*
- Concealing \$7,265.80 in post-election expenditures by falsely filing a "Statement of Limited Activity" (on which no activity is reported) instead of disclosing them on a 30-Day After Election Report as required by RSMo § 130.046. *See Exhibit 2 at 3, 6-7.*

The Missouri Ethics Commission ("MEC") opened Case No. 19-0035-I against the Mayor and her candidate committee regarding the above acts. In February 2020, the Mayor entered a Consent Order with the MEC, which found that those acts violated the Missouri Constitution and RSMo Ch. 130. *See Exhibit 2.*

During Case No. 19-0035-I, Mayor Johnston was represented by legal counsel. She incurred legal expenses, for which she made expenditures that Missouri law demands be disclosed in campaign finance reports. The Mayor did not disclose those expenditures, which then became the subject of a subsequent MEC matter: Case No. 20-0106-I. The Mayor entered another Consent Order in that second case, which found that her conduct again violated Missouri law. *See Exhibit 3*

The Mayor's pattern of campaign finance violations—even after agreeing in a consent order with the MEC not to violate those laws again—demonstrates her refusal to conduct herself in accord with the Missouri Constitution and laws or otherwise within the moral mandates of the Parkville City Code.

B. Mayor Johnston has used her public office to coerce private market participants and censor the media.

- On September 21, 2016, Mayor Johnston conspired via email (a public record) to persuade a commercial property owner in Parkville to "yank the lease" from an existing business that was found to be "undesirable" in favor

of a different tenant with whom the Mayor had a personal relationship. In that email, the Mayor specifically instructed the City Administrator and Custodian of Records to keep her actions confidential. *See Exhibit 4.*

- On April 24, 2017, Mayor Johnston engineered a deceptive façade of support for a project that was actually facing substantial public opposition in an attempt to influence the Board of Alderman and Parkville Planning & Zoning Commission. *See Exhibit 5.*
- Around April 28, 2019, Nan Johnston attempted to influence local businesses to cease distribution of a local media publication that had been critical of the Mayor in an attempt to restrict or censor the public access to their publication, damage its business relationships and cause economic harm to the publication. *See Exhibit 6.*
- On July 28, 2019, Nan Johnston attempted to influence leadership at Park University, including Alderman Greg Plumb, to cease its business relationship with a local media publication that had been critical of the Mayor with the intent of causing economic harm to and censoring the local media publication. *See Exhibit 7.*

C. Mayor Johnston has instructed or pressured other City officials and employees to act in ways that would cause them to violate the Parkville Code of Ethics.

- On September 21, 2016, Mayor Johnston instructed the City Administrator and City Clerk to engage in conduct contrary to Parkville's code of ethics and generally acceptable ethical norms by concealing the Mayor's own unethical effort to persuade a local property owner to "yank" a downtown business's lease in favor of a business the Mayor found more desirable. *See Exhibit 4.*
- On April 24, 2017, Mayor Johnston instructed the City's Director of Community Development to engage in conduct contrary to Parkville's code of ethics and generally acceptable ethical norms by assisting her in engineering a deceptive façade of support for a project that was actually facing substantial public opposition in an attempt to influence the Board of Alderman and Parkville Planning & Zoning Commission. *See Exhibit 5*
- On July 28, 2019, Mayor Johnston attempted to improperly influence Alderman David Rittman to engage in conduct contrary to Parkville's code of ethics and generally acceptable ethical norms by interfering with contractual relations of a local media publication with the intent of causing economic harm to the local media publication. *See Exhibit 8.*

- Around July 27, 2019, Nan Johnston instructed City Employees to cease business relations with a local media publication that had been critical of the Mayor with the intent of damaging and causing economic harm to the local media publication, thereby enrolling them in conduct contrary to Parkville's code of ethics and generally acceptable ethical norms. *See* Exhibit 8.
- On July 28, 2019, Nan Johnston attempted to improperly influence a board member of one of Parkville's political subdivisions, Dale Brouk, by having him engage in conduct contrary to Parkville's code of ethics and generally acceptable ethical norms through the interference of the existing contractual relations of a local media publication that had been critical of the Mayor with the intent of causing economic harm to the local media publication. *See* Exhibit 6.

D. Mayor Johnston has refused (or was a key participant in the City's refusal) to permit inspection of public records in violation of Missouri law.

Between September 7, 2018, and June 12, 2019, Mr. Jason Maki submitted a number of open records requests to the City pursuant to Missouri's Sunshine Law. Mr. Maki paid the City the requested fees for those requests as required by Missouri Law. The City refused to provide the records to Mr. Maki, instead insisting that Mr. Maki first pay an extra \$2,747 in impermissible and illegal fees.

On October 11, 2019, during a sit-down interview with news media, Nan Johnston knowingly misled reporter Cat Reid by claiming Mr. Maki was deliberately not retrieving the records he requested from the City. But in fact, *Mr. Maki was not permitted to retrieve the records*; had he been allowed, he would have surely done so. Then, acting on her frustration towards what information Mr. Maki was discovering through the Sunshine Law, Mayor Johnston used her audience with Ms. Reid to mischaracterize Mr. Maki's lawful use of Missouri's Sunshine statute as "harassment". A violation of City Code § 107.010 and 107.020. *See* Exhibit 10 at 1-2.

Despite her false claims, Mayor Johnston was aware that the City was not permitting Mr. Maki to retrieve the records he requested. However—if the Mayor was aware of some other facts or decision by the Board of Alderman to release the records—then, as Mayor, she would have been responsible for ensuring this was communicated to Mr. Maki. According to her claims, then, Mayor Johnston failed to uphold a Board of Aldermen's decision to release the records due to her desire to thwart the release of public records which she viewed as a political danger to her and "harassment"; another violation of City Code § 107.010 and 107.020.

Ultimately Mr. Maki brought a lawsuit against the City to retrieve the records requested under Missouri's Sunshine Law which resulted in approximately \$450K of legal fees and settlement costs to the taxpayer. If the Mayor's decisions and actions contradicted the Board of Alderman's decision to release the records, then those costs can be **directly attributed** to the Mayor's actions. Mayor Johnston's conduct was by no means "above reproach" and was likely a **failure to uphold municipal law**; both violate the City Code § 107.020.

E. Other examples of Mayor Johnston using her office for personal gain or failing conduct herself above reproach.

- On September 26, 2020, Mayor Johnston was arrested for driving under the influence. That conduct violates the Parkville City Code's mandate that the Mayor conduct herself above reproach.
- During the course of the Mayor's DUI arrest, she refused to fully cooperate with the arresting officer and instead attempted to leverage her relationship with the City of Parkville Chief of Police to receive special favor from the arresting officer. *See Exhibit 9*
- On September 27, 2020, Mayor Johnston responded to a citizen who had been critical of her by threatening to have him investigated by a state regulatory agency. *See Exhibit 11 at 2-3.*
- Between September and October of 2018, during the public hearings regarding the Creekside development, Mayor Johnston concealed her relationship with the developer and his attorney (Patricia Jensen) which included a political campaign contribution received from his attorney on February 11, 2016 in the amount of \$500. *See Exhibit 1 at 7.*
- In October of 2018, The Mayor attempted to gain appointment to a local hospital's board of directors. Her communications seeking that appointment featured the City of Parkville's Mayoral seal in an apparent attempt to obtain favorable treatment over other citizens by association with her office or by political pressure attendant to refusing the Mayor's requests.

F. Spoilation and tampering of evidence including the destruction of public records.

As a result of the Mayor's and City's refusal to make open records available to Mr. Maki, he sued the City. Court transcripts show that Mayor Johnston destroyed documents, some of them public records, during Mr. Maki's lawsuit. At the time, the

Mayor was under a duty to preserve those materials in connection with Mr. Maki's lawsuit and also due to an investigation by the Missouri Attorney General. In fact, other public records show that the Mayor **destroyed an entire email account the day after a Platte County Judge ordered Mayor Johnston to produce the documents sought by Maki**. The matter settled before a remedy was sought against the Mayor. However, new criminal investigations appear to be underway as the City just hired a criminal defense attorney in what is believed to be connected with Mayor Johnston's destruction of public records and documents in an effort to cover-up her activities and thereby prohibit the public's awareness of her conduct. Mayor Johnston's destruction of materials and public records clearly violate RSMo Ch. 109 and other Missouri laws—including Parkville's Code of Ethics.

III. Some members of this Parkville Ethics Commission must recuse themselves from considering this Complaint.

The Conflicts of Interest provision in in the Parkville City Code outlines a number of situations in which a conflict of interest may exist:

Elected and appointed officials should avoid the appearance of impropriety by refraining from engaging in conduct that appears to make their decisions influenced by other City officials rather than being arrived at independently. As an example, an official should avoid hiring or retaining another member of the same board, commission or committee as an employee, being hired or retained as an employee by another City official, rendering financial assistance to another City official, providing to another City official a gift or engaging in any activity wherein the general public would believe the relationship would have the effect of influencing any decisions being made.

City Code § 107.050(C) (emphasis added). This provision applies to Aldermen and members of the Parkville Ethics Commission (the "Ethics Commission"), who are appointed officials and it specifically identifies rendering financial assistance (i.e. campaign contributions) or giving gifts to another city official as conduct which potentially compromises the officials' independence in their decision-making, constituting a conflict of interest. The section also counsels that it is the appearance of impropriety, not the inclusion of a certain set of circumstances within the provision itself, which may constitute a conflict of interest. *See* City Code § 107.040(D) ("Other situations may not be covered by these guidelines."). It would thus be improper for any person appointed by Mayor Johnston or who financially contributed to her election campaign to preside over the Parkville Ethics Commission's consideration of this complaint against the Mayor. Accordingly, it would be improper for any of the following persons to be part of the body determining this Complaint:

- Bryan Dehner, who was personally appointed to the Ethics Commission by Nan Johnston;
- Gil Scott and Jerry Felker, who were twice personally appointed to the Ethics Commission by Nan Johnston;
- Deborah Butcher, who was twice personally appointed to the Ethics Commission by Nan Johnston and made a \$400.00 in-kind contribution to Mayor Johnston’s campaign (*See Exhibit 1 at 23*);
- Peggy Parolin, who was twice personally appointed to the Ethics Commission by Nan Johnston, received a payment of \$2,519.41 from Nan Johnston’s candidate committee for work as a “Campaign Worker”, and has advocated in support of Nan Johnston on social media (*See Exhibit 1 at 58, Exhibit 12*);
- Alderman Robert Lock, Greg Plumb, David Rittman, Marc Sportsman, Philip Wassmer, and Brian Whitley, who each contributed financially (or in-kind) to Mayor Johnston’s election campaign (*See Exhibit 1 at 11-14, 23, 40-43, 72, 74, 83-84*); and
- Alderman Tina Welch, who endorsed Mayor Johnston during the 2019 election campaign and advocated in support of Nan Johnston on social media. *See Exhibit 13*

Each of the above individuals **should recuse themselves from the present matter**, and this Complaint should be evaluated and acted upon by others who possess neutral incentive for or against Mayor Johnston.

IV. Mayor Johnston must be removed from office.

Missouri and Parkville law both provide for the removal of a mayor. RSMo § 79.240; City Code § 107.060.

As detailed above, Mayor Nan Johnston has engaged in a lengthy pattern of illegal, immoral, self-interested, and otherwise improper conduct. Each of those instances—not merely the lengthy pattern of conduct—violates Chapter 107 of the Parkville City Code. The mayor’s removal is appropriate and justified by her unethical conduct.

I respectfully request that you remove Nanette Johnston from the office of Mayor of the City of Parkville pursuant to Missouri and Parkville law.