

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARY HALL-RAYFORD, KAREN
BELTZ, KAREN MOURADJIAN, and
CYNTHIA FEDERLE,

Plaintiffs,

v.

MONIQUE OWENS, in her individual
capacity and official capacity as Mayor
of Eastpointe, and CITY OF
EASTPOINTE, a political subdivision
of the State of Michigan,

Defendants.

Case Number: _____

Hon. _____

**VERIFIED COMPLAINT FOR
CIVIL RIGHTS VIOLATIONS**

JURY TRIAL DEMANDED

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INTRODUCTION

1. This is a case about Monique Owens, the Mayor of Eastpointe, Michigan, abusing her office and her role as the Presiding Officer of Eastpointe’s City Council to silence her critics.

2. Mayor Owens has been involved in an ongoing dispute with Councilman Harvey Curley.

3. At the September 6, 2022, City Council meeting, Eastpointers Mary Hall-Rayford and Karen Beltz tried to speak up for Councilman Curley during the public comment period.

4. But Mayor Owens repeatedly interrupted and shouted them down. She claimed discussion of her dispute with Curley would “re-victimize” her, and yelled at Ms. Beltz—a retired teacher, grandmother, and 40-year resident of Eastpointe who had never previously spoken at a City Council meeting—“You’re not going to sit here and assault me, lady I never met!”¹

5. Eastpointe’s City Attorney reminded Mayor Owens that, under the First Amendment, members of the public have “free rein” to discuss whichever topics they choose. Mayor Owens ignored his advice.

¹ Video of Eastpointe’s September 6 City Council meeting is publicly available on its YouTube channel: <https://www.youtube.com/watch?v=SP8LOa0VIwY>. Incident begins at 4:15.

6. These exchanges compelled Eastpointer Karen Mouradjian to table her usual remarks about animal rights and instead use her public comment time before the Council to speak out against the Mayor's abusive behavior towards Ms. Hall-Rayford and Ms. Beltz. But Mayor Owens shouted Ms. Mouradjian down, too. After Ms. Mouradjian protested that Mayor Owens was trampling on Eastpointers' First Amendment rights, the Mayor belittled Ms. Mouradjian, telling her she could "talk about your cats and your dogs in the community but you won't talk about me."

7. This was not Mayor Owens's first time suppressing criticism. In March 2022, she forced Eastpointer Cynthia ("Cindy") Federle to alter her remarks to omit criticism of the Mayor and to criticize "the Council" or "the Body" instead.²

8. Mayor Owens calls criticism "assault." It is not. "Criticism of government is at the very center of the constitutionally protected area of free discussion." *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966).

9. Eastpointers should not have to endure these constant attacks on their First Amendment rights. This lawsuit by Plaintiffs Hall-Rayford, Beltz, Mouradjian, and Federle, seeks to stop Mayor Owens's abuse of authority.

² Video of Eastpointe's March 22 City Council meeting is publicly available on its YouTube channel: <https://www.youtube.com/watch?v=0nxzIhkK2nY>. Incident begins at 20:13.

THE PARTIES

Plaintiffs

10. Plaintiff Mary Hall-Rayford is a community activist, school board member, former chaplain, and longtime resident of Eastpointe, Michigan. During the public comment segment of an Eastpointe City Council meeting, when Ms. Hall-Rayford began voicing support for Councilman Curley, Mayor Owens cut Ms. Hall-Rayford off, shouted her down, and ruled her public comments out of order.

11. Plaintiff Karen Beltz is a retired teacher, grandmother, and 40-year resident of Eastpointe, Michigan. Ms. Beltz's first time speaking at an Eastpointe City Council meeting was on September 6. When Ms. Beltz called the Mayor's accusations against Councilman Curley "outrageous," Mayor Owens cut Ms. Beltz off, shouted her down, and ruled her public comments out of order.

12. Plaintiff Karen Mouradjian is an active resident of Eastpointe, Michigan, vocal on the issue of animal rights and welfare. During the City Council meeting's public comment segment on September 6, when Ms. Mouradjian told the Mayor she was trampling on Eastpointers' First Amendment right to be heard, Mayor Owens cut Ms. Mouradjian off, shouted her down, and ruled her out of order.

13. Plaintiff Cindy Federle is a healthcare worker and a long-time resident of Eastpointe, Michigan. During the public comment segment of an Eastpointe City Council meeting, when Ms. Federle began to criticize the Mayor, Mayor Owens cut

off Ms. Federle and required her to alter her comments to omit direct criticism of the Mayor.

Defendants

14. Defendant Monique Owens is Mayor of Eastpointe, Michigan.

15. Under the Eastpointe City Charter, the Mayor is the Presiding Officer of Eastpointe City Council meetings and a voting member thereof. (Ex. A, Eastpointe City Charter at Ch. III, §§ 2, 7.)

16. Mayor Owens frequently uses her authority as Presiding Officer of Eastpointe's City Council to suppress dissent and criticism by interrupting and shouting down members of the public who criticize her or raise subjects she finds personally embarrassing.

17. Mayor Owens, however, allows members of the public to praise her and to criticize the other members of the City Council.

18. At all times relevant to the Complaint, Mayor Owens was Eastpointe's final policymaker with respect to regulating the public's conduct during the Hearing of the Public portion of City Council meetings.

19. At all times relevant to the Complaint, Mayor Owens was acting under color of state law.

20. Defendant City of Eastpointe is a political subdivision of the State of Michigan.

21. Through Mayor Owens, the City of Eastpointe maintains a pattern, practice, or custom during the “Hearing of the Public” portion of City Council meetings of prohibiting direct criticism of Mayor Owens, permitting direct praise of Mayor Owens, and permitting direct criticism of other City Council members.

JURISDICTION AND VENUE

22. This Court has federal question jurisdiction under 28 U.S.C. § 1331 because Plaintiffs’ claims arise under the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §§ 1983 and 1988, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–02.

23. Venue is proper in the Eastern District of Michigan under 28 U.S.C. § 1331(b)(2) because a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in Eastpointe, Michigan, which is located in this District.

FACTUAL ALLEGATIONS

24. Eastpointe, Michigan is a city of approximately 35,000 people on the northeastern border of the City of Detroit.

25. In November 2019, then-Councilwoman Monique Owens won a five-way election for Eastpointe Mayor by under twenty votes.

I. Mayor Owens’s Dispute with Councilman Curley Garnered Public Interest and Media Attention.

26. Mayor Owens has had an ongoing rivalry with Councilman Harvey Curley, a member of the Eastpointe City Council.

27. Councilman Curley is 85 years old and formerly served as Eastpointe's Mayor.

28. Eastpointe hosts an annual "Cruisin' Gratiot" event, where the public is invited to parade classic and uniquely modified cars down Gratiot Avenue.

29. Councilman Curley is the President of the Cruisin' Gratiot event.

30. Upon information and belief, Cruisin' Gratiot is operated by a 501(c)(3) organization which cannot engage in political activity.

31. During the June 2022 Cruisin' Gratiot, upon information and belief, Mayor Owens and Councilman Curley became involved in a dispute over the Mayor's appropriate role at the event. (Ex. B, Susan Smiley, *Judge Considers Eastpointe Mayor's Request for PPO Against Councilman*, Macomb Daily (Aug. 23, 2022), <https://www.macombdaily.com/2022/08/23/judge-considers-eastpointe-mayors-request-for-ppo-against-councilman/>.)

32. Upon information and belief, Mayor Owens attempted to take over the event's festivities to make a speech.

33. Upon information and belief, Mayor Owens was not scheduled to give a speech, nor did the organizers of Cruisin' Gratiot approve any such address.

34. Upon information and belief, Councilman Curley objected to Mayor Owens's intrusion because he desired to keep Cruisin' Gratiot a politics-free event consistent with Cruisin' Gratiot's 501(c)(3) status.

35. Mayor Owens claims Councilman Curley raised his hands to her during the dispute.

36. Upon information and belief, Mayor Owens filed or caused to be filed a police report claiming Curley “assaulted” her.

37. Councilman Curley was not arrested or charged regarding the dispute with Mayor Owens.

38. The Macomb County Circuit Court denied Mayor Owens’s request for a personal protective order against Councilman Curley. (Ex. C, Op. and Order, Macomb Cnty. Cir. Ct., No. 2022-002271-PH, September 16, 2022.)

39. Upon information and belief, during the hearing on Mayor Owens’s request for a personal protective order, Councilman Curley denied assaulting Owens.

40. Mayor Owens’s dispute with Councilman Curley garnered public interest and media coverage. (*See, e.g.*, Ex. B.)

II. Eastpointe City Council Policy Prohibits “Direct[ing]” Remarks at Individual Members.

41. Eastpointe City Council meetings include a “Hearing of the Public.”

42. During the Hearing of the Public, members of the public are permitted to make three-minute statements on topics of their choosing regarding matters of public concern.

43. Eastpointe's City Attorney has explained that, during the Hearing of the Public, members of the public have "free rein" to speak on topics of their choosing. (Ex. D, Video of September 6, 2022, City Council Meeting at 9:21.)

44. Eastpointe's City Council meeting agenda states that members of the public are not permitted to speak during the Hearing of the Public "unless recognized by the Mayor." (Ex. E, September 6, 2022, City Council Meeting Agenda.)

45. Eastpointe's City Council meeting agenda further provides that members of the public "shall direct their comments to the Council as a body, not to an individual member of Council or the public." (*Id.*)

46. Eastpointe provides no clarification or limitation on what constitutes a member of the public "direct[ing] their comment[]" to "an individual member of Council."

47. Eastpointe places no constraints on the discretion of the presiding officer for determining what constitutes "direct[ing]" a comment at an individual member.

48. Eastpointe's City Council meeting agenda further explains that "State law prohibits a person from disrupting a public meeting, and a person may be removed from a meeting for a breach of the peace committed at the meeting." (*Id.*)

III. Mayor Owens Abused Her Authority at the September 6, 2022, Eastpointe City Council Meeting.

49. Prior to the September 6, 2022, Eastpointe City Council meeting, Eastpointers demonstrated outside Eastpointe City Hall in support of Councilman Curley and in opposition to Mayor Owens.

50. Mayor Owens was the Presiding Officer at the September 6, 2022, Eastpointe City Council meeting. (Ex. D.)

51. Video of the September 6, 2022, Eastpointe City Council meeting is publicly available on Eastpointe's YouTube channel: <https://www.youtube.com/watch?v=SP8LOa0VIwY>.

52. At the September 6 City Council meeting, Ms. Hall-Rayford and Ms. Beltz intended to speak in support of Councilman Curley regarding his dispute with Mayor Owens.

53. Mayor Owens told a local news reporter that the protest prior to the September 6 City Council meeting made her concerned about what members of the public would say during the meeting. (Ex. F, *Eastpointe Council Meeting Ends Abruptly Over Battle Between Mayor, Community Members*, Local 4 (Sept. 8, 2022), <https://www.clickondetroit.com/news/local/2022/09/09/eastpointe-council-meeting-ends-abruptly-over-battle-between-mayor-and-council-member/> at 1:21.)

54. During the Hearing of the Public portion of the September 6 City Council meeting, Mayor Owens recognized Ms. Hall-Rayford as the first speaker. (Ex. D at 4:10.)

55. After Ms. Hall-Rayford said “I’m here in support of Councilman Curley. . . ,” Mayor Owens cut her off. (*Id.* at 4:34.)

56. Mayor Owens interjected, “I’m going to stop you right there or we’re going to stop the Council meeting because I’m not going to let you speak on something that has to do with the police,” referring to the Mayor’s dispute with Councilman Curley. (*Id.* at 4:39.)

57. Other City Council members pushed back against Mayor Owens, with one telling her, “Mayor, you’ve got to let her speak.” (*Id.* at 4:49.)

58. Mayor Owens retorted that “I’m going to let her speak . . . [but] you’re going to have order, but if you’re speaking on something that has to do with the police report we’re going to respect the people that’s in that [report].” (*Id.* at 4:52.)

59. After Mayor Owens faced additional criticism from City Council members for stopping Ms. Hall-Rayford, Mayor Owens responded, “I’m giving [Hall-Rayford] a warning just like we have always given people warnings before they spoke on certain things.” (*Id.* at 5:29.)

60. A City Council member told Mayor Owens her “warning” to Ms. Hall-Rayford was “inappropriate.” (*Id.*)

61. Mayor Owens replied, claiming, “I have First Amendment rights as well . . . we’re not going to talk about certain incidences to keep order,” and “If you’re going to say something concerning certain things, allegations that have not been done by a judge or anything like that, I’m going to stop it.” (*Id.* at 5:35, 6:43, and 7:00.)

62. When acting as Presiding Officer of a City Council meeting, Eastpointe’s Mayor acts with the authority of the government to control the meeting. The exercise of this authority does not constitute the exercise of his or her own First Amendment rights.

63. Councilman Curley raised a point of order and requested that Eastpointe’s City Attorney, Richard Albright, provide input on the scope of matters on which the public may permissibly comment. (*Id.* at 8:40.)

64. City Attorney Albright explained that “anybody has a free rein of topics that they would like to speak about or address . . . because it’s part of the First Amendment,” and that members of the public “have a right to address the City Council or they may speak individually about a member of the Council as well.” (*Id.* at 9:21.)

65. Mayor Owens responded that she intended to keep “order” and restated her assertion that “I also have my First Amendment right, and if you say something

out of line, as my First Amendment right, whether as Mayor or not a Mayor, I'm going to speak." (*Id.* at 9:42.)

66. Mayor Owens permitted Ms. Hall-Rayford to restart her remarks. But due to Mayor Owens's admonishment about what statements would and would not be permitted, Ms. Hall-Rayford steered clear of expressly commenting about the Mayor's dispute with Councilman Curley and instead confined her remarks to general statements in support of Councilman Curley.

67. Had Mayor Owens not cut off and admonished her, Ms. Hall-Rayford would have used her remaining Hearing of the Public time to go into further detail about why she supported Councilman Curley regarding his dispute with the Mayor.

68. After Ms. Hall-Rayford concluded her comments, Mayor Owens recognized Ms. Beltz as the second speaker. (*Id.* at 12:12.)

69. Ms. Beltz planned to voice support for Councilman Curley and disapproval of Mayor Owens's treatment of Councilman Curley.

70. Ms. Beltz began her remarks with general words of support for Councilman Curley.

71. Around halfway through her three minutes of allotted time, Ms. Beltz remarked, "I think it's ridiculous that you're [Curley] now in this position of defending yourself against really what I consider to be outrageous claims . . ." (*Id.* at 12:59.)

72. Upon hearing “outrageous claims,” Mayor Owens cut off and shouted down Ms. Beltz, yelling, “You’re not going to sit here and assault me, lady I never met!” (*Id.* at 13:11.)

73. The Mayor accused Ms. Beltz of “re-victimizing” her by disputing the Mayor’s version of events regarding the 2022 Cruisin’ Gratiot. (*Id.* at 13:23.)

74. Due to the Mayor’s interruption and admonishment, Ms. Beltz ended her remarks and returned to her seat.

75. Had Mayor Owens not cut off and admonished her, Ms. Beltz would have used her remaining time to explain in further detail why she supported Councilman Curley in his dispute with the Mayor.

76. After Ms. Beltz returned to her seat, Mayor Owens recognized Ms. Mouradjian as the third speaker. (*Id.* at 15:09.)

77. Ms. Mouradjian originally planned to speak about animal welfare issues, as she has at prior Eastpointe City Council meetings.

78. After seeing Mayor Owens’s treatment of Ms. Hall-Rayford and Ms. Beltz, Ms. Mouradjian decided to use her time to voice disapproval of the Mayor’s treatment of Ms. Hall-Rayford and Ms. Beltz.

79. Ms. Mouradjian remarked, “If you [Mayor Owens] can’t take the criticism, you should not be Mayor. Enough is enough.” (*Id.* at 15:30.)

80. The Mayor responded by interrupting and shouting over Ms. Mouradjian, yelling, “This is a personal matter!”

81. Ms. Mouradjian responded, “You’re violating my First Amendment rights,” to which Mayor Owens responded, “You’re violating my rights as a person that can call the police.” (*Id.* at 15:43.)

82. Mayor Owens told Ms. Mouradjian that Ms. Mouradjian could “talk about your cats and your dogs in the community but you won’t talk about me!” (*Id.* at 16:06.)

83. Had Mayor Owens not shouted her down, Ms. Mouradjian would have used her remaining time to continue to criticize Mayor Owens.

84. The remaining four members of the Eastpointe City Council left the meeting in protest of Mayor Owens’s treatment of the speakers, leaving the Mayor sitting by herself and depriving the Council of a quorum.

85. After the September 6 City Council meeting, Mayor Owens told a local reporter that she would not allow members of the public to make a “mockery” of her. (Ex. F at 2:10.)

IV. Mayor Owens Had Previously Abused Her Authority by Silencing Critics at City Council Meetings.

86. The September 6 City Council meeting was not the first time Mayor Owens abused her authority.

87. Mayor Owens was the presiding officer at the March 22, 2022, Eastpointe City Council meeting. (Ex. G, Video of March 22, 2022, City Council Meeting.)

88. Video of Eastpointe's March 22 City Council meeting is publicly available on Eastpointe's YouTube channel: <https://www.youtube.com/watch?v=0nxzlhkK2nY>.

89. During the Hearing of the Public segment, Ms. Federle planned to speak in disapproval of Mayor Owens's criticism of Eastpointers who had protested against Mayor Owens.

90. During her Hearing of the Public remarks, Ms. Federle criticized the "the Mayor[']s]" comments about the anti-Mayor Owens protests, which Ms. Federle viewed as "disrespect[ful]" towards the protestors. (Ex. G at 20:00.)

91. Ms. Federle continued, "I'm offended that an elected member of our City would . . ."

92. Purporting to enforce the policy against "direct[ing]" remarks at an "individual member," Mayor Owens interrupted Ms. Federle and told Ms. Federle not to address her. After Ms. Federle pointed out she had not addressed the Mayor, the Mayor responded, "Yes you did, you said my name." (*Id.* at 20:15.)

93. Mayor Owens instructed Ms. Federle that saying "Mayor" was disrespectful because "everyone knows who you are talking about." (*Id.* at 20:35.)

94. Mayor Owens required Ms. Federle to alter her comments to complaining about the “Council” or “the Body” before allowing her to proceed.

95. Ms. Federle altered her remarks as Mayor Owens demanded, omitting direct criticism of the Mayor, and concluded her comments.

96. Had Mayor Owens not required Ms. Federle to alter her remarks, Ms. Federle would have directly criticized the Mayor.

V. Mayor Owens Engages in Viewpoint Discrimination by Prohibiting Members of the Public from Criticizing Her But Allowing the Public to Praise Her and Criticize Other Members.

97. Though Mayor Owens purports to exercise control over City Council meetings so that members of the public “won’t talk about” her or remark on “individual members” of the Council, she has a long history of allowing members of the public to directly praise her and directly criticize the other members of Eastpointe’s City Council.

98. For example, though Mayor Owens prevented Ms. Federle from even saying the word “Mayor” when voicing criticism, three weeks earlier at the March 1, 2022, City Council meeting, she permitted a member of the public to declare that the resident believes Mayor Owens is “beautiful” and has done a “wonderful” job. (Ex. H, Video of March 1, 2022, City Council Meeting at 8:55.)

99. Mayor Owens also permitted that same resident to directly criticize Councilman Cardi DeMonaco, Jr. and Councilman DeMonaco's wife for leveling supposedly "ridiculous charges" at "the Mayor." (*Id.* at 9:00.)

100. Video of Eastpointe's March 1, 2022, City Council meeting is publicly available on Eastpointe's YouTube channel: <https://www.youtube.com/watch?v=JncQ1mcswik>.

101. Similarly, at the April 19, 2022, Eastpointe City Council meeting, Mayor Owens permitted a member of the public to refer to other councilmembers' accusations against the Mayor as "foolery" and "childish." (Ex. I, Video of April 19, 2022, City Council Meeting at 14:30.)

102. Video of Eastpointe's April 19, 2022, City Council meeting is publicly available on Eastpointe's YouTube channel: <https://www.youtube.com/watch?v=MhkQaNJSN6Y>.

103. Unlike Ms. Beltz, whom Mayor Owens cut off and shouted down after Ms. Beltz called the Mayor's accusations against Councilman Curley "outrageous," Mayor Owens did not cut off, shout down, or take any action when members of the public called accusations against the Mayor "ridiculous," "foolery," or "childish."

104. At the April 19 City Council meeting, Mayor Owens permitted multiple speakers to directly criticize other members of the City Council.

105. Mayor Owens permitted a resident to directly address Councilman DeMonaco regarding a critical statement Councilman DeMonaco penned about the Mayor, and allowed the resident to call Councilman DeMonaco's statement "an embarrassment to the city." (*Id.* at 17:08.)

106. At the same meeting, Mayor Owens permitted a resident, upset by Councilman DeMonaco's decision to vote for a censure resolution against the Mayor, to directly state to the Councilman, "I thought I knew you . . . Cardi, but I don't. I see someone different and I'm a little disappointed." (*Id.* at 3:12:00.)

107. At the same meeting, Mayor Owens permitted a resident to directly criticize Councilwoman Sarah Lucido for voting in favor of a censure resolution against the Mayor, and allowed the resident to remark that the resident was unlikely to vote for Councilwoman Lucido again because of that vote. (*Id.* at 3:03:33.)

108. At the same meeting, Mayor Owens permitted yet another member of the public to directly address Councilman DeMonaco and state that Councilman DeMonaco's wife "yelled out as if she was a five-year-old child" while at an event with the Mayor. (*Id.* at 2:48:25.) Mayor Owens also allowed the resident, without interruption, to tell Councilman DeMonaco that he and his wife were "tacky" at the event and that he "should have been embarrassed how [your wife] acted." (*Id.*)

109. Unlike with Plaintiffs, who had criticized Mayor Owens, Mayor Owens did not admonish, cut off, shout down, critique, or interrupt members of the public who criticized other city council members and their families.

110. During City Council meetings, Mayor Owens also permits residents to directly address her—so long as it is with praise.

111. During the March 1, 2022, City Council meeting, Mayor Owens permitted a resident to directly address her and say, “Mayor, I just want to say I respect you. I read up on you. My 21-year-old daughter, she read up on you. She told me about you. I was new, she met you, we read everything about you, and you have great respect from me and my family.” (Ex. H at 1:24:25.)

112. During the April 19, 2022, City Council meeting, Mayor Owens permitted a resident to remark, “Mayor Owens, I like this lady,” and “I like these lawyers,” referring to two members of the public who spoke in favor of Mayor Owens. (Ex. I at 3:12:00.) The Mayor declined to enforce either the policy against “direct[ing]” comments at an “individual member” or the policy against “direct[ing]” comments at members of the public.

113. Unlike when Mayor Owens cut off and shouted down Ms. Hall-Rayford after she began remarks with “I am here in support of Councilman Curley,” the Mayor did not admonish, cut off, shout down, critique, or interrupt speakers praising the Mayor.

VI. Mayor Owens’s Viewpoint Discrimination and Eastpointe’s Policy Injured Plaintiffs and Causes Ongoing Irreparable Harm.

114. Mayor Owens’s actions in cutting off and shouting down Ms. Hall-Rayford, Ms. Beltz, and Ms. Mouradjian, and Defendants’ enforcement of the policy prohibiting “direct[ing]” remarks at an individual member during City Council meetings, injured Ms. Hall-Rayford, Ms. Beltz, and Ms. Mouradjian by depriving them of their constitutional right to criticize elected officials and speak on matters of public interest and concern. Defendants’ actions are causing Ms. Hall-Rayford, Ms. Beltz, and Ms. Mouradjian to refrain from voicing their complete beliefs regarding Mayor Owens during the Hearing of the Public portion of City Council meetings because Mayor Owens previously ruled such remarks out of order by cutting them off and shouting them down.

115. Mayor Owens’s actions in cutting off Ms. Federle and forcing Ms. Federle to alter her comments to omit direct criticism of the Mayor, and Defendants’ enforcement of the policy prohibiting “direct[ing]” remarks at an individual member during City Council meetings, injured Ms. Federle by depriving her of her constitutional right to criticize elected officials and speak on matters of public interest and concern. Defendants’ actions are causing Ms. Federle to refrain from voicing her complete beliefs regarding Mayor Owens during the Hearing of the Public portion of City Council meetings because Mayor Owens previously ruled

such remarks out of order by interrupting Ms. Federle and requiring her to alter her statement.

CLAIMS

FIRST CLAIM

Violation of First Amendment (Damages)

Freedom of Speech, Freedom of Petition

42 U.S.C. § 1983

(All Plaintiffs against Mayor Owens in her individual capacity)

116. Plaintiffs re-allege and re-incorporate the preceding paragraphs as though fully set forth herein.

117. The First Amendment provides that “Congress shall make no law . . . abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S. Const. Amend. I.

118. The First Amendment prohibits government officials from regulating expression based on the views expressed, a concept known as “viewpoint discrimination.”

119. “Viewpoint discrimination is an egregious form of content discrimination and is presumptively unconstitutional.” *Iancu v. Brunetti*, 139 S. Ct. 2294, 2299 (2019) (internal quotation omitted).

120. Mayor Owens engaged in impermissible viewpoint discrimination by using her status as Presiding Officer of Eastpointe’s City Council to suppress

Plaintiffs' public criticism of her performance and actions whilst (A) allowing members of the public to praise her performance and actions and (B) allowing members of the public to criticize her colleagues' performances and actions.

121. Mayor Owens engaged in impermissible viewpoint discrimination when she cut off Ms. Hall-Rayford and Ms. Beltz and prevented them from voicing criticism of the Mayor regarding the Mayor's dispute with Councilman Curley. Mayor Owens's actions deprived Ms. Hall-Rayford and Ms. Beltz of their First Amendment right to peacefully criticize public officials and speak about matters of public concern.

122. Mayor Owens engaged in impermissible viewpoint discrimination when she cut off Ms. Mouradjian and prevented her from voicing her full criticism of the Mayor regarding the Mayor's treatment of Ms. Hall-Rayford and Ms. Beltz. Mayor Owens's actions deprived Ms. Mouradjian of her First Amendment right to peacefully criticize public officials and speak about matters of public concern.

123. Mayor Owens engaged in impermissible viewpoint discrimination when she stopped Ms. Federle's Hearing of the Public remarks and required Ms. Federle to alter her statement to refrain from criticizing the Mayor by name or title. Mayor Owens's actions deprived Ms. Federle of her First Amendment right to peacefully criticize public officials and speak about matters of public concern.

124. Prohibiting members of the public from “direct[ing]” comments at a City Council member also constitutes impermissible viewpoint discrimination in violation of the First Amendment insofar as it prohibits speech purely because it disparages or offends or has the potential to disparage or offend. *Ison v. Madison Loc. Sch. Dist. Bd. of Educ.*, 3 F.4th 887 (6th Cir. 2021).

125. The First Amendment also generally prohibits government officials from regulating speech based on its subject matter, a concept known as “content discrimination.”

126. Mayor Owens engaged in impermissible content discrimination by prohibiting comments “direct[ed]” at individual members.

127. In the Sixth Circuit, the public comment portion of an open public meeting is, at minimum, treated as a limited public forum for First Amendment purposes.

128. Under the First Amendment, content discrimination is permissible in the limited public forum of a public comment portion of a city council meeting only if the restriction is viewpoint neutral and reasonable in light of the purpose served by the forum. *Ison*, 3 F.4th at 893.

129. Prohibiting members of the public from directing comments at individual elected officials during a city council meeting is not a reasonable restriction because the purpose of a public comment period is, among other things,

to permit the public an opportunity to raise matters of public concern with their elected officials, and in so doing to address, praise, and/or criticize their elected officials. That is, in addition to serving the purpose of allowing the public to exercise their right to free speech, it serves the purpose of allowing them to exercise their right of petition.

130. Because a prohibition on directing comments to individual council members during a city council meeting is not a reasonable restriction based on the purpose of the forum, it must satisfy strict scrutiny and be narrowly tailored to serve compelling state interests.

131. A prohibition on directing comments to individual council members during a city council meeting is not narrowly tailored to serve a compelling state interest because there is no compelling state interest in suppressing the ability of the public to exercise their rights to free speech and to petition by peacefully directing criticism to elected officials.

132. To the extent a policy prohibiting comments “direct[ed]” at an individual city council member is intended to prevent disorder, it is not narrowly tailored because a violation of the policy requires no evidence of actual, imminent, or threatened disorder.

133. Mayor Owens also enforced Eastpointe’s policy prohibiting comments “direct[ed]” at an individual city council member in a viewpoint discriminatory

manner by suppressing criticism of her but allowing praise of her and allowing criticism of other Council members.

134. A policy prohibiting comments “direct[ed]” at an individual city council member is not a valid time, place, or manner restriction because the policy regulates the content of speech, is not narrowly tailored to serve a significant governmental interest for the reasons stated above, and does not leave open ample alternative channels for directly communicating criticism to council members.

135. Mayor Owens’s dispute with Councilman Curley was the subject of local media reports and a topic of public interest and concern.

136. Mayor Owens engaged in impermissible content discrimination by prohibiting discussion of her dispute with Councilman Curley during the Hearing of the Public segment of the September 6, 2022, Eastpointe City Council meeting.

137. Michigan has no statute and Eastpointe has no written policy prohibiting public discussion of Mayor Owens’s dispute with Councilman Curley.

138. Mayor Owens’s prohibition on the public discussing her dispute with Councilman Curley was not a reasonable content restriction in light of the purpose of the Hearing of the Public, which as explained by the City Attorney is to grant the public “free rein” to discuss topics of their choosing. (Ex. D at 9:21.)

139. Mayor Owens’s prohibition on the public discussing her dispute with Councilman Curley fails strict scrutiny because there is no compelling governmental

interest in preventing members of the public from peacefully commenting on a dispute involving two elected officials, and Mayor Owens made no attempt to narrowly tailor the prohibition.

140. To the extent the prohibition was intended to prevent disorder, it is not narrowly tailored because a “violation” requires no evidence of actual, imminent, or threatened disorder.

141. Mayor Owens also enforced her prohibition on discussing her dispute with Councilman Curley in a viewpoint discriminatory manner by suppressing comments critical of her accusations against Councilman Curley despite Mayor Owens’s history of permitting members of the public to criticize allegations against Mayor Owens.

142. Mayor Owens engaged in impermissible content discrimination during the September 6, 2022, Eastpointe City Council meeting by prohibiting public discussion of her dispute with Councilman Curley on the basis that it involves a “police report.”

143. Michigan has no statute and Eastpointe has no written policy prohibiting public discussion of matters involving “police reports.”

144. During the April 19, 2022, Eastpointe City Council meeting, Mayor Owens publicly described events leading her to file a separate police report. (Ex. I at 1:33:40.)

145. Prohibiting the public from discussing her dispute with Councilman Curley on the basis that a “police report” was involved was not, as Mayor Owens’s prior actions demonstrate, a reasonable content restriction in light of the purpose of a city council meeting.

146. Mayor Owens’s prohibition of public discussion of her dispute with Councilman Curley on the basis that it involves a “police report” was not narrowly tailored to serve a compelling governmental interest.

147. There is no compelling governmental interest in preventing the public from commenting on a dispute involving two elected officials which happens to involve a police report.

148. Mayor Owens’s prohibition on discussing her dispute with Councilman Curley on the basis that it involves a “police report” fails strict scrutiny because there is not a compelling governmental interest in preventing members of the public from peacefully commenting on a scandal involving two elected officials simply because a “police report” is involved and Mayor Owens made no attempt to narrowly tailor the prohibition.

149. To the extent the prohibition is intended to prevent disorder, it is not narrowly tailored because a violation requires no evidence of actual, imminent, or threatened disorder.

150. Mayor Owens also enforced her prohibition on discussing her dispute with Councilman Curley on the basis it involves a “police report” in a viewpoint discriminatory manner because Mayor Owens previously publicly commented on other police reports during City Council meetings.

151. It is clearly established that criticizing government officials “is at the very center of the constitutionally protected area of free discussion.” *Rosenblatt*, 383 U.S. at 85.

152. It is clearly established that government actors may not discriminate against speech based on the viewpoint expressed. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 828 (1995).

153. It is clearly established that prohibitions on public comments directed at individual board or council members violate the First Amendment. *Ison*, 3 F.4th 887.

154. It is further clearly established under *Ison* that prohibitions on criticizing council members during public comment periods at meetings constitute unconstitutional viewpoint discrimination.

155. It is clearly established that unreasonable restrictions on public comments at city council meetings violate the First Amendment. *Id.*

156. Using governmental authority to suppress the public's criticism of a state actor but allow the public's praise of that state actor is an obvious constitutional violation.

157. At all times relevant, Mayor Owens was or should have been aware that her actions were unconstitutional.

158. Mayor Owens's conduct towards Plaintiffs recklessly and callously disregarded and was indifferent to Plaintiffs' rights because the Mayor acted with the intent to suppress Plaintiffs' criticism and silence discussion of unfriendly topics and not for any legitimate policy purpose. Accordingly, punitive damages are appropriate and necessary to punish Mayor Owens for abridging Plaintiffs' constitutional rights and to deter similar violations in the future.

SECOND CLAIM

**Violation of First Amendment (Damages – Municipal Liability under *Monell*)
Freedom of Speech, Freedom of Petition
42 U.S.C. § 1983
(All Plaintiffs against Defendant City of Eastpointe)**

159. Plaintiffs re-allege and re-incorporate the preceding paragraphs as though fully set forth herein.

160. Pursuant to the City Charter, Mayor Owens was the Presiding Officer of the Eastpointe City Council at the March 22, 2022, and September 6, 2022, City Council meetings.

161. Pursuant to Eastpointe's City Council public comment rules, the Mayor is the final policymaker and has final decision-making authority regarding the conduct of a City Council meeting because "a person shall not speak unless recognized by the Mayor." (Ex. E at 2.)

162. Mayor Owens's actions as Presiding Officer at the March 22, 2022, and September 6, 2022, Eastpointe City Council meetings violated Plaintiffs' constitutional rights for the reasons stated in Claim I.

163. Mayor Owens's actions constituted and effectuated the official municipal policy and/or custom of Eastpointe because she possessed final policy-making authority on which speakers will be recognized at City Council meetings and which will be ruled out of order.

164. Mayor Owens's actions constituted the official municipal policy, custom, and/or decision of Eastpointe because the Mayor possessed final and official policy-making authority for Eastpointe City Council on which speakers will be recognized at City Council meetings and which will be ruled out of order.

165. Mayor Owens's actions constituted a custom, practice, or decision of Eastpointe because the Mayor, as shown through the March 22, 2022, and September 6, 2022, City Council meetings, demonstrated a long-standing and widespread practice of suppressing criticism and discussion of unfriendly topics.

166. The Mayor's final policymaker status is reinforced by the fact that Mayor Owens did not heed the admonitions of her fellow Councilmembers or the City Attorney, even though her fellow Councilmembers outnumbered her.

167. Mayor Owens's actions as Presiding Officer were the moving force behind the deprivation of Plaintiffs' constitutional rights because the Mayor shouted down and cut off Plaintiffs using her authority as Presiding Officer.

168. Because Mayor Owens's actions at the March 22, 2022, and September 6, 2022, Eastpointe City Council meetings constituted an official custom or practice of Eastpointe, Eastpointe is responsible for the Mayor's constitutional violations under 42 U.S.C. § 1983.

THIRD CLAIM
Violation of First Amendment (Injunctive and Declaratory Relief)
Freedom of Speech, Freedom of Petition
42 U.S.C. § 1983
(All Plaintiffs against Defendant Monique Owens in her official capacity and
Defendant City of Eastpointe)

169. Plaintiffs re-allege and re-incorporate the preceding paragraphs as though fully set forth herein.

170. Defendants, through Presiding Officer Monique Owens, enforce a policy of viewpoint discrimination at Eastpointe City Council meetings by suppressing direct criticism of Mayor Owens, permitting direct criticism of other City Council members, and permitting direct praise of Mayor Owens, as evidenced by: (1) Mayor Owens preventing members of the public (including Plaintiffs) from

peacefully leveling direct criticism at her, (2) Mayor Owens allowing members of the public to voice direct praise of her, and (3) Mayor Owens permitting members of the public to level direct criticism at other members of the City Council.

171. Upon information and belief, Defendants enforce a policy prohibiting members of the public from “direct[ing]” critical comments at individual city council members on the basis that such comments disparage, upset, or offend or have the potential to disparage, upset, or offend, which constitutes unlawful viewpoint discrimination under the First Amendment. *Ison*, 3 F.4th 887.

172. The City of Eastpointe adopted, and Mayor Owens enforces in her official capacity as Mayor of Eastpointe and Presiding Officer of Eastpointe City Council, a policy prohibiting members of the public from “direct[ing]” a comment at an individual member during the Hearing of the Public portion of City Council meetings.

173. Defendants’ policy prohibiting comments “direct[ed]” at a particular member constitutes unlawful content discrimination under the First Amendment as explained in Claim I.

174. Presiding Officer Mayor Owens enforces a prohibition on members of the public commenting on Mayor Owens’s dispute with Councilman Curley during the Hearing of the Public portion of City Council meetings.

175. Defendants' prohibition constitutes unlawful content discrimination under the First Amendment as explained in Claim I.

176. Presiding Officer Mayor Owens also enforces a prohibition on members of the public from commenting on Mayor Owens's dispute with Councilman Curley on the basis that the dispute involves a "police report."

177. Defendants' prohibition constitutes unlawful content discrimination under the First Amendment as explained in Claim I.

178. Defendants' practices and policies constitute an ongoing abridgment of Plaintiffs' First Amendment free speech and petition rights.

179. Plaintiffs are entitled to a declaration under 28 U.S.C. § 2201 that Defendants' policy prohibiting criticism of Mayor Owens but allowing praise of the Mayor and allowing criticism of other city council members constitutes unlawful viewpoint discrimination under the First Amendment.

180. Plaintiffs are entitled to a declaration under 28 U.S.C. § 2201 that Defendants' policy prohibiting members of the public from "direct[ing]" comments to an individual council member constitutes unlawful viewpoint and content discrimination under the First Amendment.

181. Plaintiffs are entitled to a declaration under 28 U.S.C. § 2201 that Defendants' prohibition on members of the public from commenting on Mayor

Owens's dispute with Councilman Curley constitutes unlawful content discrimination under the First Amendment.

182. Plaintiffs are entitled to a declaration under 28 U.S.C. § 2201 that Defendants' prohibition on members of the public commenting on matters involving a "police report" constitutes unlawful content discrimination under the First Amendment.

183. Without declaratory and injunctive relief from this Court, Defendants' viewpoint and content discrimination against Plaintiffs' speech will continue and Plaintiffs will suffer per se irreparable harm indefinitely.

FOURTH CLAIM
Violation of First Amendment (Injunctive and Declaratory Relief)
Overbreadth
42 U.S.C. § 1983
(All Plaintiffs against Defendant Monique Owens in her official capacity and
Defendant City of Eastpointe)

184. Plaintiffs re-allege and re-incorporate the preceding paragraphs as though fully set forth herein.

185. The First Amendment to the Constitution prohibits laws that regulate substantially more speech than the Constitution allows to be regulated.

186. Defendants' policy prohibiting public comments "direct[ed]" at an individual City Council member is substantially overbroad because it reaches a significant amount of protected First Amendment speech, including peacefully

criticizing a public official by name or title, peacefully directing comments to a particular public official, and orderly critical speech which disparages or offends.

187. Defendants' policy prohibiting public comments "direct[ed]" at an individual City Council member reaches a substantial amount of protected First Amendment expressive relative to any legitimate sweep.

188. To the extent Defendants' policy prohibiting public comments "direct[ed]" at an individual City Council member has any constitutionally permissible application in terms of maintaining order, its reach is so broad that it chills a substantial amount of constitutionally protected speech, including, for example, criticizing a public official's actions and speaking in support of a public official.

189. The reach of Defendants' policy prohibiting public comments "direct[ed]" at an individual City Council member serves only to chill members of the public from engaging in the full array of protected First Amendment speech before the City Council.

190. To the extent Mayor Owens purports to enforce a policy against discussing her dispute with Councilman Curley, such a policy reaches a substantial amount of protected First Amendment speech, including, for example, criticizing a public official's actions and speaking in support of a public official.

191. To the extent Mayor Owens purports to enforce a policy against discussing matters related to “police reports,” such a policy reaches a substantial amount of protected First Amendment speech, including, for example, commenting about a police report made against a public official and criticizing police departments for their actions or inactions related to a police report.

192. To the extent Mayor Owens’s restrictions on discussion of her dispute with Councilman Curley and police reports have any constitutionally legitimate sweep, their reach is substantially overbroad because they encompass a significant amount of protected speech.

193. Mayor Owens’s restrictions on discussion of her dispute with Councilman Curley and police reports serve only to chill members of the public from engaging in the full array of protected First Amendment speech at City Council meetings.

194. Plaintiffs are entitled to a declaration under 28 U.S.C. § 2201 that Defendants’ prohibition of public comments “direct[ed]” at individual members at City Council meetings is substantially and unlawfully overbroad and therefore violates the First Amendment.

195. Plaintiffs are entitled to a declaration under 28 U.S.C. § 2201 that Mayor Owens’ prohibitions on discussing matters involving “police reports” and

discussing her dispute with Councilman Curley are substantially and unlawfully overbroad and therefore violate the First Amendment.

196. Without declaratory and injunctive relief against Defendants' policy prohibiting public comments at City Council meetings "direct[ed]" at a particular member, Mayor Owens's prohibition on public comments at City Council meetings regarding her dispute with Councilman Curley, and Mayor Owens's prohibition on public comments at City Council meetings about matters involving police reports, Defendants' suppression of Plaintiffs' freedom of speech will continue and Plaintiffs will suffer per se irreparable harm indefinitely.

FIFTH CLAIM

Violation of First and Fourteenth Amendment (Injunctive and Declaratory Relief)

Vagueness

42 U.S.C. §1983

(All Plaintiffs against Defendant City of Eastpointe)

197. Plaintiffs re-allege and re-incorporate the preceding paragraphs as though fully set forth herein.

198. The First and Fourteenth Amendments to the Constitution prohibit restrictions on speech which fail to provide members of the public fair notice of prohibited conduct.

199. A government policy is unconstitutionally vague if it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits.

200. Defendants' policy prohibiting public comments "direct[ed]" at an individual City Council member fails to provide members of the public sufficient information to know what is restricted or what is required of them so that they may act accordingly.

201. Defendants' policy prohibiting public comments "direct[ed]" at an individual City Council member fails to provide sufficient precision and guidance so that those enforcing the policy do not act in an arbitrary or discriminatory way.

202. Defendants' policy, which fails to provide members of the public sufficient information to conform their conduct to the requirements of the law, chills Plaintiffs and other members of the public from engaging in protected First Amendment speech.

203. Defendants' policy prohibiting public comments "direct[ed]" at an individual City Council member invites, causes, and is used to facilitate viewpoint discrimination.

204. Mayor Owens uses Eastpointe's policy prohibiting public comments "direct[ed]" at individual members to suit her own whims, namely, to prohibit and restrict direct criticism while allowing direct praise of the Mayor as well as direct criticism of other City Council members.

205. Defendants' policy prohibiting public comments "direct[ed]" at an individual City Council member is facially vague for the reasons stated above and is

vague as applied to Plaintiffs because the policy did not give Plaintiffs fair notice that their conduct fell within the policy nor did it impose meaningful guidelines on the City Council Presiding Officer to prevent the policy from being applied in an arbitrary or discriminatory way, as Mayor Owens did to Plaintiffs.

206. To the extent Mayor Owens purported to enforce a policy against discussing her dispute with Councilman Curley or prohibiting discussion of matters related to “police reports,” Defendants did not publish such a policy, give citizens sufficient notice as to what the policy prohibits and does not prohibit, or provide meaningful guardrails to prevent the policy from being applied in an arbitrary or discriminatory way, as it was with Plaintiffs.

207. Plaintiffs are entitled to a declaration under 28 U.S.C. § 2201 that Defendants’ policy prohibiting public comments “direct[ed]” at individual City Council members, Mayor Owens’s prohibition on public comments on her dispute with Councilman Curley, and Mayor Owens’s prohibition on public comments discussing matters involving “police reports” are unlawfully vague and therefore violate the First and Fourteenth Amendments.

208. Without declaratory and injunctive relief against Defendants’ policy prohibiting public comments “direct[ed]” at individual City Council members, Mayor Owens’s prohibition on public comments on her dispute with Councilman Curley, and Mayor Owens’s prohibition on public comments discussing matters

involving “police reports,” Defendants’ suppression of Plaintiffs’ freedom of speech and petition will continue and Plaintiffs will suffer per se irreparable harm indefinitely.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs respectfully request that the Court enter judgment against Defendants and issue the following forms of relief:

- A. Enter a preliminary and permanent injunction enjoining Defendants from using the Presiding Officer’s authority or Defendants’ public comment policy prohibiting comments “direct[ed]” at an individual member as a basis to suppress criticism of Mayor Owens;
- B. Declare that Defendants’ use of the Presiding Officer’s authority and invocation of Defendants’ public comment policy prohibiting comments “direct[ed]” at an individual member as bases to suppress criticism of Mayor Owens violates the First Amendment;
- C. Enter a preliminary and permanent injunction enjoining Defendants’ public comment policy prohibiting comments “direct[ed]” at an individual member;
- D. Declare that Defendants’ public comment policy prohibiting comments “direct[ed]” at an individual member violates the First and Fourteenth Amendments;

- E. Enter a preliminary and permanent injunction enjoining Defendants' public comment policy prohibiting discussion of Mayor Owens's dispute with Councilman Curley;
- F. Declare that any public comment policy by Defendants prohibiting discussion of Mayor Owens's dispute with Councilman Curley violates the First and Fourteenth Amendments;
- G. Enter a preliminary and permanent injunction enjoining Defendants' public comment policy prohibiting discussion of matters related to police reports;
- H. Declare that any public comment policy by Defendants prohibiting discussion of matters related to police reports violates the First and Fourteenth Amendments;
- I. Award Plaintiffs compensatory (Claims I and II) and punitive (Claim I) damages;
- J. Award Plaintiffs' attorney's fees under 42 U.S.C. § 1988;
- K. Award Plaintiffs their costs; and
- L. Award such other relief as the Court deems appropriate.

Dated: November 9, 2022 Respectfully submitted,

By: /s/ Conor T. Fitzpatrick
Conor T. Fitzpatrick (P78981)
Harrison M. Rosenthal (Pa. Bar No. 332452)
FOUNDATION FOR INDIVIDUAL RIGHTS AND
EXPRESSION
510 Walnut St., Ste. 1250
Philadelphia, PA 19106
(215) 717-3473
conor.fitzpatrick@thefire.org
harrison.rosenthal@thefire.org

Counsel for Plaintiffs

DEMAND FOR JURY TRIAL

In compliance with Federal Rule of Civil Procedure 38, Plaintiffs demand a trial by jury on all issues so triable.

Dated: November 9, 2022 Respectfully submitted,

By: /s/ Conor T. Fitzpatrick
Conor T. Fitzpatrick (P78981)
Harrison M. Rosenthal (Pa. Bar No. 332452)
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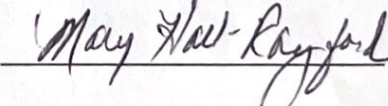
Counsel for Plaintiffs

VERIFICATION OF MARY HALL-RAYFORD

Pursuant to 28 U.S.C. § 1746, I, MARY HALL-RAYFORD, declare
as follows:

1. I am a Plaintiff in the present case and a citizen of the
United States of America.
2. I have read the foregoing Verified Complaint for declaratory
and injunctive relief.
3. I have personal knowledge of the factual allegations in
paragraphs 3, 10, 40, 52, 54-59, 61, 63-67, and 114 of the Verified
Complaint and know them to be true.
4. I verify under penalty of perjury that the foregoing is true
and correct.

Executed on November 3, 2022



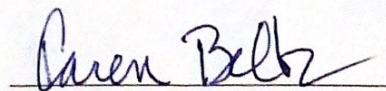
Mary Hall-Rayford

VERIFICATION OF KAREN BELTZ

Pursuant to 28 U.S.C. § 1746, I, KAREN BELTZ, declare as follows:

1. I am a Plaintiff in the present case and a citizen of the United States of America.
2. I have read the foregoing Verified Complaint for declaratory and injunctive relief.
3. I have personal knowledge of the factual allegations in paragraphs 3, 4, 11, 40, 52, 68-75, and 114 of the Verified Complaint and know them to be true.
4. I verify under penalty of perjury that the foregoing is true and correct.

Executed on November 3, 2022



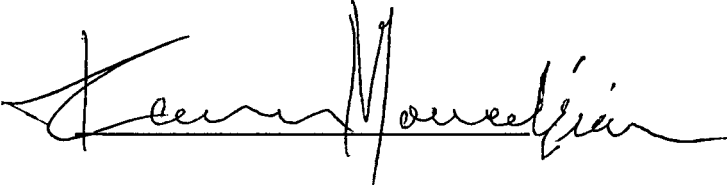
Karen Beltz

VERIFICATION OF KAREN MOURADJIAN

Pursuant to 28 U.S.C. § 1746, I, KAREN MOURADJIAN, declare as follows:

1. I am a Plaintiff in the present case and a citizen of the United States of America.
2. I have read the foregoing Verified Complaint for declaratory and injunctive relief.
3. I have personal knowledge of the factual allegations in paragraphs 6, 12, 76-83, and 114 of the Verified Complaint and know them to be true.
4. I verify under penalty of perjury that the foregoing is true and correct.

Executed on November 4, 2022

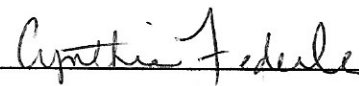

Karen Mouradjian

VERIFICATION OF CYNTHIA FEDERLE

Pursuant to 28 U.S.C. § 1746, I, CYNTHIA FEDERLE, declare as follows:

1. I am a Plaintiff in the present case and a citizen of the United States of America.
2. I have read the foregoing Verified Complaint for declaratory and injunctive relief.
3. I have personal knowledge of the factual allegations in paragraphs 7, 13, 89-96, and 115 of the Verified Complaint and know them to be true.
4. I verify under penalty of perjury that the foregoing is true and correct.

Executed on November 3, 2022



Cynthia Federle

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION
A.	Eastpointe, MI Code of Ordinances, Chapter III
B.	August 23, 2022, Macomb Daily Article, <i>Judge considers Eastpointe mayor's request for PPO against councilman</i>
C.	Macomb County Circuit Court Opinion & Order on Mayor Owens's Protective Order Request
D.	September 6, 2022, Eastpointe City Council Meeting Video. Exhibit D is filed electronically as a media file pursuant to Eastern District of Michigan ECF Policies and Procedures Rule 19(c).
E.	September 6, 2022, Eastpointe City Council Meeting Agenda
F.	Local 4 News Segment, Interview with Mayor Owens. Exhibit F is filed electronically as a media file pursuant to Eastern District of Michigan ECF Policies and Procedures Rule 19(c).
G.	March 22, 2022, Eastpointe City Council Meeting Video. Exhibit G is filed electronically as a media file pursuant to Eastern District of Michigan ECF Policies and Procedures Rule 19(c).
H.	March 1, 2022, Eastpointe City Council Meeting Video. Exhibit H is filed electronically as a media file pursuant to Eastern District of Michigan ECF Policies and Procedures Rule 19(c).

- I. April 19, 2022, Eastpointe City Council Meeting Video. Exhibit I is filed electronically as a media file pursuant to Eastern District of Michigan ECF Policies and Procedures Rule 19(c).

Hall-Rayford et al. v. Owens et al.,

**Exhibit A to
Plaintiffs' Verified Complaint
for Civil Rights Violations**

CHAPTER III. - ORGANIZATION

Sec. 1. - Plan of government.

The form of government provided for in this Charter shall be known as the "Commission-Manager Plan." There is hereby created a Council of four Councilmen and one Mayor, elected in the manner hereinafter specified, which shall have full power and authority, except as herein otherwise provided, to exercise all powers conferred upon the City.

Sec. 2. - Legislative body.

The Mayor and Council shall constitute the legislative and governing body of said City, possessing all the powers herein provided for, with power and authority to pass such ordinances and adopt such resolutions as they shall deem proper in order to exercise any or all of the powers possessed by said City. The Mayor shall be the Executive head of the City and shall possess the same voting powers as that of a Councilman.

(Amended 4-1-1963)

State Law reference— Mandatory that charter provide for a legislative body, MCL 117.3(a).

Sec. 3. - Election of mayor, etc.

The Mayor and members of the Council shall be elected on a non-partisan ticket from the City at large and shall be subject to recall as hereinafter provided. No person shall be eligible to the Office of Mayor or Councilman, who is not twenty-one (21) years of age, a Citizen of the United States, and a resident of the City of Eastpointe at least two (2) years. Furthermore, no person shall be eligible to hold the office of Mayor or Council member who is in default to the City. The holding of such office by any person who is in such default shall create a vacancy unless such default shall be cured within thirty (30) days after written notice thereof by the Council or unless such person shall in good faith be contesting the liability of such default.

(Amended 4-5-1948; Res. No. 1669, § A, 6-21-2011)

Editor's note— Pursuant to the consent judgment and decree in United States v. City of Eastpointe, Civil Action No. 4:17-CV-10079 (U.S. District Court, Eastern District of Michigan, Southern Divisions, June 19, 2019, which decree expires four years from its effective date, beginning with the first general municipal election November 5, 2019, all elections are conducted using ranked choice voting. Ranked choice voting is the method of casting and tabulating votes in which voters rank candidates in order of choice and tabulation proceeds in rounds. The consent decree only applies to elections involving members of the Council and not the Mayor.

Sec. 4. - Term of office.

Each member of the Council shall be elected to serve a term of two years, provided, however, that at the first election under this Charter the two candidates for Councilmen receiving the highest number of votes and the Mayor shall be deemed to be elected and serve until April 1931; the remaining two shall be deemed to be elected and serve until April, 1930. The Mayor shall be elected for a term of two years. The Mayor and Council shall be the judge of election and qualification of its own members. The term of all elective officers shall commence at eight o'clock p.m. on the first Monday following their election.

Editor's note— The terms were increased to four years by Code §§ 2-20, 2-22, adopted pursuant to MCL 168.644e et seq.

Sec. 5. - Time of organization.

At eight o'clock p.m., on the first Monday following the regular Municipal Election, the Council shall meet at the usual place for holding the meetings of the legislative body of the City, for the purpose of organization. The Mayor shall preside at the first meeting under this Charter. Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than once each month. The Mayor, any two members of the Council, or the Managers, may call special meetings of the Council, upon at least ten hours written notice to each member, served personally or left at his usual place of residence, provided, however, any special meeting at which all members of the Council are present shall be a legal meeting for all purposes, without such written notice. All meetings of the Council shall be public and any citizen may have access to the minutes and records thereof at all reasonable times. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings in the English language.

Sec. 6. - Quorum.

A majority of all the members elected to the Council shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The Council shall act only by ordinance or resolution.

Sec. 7. - Mayor.

The Mayor shall be presiding officer and executive head of the City, and perform such other duties as are or may be imposed or authorized by the laws of the State or this Charter. In times of public danger or emergency, he may, with the consent of the Council, take command of the police and such other departments and subordinates of the City, as may be deemed necessary by the Council, and maintain order and enforce laws. The Council shall also at the said first regular meeting after election, elect, by ballot, another member of the Council, Mayor pro tem, who, during the absence or disability of the Mayor to

perform his duties, shall act in the name and stead of the Mayor, and shall, during the time of such absence or disability, exercise all the duties and possess all the powers of the Mayor. The Mayor shall receive compensation of eight hundred dollars (\$800.00), per year, payable in monthly installments.

(Amended 4-5-1954)

Editor's note— The compensation is now determined by the local officers compensation commission, which is created in Code § 2-370.

State Law reference— Mandatory that charter provide for election of mayor, MCL 117.3(a).

Sec. 8. - Council.

Each Councilman shall be paid for his services the sum of fifty dollars (\$50.00) per month. Except for the purpose of inquiry, the Council and each of its members shall deal with the Administrative Branch of the City Government solely through the Manager, except in the Department of Finance and Law, and neither the Council nor any member thereof, shall give any order or direction, either publicly or privately, to any of the subordinates of the Manager.

(Amended 4-5-1954)

Editor's note— The compensation is now determined by the local officers compensation commission, which is created in Code § 2-370.

Sec. 9. - Vacancy.

A vacancy in any elective office, shall be filled by appointment by a majority of the remaining members of the Council. Such appointee shall hold office until the next regular Municipal Election or any special election, at which election a successor shall be elected for the unexpired term of the member in whose office the vacancy occurs. Provided, however, that the term of no member shall be lengthened by his resignation and subsequent appointment.

State Law reference— Authority that charter prescribe method for filling vacancy in office, MCL 201.37.

Sec. 10. - Absence from meetings.

Absence from five consecutive regular meetings shall operate to vacate the seat of a member, unless the absence is excused by the Council, by resolution setting forth such excuse and entered upon the Journal.

Sec. 11. - Bonds of officers.

The Mayor and each member of the Council before entering upon the duties of his office, shall give a bond to the City of Eastpointe, in the sum of five thousand dollars (\$5,000) (City to pay the premium thereon) conditioned upon the faithful performance of the duties of his office. Said bond and the sureties thereof to be approved by the Attorneys of said City, and when so approved, recorded by the Manager in a record book kept for that purpose in the office of said Manager, and when so recorded, said bonds shall be filed with the City Treasurer.

Editor's note— Bonds are covered by a city insurance policy.

Sec. 12. - Justices of the peace.

Until otherwise provided by law, there shall be elected two Justices of the Peace as provided in Act No. 398, Local Acts of 1907 of the State of Michigan as amended, and there shall be elected annually two constables on the first Monday in April. Provided, however, that there shall be elected at the first election held under this Charter, two constables, who shall hold office until their successors are elected and qualified.

Editor's note— The cited Act has been repealed. The city no longer has justices of the peace or constables.

Sec. 13. - Departments.

The Administrative functions and powers of the City shall be divided into six departments as follows: Law, Finance, Public Works and Service, Public Welfare, Public Safety, and Public Health, subject to modifications as hereinafter provided.

Editor's note— The current departments are Law, Finance, Public Works and Service, Assessing, Building, Police, Fire, Parks and Recreation.

Sec. 14. - Directors of departments.

There shall be a director of every Department who shall have the supervision and control thereof and who, with the exception of the Director of Law, shall be appointed by and immediately responsible to the City Manager for the Administration of the Department.

(Amended 11-4-1930; Res. No. 1695, § A, 2-21-2012)

Sec. 15. - Supervision of manager.

The Director of every Department except that of Law shall be subject to the supervision and control of the Manager in all things except as otherwise herein specifically provided.

(Amended 11-4-1930; Res. No. 1695, § B, 2-21-2012)

Sec. 16. - Duties of departments.

The Council shall, by ordinance, determine and prescribe the functions and duties of each department, subject to the expressed provisions contained herein, and may by a vote of a majority of its members create new departments, combine existing departments, and establish temporary departments for special work.

Sec. 17. - Appointments.

The Council may appoint a City Manager and a City Attorney, and in the event a City Manager is not appointed, the Council may appoint a City Clerk who shall perform all duties of a city clerk herein called for to be performed by the Manager, each of whom shall be appointed for an indefinite period and be removable by the Council.

(Amended 4-6-1931; Res. No. 1579, § 2, 11-4-2008; Res. No. 1695, § C, 2-21-2012)

Sec. 18. - Manager.

The Manager shall be the chief administrative officer of the City. He shall be chosen by the Council solely on the basis of his executive and administrative qualifications. The Manager shall have had at least one year experience as manager or assistant manager in some city or village, and shall, during his term of office, reside in the City of Eastpointe; provided, however, he shall be a citizen of the United States of America. The Manager shall file a bond satisfactory to the Council.

Sec. 19. - Responsibility of manager.

The Manager shall be responsible to the Council for the proper administration of the affairs of the City and to that end shall make all appointments, including the heads of departments, except as herein otherwise specifically provided.

Sec. 20. - Manager to attend meetings.

He shall be required to be present at all meetings of the Council and be entitled to be present at all meetings of its committees and to take part in all discussions, but shall have no vote.

Sec. 21. - Compensation of manager.

The Manager shall receive a compensation to be fixed by the Council. If the Council at any time shall desire to remove the Manager, it may at any time upon the affirmative vote of a majority of the Council.

Sec. 22. - Assistant manager.

There shall be a City Assessor and also an Assistant City Manager, the latter shall be Deputy Clerk and shall perform the duties of the City Manager in case the Manager is sick, absent from the City or unable to perform his duties for any other reason.

(Amended 4-5-1954)

Sec. 23. - Clerk.

The Manager shall be Clerk of the Council, and shall, with the Mayor, sign and attest all Ordinances; and the Journal or Record of the Council's proceedings shall be prepared, kept and signed by the Manager and approved in writing by the Mayor. In addition, the Manager shall be the City Clerk and as such Clerk shall perform such other duties as are prescribed by this Charter, the General Laws of the State, or by the Council.

(Amended 4-5-1948)

Sec. 24. - Department of law.

The Director of Law shall be an attorney at law who shall have practiced in the State of Michigan for at least five years. He shall be the chief legal advisor of and attorney for the City and all departments and offices thereof in matters relating to their official powers and duties. It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the Department of Law; to attend all meetings of the Council; to give advice in writing, when so requested, to the Council, the City Manager or the director of any department; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of him by law; to prepare all contracts, bonds and other instruments in writing in which the City is concerned, and to endorse on each his approval of the form and correctness thereof; and to perform such other duties of a legal nature as the Council may by ordinance require. In addition to the duties imposed upon the Director of Law by this Charter or required of him by ordinance or resolution of the Council, he shall perform any duties imposed upon the chief legal officers of municipalities by law.

Sec. 25. - Opinion by attorney.

The Council, City Manager, the Director of any department or any officer or Board, not included in any department, may require the opinion of the City Attorney upon any question involving their respective powers and duties.

Sec. 26. - Director of finance.

The Director of Finance shall have direct supervision over the Department of Finance and the administration of the financial affairs of the City, including the keeping of accounts and financial records and collection of taxes, special assessments and other revenue, and such other duties as the Council may by ordinance prescribe or as directed by the City Manager.

(Res. No. 1695, § D, 2-21-2012)

Sec. 27. - City treasurer.

The Director of Finance shall be the City Treasurer, and shall perform all the duties required by this Charter, the General Laws of the State, or which the Council shall by ordinance prescribe or as directed by the City Manager.

(Res. No. 1695, § E, 2-21-2012)

Sec. 28. - Director of public works.

The Director of Public Works and Service shall, except as otherwise provided in this Charter, or by the Council, manage and have charge of the construction, improvement, repair, maintenance of streets, sidewalks, alleys, lands, bridges, viaducts and other public highways; of sewers, drains, ditches, culverts, canals and water courses; of municipal water supply, and all works, lands, water, lands under water, dams, pumping station, ways, mains, pipes, and all other works connected therewith, of all public buildings, public places and grounds; of the establishment, development and maintenance of parks and playgrounds but not the management and supervision of such parks; of all sewage and garbage disposal and reduction plants and all other public utilities owned or operated by the City. He shall have charge of the enforcement of all the obligations of privately owned or privately operated public utilities enforceable by the City; of the making and preservation of surveys, maps, plans, drawings and estimates for public work; of the cleaning, sprinkling and lighting of the streets and public places.

Sec. 29. - Director of public welfare.

The Director of Public Welfare shall have the supervision and management of all charitable, correctional and reformatory institutions and agencies belonging to the City; the supervision of the use of recreational facilities of the City, including parks and playgrounds; the inspection and supervision of public entertainment; the study and research into the causes of poverty, delinquency, crime, and the relief and prevention thereof; and other welfare and social problems in the community, and such other duties as the Council may by ordinance prescribe.

Sec. 30. - Director of public safety.

The Director of Public Safety shall have supervision of and enforce all the laws and ordinances relating to buildings, weights and measures, city pounds, the preservation of the public peace and order, and all other laws and ordinances, the enforcement of which is not specifically provided for in this Charter. He shall have the control and management of the Police and Fire departments, which departments shall consist of a chief of each and such other officers, patrolmen, firemen and other employees or members as the Manager may determine. Provided, however, that the Council may by ordinance provide for the so-called two-platoon system in the Fire Department.

Sec. 31. - State fire wardens.

The Director of Public Safety and the Chief of the Fire Department shall be vested with all the powers of State Fire Wardens.

Sec. 32. - Powers of sheriffs.

The Director of Public Safety and all members of the Police Department shall have the same powers as sheriffs and constables in the serving of civil and criminal process, in the making of arrests, both within and without the City, but within the State. They shall have the power to arrest, without process, all persons, who in the presence of the officer, shall be engaged in the violation of any law, and to detain such person until complaint can be made and process issued for their arrest, which complaint shall be made as speedily as possible after such arrest.

Sec. 33. - Chief of fire department.

The Chief of the Fire Department or person in charge of the department at any fire, may cause any building to be razed or destroyed, when deemed necessary, in order to arrest the progress of a fire, and no action shall be maintained against any person or against the City therefor.

Sec. 34. - Powers of director of safety.

The Director of Public Safety shall have such other powers and perform such other duties as the Council may by ordinance prescribe.

Sec. 35. - Director of public health.

The Director of Public Health shall be a man of recognized qualifications in Public Health administrations, and shall have and exercise for the City all the powers and authority conferred upon Boards of Health and Health Officers by the General Laws of the State and by this Charter. It shall be his duty to enforce all laws and ordinances pertaining to public health, and such other duties as the Council may by ordinance prescribe.

Editor's note— This is a county function now.

Sec. 36. - Purchasing agent.

The Council shall by ordinance provide for the creation of the office of Purchasing Agent, prescribe his duties and the rules and regulations relative thereto. The Manager or some officer, other than any person connected with the Department of Finance to be designated by the Manager, shall act as purchasing agent, and if so designated, shall act under the direction of said Manager, and if other than the Manager, he shall file a bond satisfactory to the Council.

Sec. 37. - Requisition.

No purchase shall be made except on a requisition by the head of a department, countersigned by the Manager and approved by the Director of Finance. No purchase shall be made in excess of appropriations.

Sec. 38. - City auditor.

The Council may by ordinance provide for the office of City Auditor and when such office is provided for, the Auditor shall be appointed by and be under the direction of the Council.

Sec. 39. - Board of supervisors.

The Council shall designate who shall represent the City on the Board of Supervisors of Macomb County, provided, however, that the City Assessor and City Attorney shall by virtue of their office be members of the Board of Supervisors and the Council may designate the Mayor and one of its members to serve on said board.

(Amended 11-7-1950)

Editor's note— The election of the board of supervisors is now governed by MCL 46.401 et seq.

Sec. 40. - Powers of supervisors.

The representatives of the City aforesaid, shall be endowed with all the rights, powers and duties conferred upon supervisors of townships by the General Laws of this State, except where otherwise provided for in this Charter.

Sec. 41. - Salaries.

The Manager shall fix, subject to the approval of the Council, the salary or compensation of the heads of all departments and all the employees thereof, except the Department of Law; provided that this shall not be deemed to include officers or employees required in the conduct of elections, either primary, general or

special. The Council shall fix the salary of the Manager and the City Attorney. Compensation of assistant and subordinate employees of the Departments of Law, other than Associate Counsel, and the compensation of the deputy and subordinate employees of the Clerk's office, shall be fixed by the Director of Law and the Clerk, respectively, subject to the approval of the Council.

(Res. No. 1695, § F, 2-21-2012)

Sec. 42. - Duties of appointive officers.

All appointive officers of the City shall perform such duties as shall be prescribed by ordinance, this Charter, the General Laws, and which may be required by the Council and the heads of Departments.

Sec. 43. - Relatives.

Relatives by blood or marriage of the Mayor or any Councilman, or the Manager, within the second degree of consanguinity or affinity, are hereby disqualified from holding any appointive office or employment during the term for which the said Mayor or any Councilman was elected, or during the tenure of office of said Manager.

Relatives by blood or marriage of any Department Head within the second degree of consanguinity or affinity, are hereby disqualified from being employed in the same Department, subsequent to the appointment of the Department Head.

(Amended 4-1-1957)

Sec. 44. - Council to fix compensation.

The compensation of all officers and employees of the City, including all election officials, shall be fixed by the Council, except as otherwise specifically provided herein.

Sec. 45. - Oath of office.

Every officer shall, before he enters upon the duties of his office, subscribe and file with the Manager an oath to support the Constitution of the United States and the Constitution of the State of Michigan, and faithfully perform the duties of the office to the best of his ability.

State Law reference— Oath of public officers, Const. 1963, Art. XI, § 1.

Sec. 46. - Bonds of officers.

The Council may require any officer or employee to give a bond for the faithful performance of his duty in such amount as it may determine, and the premium thereof shall be paid by the City, except that of the Manager.

Sec. 47. - When bond to be filed.

Any officer or employee, required by the provisions of this Charter, the General Laws of the State, by any ordinance of the City of Eastpointe, or by the Council, to give bond, shall not enter upon the duties of his office or employment until such bond shall be duly filed, approved and recorded.

Sec. 48. - Bonds to be filed with clerk.

All such bonds, except as herein otherwise provided, shall be approved by the Council and filed with the Clerk, excepting the bond of the Clerk, which shall be filed with the Treasurer.

Sec. 49. - Elective officers not to hold office.

No elective officer shall hold any office or employment, except that to which he was elected, compensation for which is paid out of Municipal money, nor be elected or appointed to any office created or the compensation of which was increased or fixed by the Council while he was a member thereof, until the expiration of one year from the date when he ceased to be a member of the Council, except as herein otherwise provided.

(Amended 2-18-1957)

State Law reference— Incompatible offices, MCL 15.181 et seq.

Sec. 50. - Bonds to be surety bonds.

All bonds required under the provisions of this Charter shall be surety company bonds.

Sec. 51. - Deposits and payments by city.

All taxes, special assessments and license fees accruing to the City, shall be collected by the City Treasurer. All moneys received by any officer or employee of the City for or in connection with the business of the City shall be paid promptly into the City Treasury, and shall be deposited with such responsible banking institution as may be designated by the Council and furnishing such security as the Council may determine, and all interest on such deposits shall accrue to the benefit of the City. The Council shall provide for the prompt and regular payment and deposit of all City moneys as required by this section. All fees received by any officer or employee in this official capacity shall belong to the City except as in this Charter otherwise provided. All appointive officers and employees shall receive an annual salary to be determined by the Council and no fees, percentages or commissions shall be paid to any appointive officer or employee.

Hall-Rayford et al. v. Owens et al.,

**Exhibit B to
Plaintiffs' Verified Complaint
for Civil Rights Violations**

LOCAL NEWS

Judge considers Eastpointe mayor's request for PPO against councilman

Opinion expected within 14 days



Eastpointe Mayor Monique Owens (left) during an Aug. 23 hearing where she was seeking a personal protection order against Eastpointe Councilman Harvey Curley (right). (PHOTO BY SUSAN SMILEY)

By **SUSAN SMILEY** | ssmiley@medianewsgroup.com | Macomb Daily

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Eastpointe Mayor Monique Owens will have to wait a few more days to learn if her request for a personal protection order against Eastpointe Councilman Harvey Curley is granted.

In Macomb County Circuit Court Tuesday, Judge Rachel Rancilio said she would take the request under advisement and issue an opinion within the next 14 days.

Owens' complaint stems from an alleged incident during the Cruisin' Gratiot event on June 18. In a case report from the Macomb County Sheriff's Office that was obtained through a Freedom of Information Act request, Owens alleges she was assaulted by Harvey during the opening ceremonies of the cruise. According to the report, Owens told police Harvey was yelling at her and putting his hands in her face and that she felt "fear, panic, and intimidation."

That case was dismissed and Owens' request for a personal protection order initially denied but a hearing on the matter was set and held Tuesday morning.

Owens and Harvey each testified and had one witness testify on their behalf.

Owens acknowledged she was not invited to speak during the opening ceremonies of the cruise but that she got on to the stage and after Curley closed the ceremony, approached the microphone and spoke for approximately five minutes. She said afterwards, Harvey verbally attacked her.



Eastpointe Mayor Monique Owens (third from the left) was escorted from the Maccomb County Circuit Court building by a Sheriff's deputy.(PHOTO BY SUSAN SMILEY)

"He has always been enraged with me, but this was different," said Owens. "He yelled at me, he was trying to humiliate me, and he had his hands in my face."

Owens said several times she was afraid for her life and called to a clergy member, who had just given a pre-cruise prayer, to help her.

Harvey said it has long been a Cruisin' Gratiot policy that no politicians speak at the event as it is not city-sponsored and said he was upset Owens had taken it upon herself to take the mic after being told not to and that he slammed his clipboard on the stage when he was exiting it. The opening ceremony included a prayer service, which had just ended when Owens took the stage.

"Yes, I was upset, but enraged? I've never been enraged in my life," said Harvey, who has been on the Cruisin' Gratiot board for 23 years. "I wasn't screaming and I didn't cuss. I said, 'you weren't invited to speak; how dare you get up there and speak' and then I said that I was really upset and needed to pray."

At that point, Harvey said the five pastors who had spoken during the opening ceremony surrounded him and they all prayed together.

Bishop Eric Lloyd of the Rhema International Church in Harper Woods was one of the pastors who led the crowd in prayer during the cruise opening ceremony and testified on behalf of Owens. He said he heard Owens call out asking for his help after she exited the stage.

"I could see the fear on her face," said Lloyd. "I did hear her tell him to put his hands down and I was trying to separate the two. I told him it was not the time or place and told him to calm down."

Cruisin' Gratiot board member Sheila Ulinski, who said she was working at the registration table next to the stage at the time of the incident, testified on behalf of Curley.

"Mr. Curley was upset," said Ulinski. "A threat? No. Angry? Yes. When someone hijacks your program it tends to make you upset."

Rancilio said based on Tuesday's testimony, she did not believe Harvey acted appropriately, but she was also not sure his action's merited a personal protection order.

"I don't know if a personal protection order is appropriate in this case, but I certainly do know that the behavior that you engaged in that day was not appropriate," said Rancilio. "It doesn't matter if she was invited to speak or not invited to speak or if she did speak or not or who told her to speak."

Rancilio said she needed time to consider the case and would issue a written opinion within 14 days.

Owens and Lloyd exited the courthouse together accompanied by a sheriff's deputy.

Hall-Rayford et al. v. Owens et al.,

**Exhibit C to
Plaintiffs' Verified Complaint
for Civil Rights Violations**

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

MONIQUE OWENS,

Petitioner,

Case No. 2022-002271-PH

v.

HARVEY CURLEY,

Respondent.

OPINION AND ORDER

This matter is before the Court on Petitioner Monique Owens' ("Petitioner") Petition for a Personal Protection Order ("Petition") pursuant to MCR 3.701 et seq.

BACKGROUND AND PROCEDURAL HISTORY

This case arises out of the alleged behavior of Respondent Harvey Curley ("Respondent") while attending a public event held in the City of Eastpointe, MI ("City") on June 18, 2022. On June 22, 2022, the Petition was filed with a copy of a police report dated June 19, 2022.

On June 23, 2022, the Court entered an Order denying the request for an ex parte personal protection order ("PPO"), for the reason that the Court needed more evidence in order to evaluate the request. On August 15, 2022, almost two months after the Petition was filed, the Proof of Service was filed, showing service upon the Respondent took place on August 10, 2022 at 1:53 pm. The matter was then scheduled for, and proceeded to, a hearing on August 23, 2022.

At that time, the Court heard testimony from four witnesses: Petitioner, Respondent, Mr. Eric Lloyd (on behalf of Petitioner) (one of the religious dignitaries present), and Ms. Sheila Ulinski (on behalf of Respondent) (one of the event's board members present). Following the

testimony and arguments made by the parties, the Court took the matter under advisement to issue this Opinion and Order.

SUMMARY OF TESTIMONY

Petitioner is the Mayor of Eastpointe. Respondent is an Eastpointe City Council Member. As Respondent testified, he was the chairman/event planner for the opening ceremonies of the annual “Gratiot Cruise”, which is where the described incident took place.

According to Respondent’s testimony, this event was supposed to be apolitical in nature, as it had been for the prior 23 years that he has been its chairman. As Respondent indicated, he had several speakers scheduled for the event, but did not invite the Petitioner to speak, and she was not listed on the event’s program.

As described by both Petitioner and Respondent, a stage for the event’s dignitaries was set up in the parking lot of Eastpointe High School. Respondent testified that between 11:00 am and 12:30 pm, he and the program’s speakers were on the stage while speeches and prayers were being given. At one point, the timing not being clearly established by the testimony given, Petitioner testified that she made her way up to and sat on the stage. She admits that she had not planned on addressing the crowd at the event. Given the COVID pandemic, Petitioner testified this was the first Gratiot Cruise she was able to attend in her official capacity as Mayor.

Toward the end of the scheduled program, Mr. Lloyd (one of the religious dignitaries present) testified that he saw Pastor Freeman, another religious dignitary, approach Respondent on the stage while Respondent held the microphone in his hand. Mr. Lloyd further noted that while not hearing specifically what was discussed between them, shortly after the conversation started Mr. Lloyd heard Respondent yell out over the microphone a loud “NO!”

At that point, Respondent testified that he gave his closing remarks and ended the program. Mr. Lloyd testified that Petitioner then walked over to the microphone and began addressing the crowd. Petitioner testified that earlier she was urged on by one of the other religious dignitaries to speak, which she initially declined. However, Petitioner further stated that she was later urged to speak by the DJ in charge of the event's music program. Petitioner testified that she chose to make a few non-political remarks. Respondent does not dispute the nature of Petitioner's remarks.

During his testimony, Respondent admitted that he got "mad" that Petitioner was speaking. Mr. Lloyd testified that as Petitioner finished her remarks, he saw Respondent throw down a clipboard and punch a stage wall with a closed fist. As Petitioner testified, Respondent then immediately, and in an extremely aggressive and confrontational manner, started yelling and screaming at her on the stage. Petitioner further testified that as she began to move away from Respondent toward the stairs, he ran around a table with his hands up in a threatening manner and continually yelled and screamed at her "who do you think you are?" Mr. Lloyd testified he heard Respondent yell at Petitioner that "you were not invited to speak!" and "what do you think you're doing, this is not a city event." As Petitioner and Mr. Lloyd noted, this all happened in front of a large crowd of people gathered around for the event.

Petitioner testified that she then went down the stairs and that Respondent followed her. Mr. Lloyd testified that all of a sudden he heard Petitioner say, "Bishop, can you help?" At that point, Mr. Lloyd testified that he saw Respondent "in [Petitioner's] face with his hands up". Mr. Lloyd testified that he got in between them. Petitioner testified that she kept asking Respondent to put his hands down, but he kept saying, "I don't give a damn!" and "no one tells me what to

do!” Mr. Lloyd further testified that Respondent would not put his hands down despite repeated requests to do so.

Mr. Lloyd further testified that he felt that Respondent was an absolute threat to Petitioner. He stated that he “saw the fear on her face, like a deer caught in headlights”. He then testified that he could not stop or calm down Respondent and that he was just trying to separate them as Respondent kept pointing his finger in her face.

This is all with the backdrop that as previously testified to by Mr. Lloyd, he has known Respondent over the years, likes him, had never seen him act this way before, and that such was totally out of character for him. Nonetheless, Mr. Lloyd testified that Respondent was enraged during this incident.

Mr. Lloyd testified that not only was it a hostile environment, but that Respondent was the one that was confrontational, and that he believes if he had not intervened the situation would have escalated into a physical altercation.

Petitioner, Respondent, and Mr. Lloyd testified that some of the other religious dignitaries then came over to them and coaxed Respondent away from Petitioner. Respondent testified that at this point he said, “I need to pray”. Petitioner testified that she and Respondent did not see each other for the remainder of the event.

Ms. Ulinski admitted in testimony that she did not see the events as they occurred on the stage. She testified that she did see Respondent come down the stage stairs and he went right up to Petitioner. Ms. Ulinski testified that it was as if Petitioner was trying to “hi-jack” Respondent’s program. Ms. Ulinski did not feel that Respondent was a threat and indicated that Respondent is animated and speaks with his hands often. Further, she noted that if Petitioner

was in such fear, she could have gotten the attention of any one of several police officers stationed in the area, or would have reported the incident to the police much sooner than she did.

It should be noted that there have been no reported incidents between the parties prior to or since the date of incident.

STANDARD OF REVIEW

Except as otherwise provided in MCL 600.2950a, an action for a PPO is governed by the Michigan Court Rules. MCR 3.701(A). The decision to grant or deny a PPO is left to the sound discretion of the trial court. *Patterson v Beverwyk*, 320 Mich App 670; 922 NW2d 904, 910 (2017). Further, “[t]he petitioner for a PPO bears the burden of proof.” *Id.* at 911. In this regard, in order for a court to grant a nondomestic relationship PPO under MCL 600.2950a(1), it is necessary for the petitioner to allege facts meeting the defined prohibited conduct set forth under MCL 750.411h. MCL 600.2950a(1).

Moreover, a PPO under MCL 600.2950a is “... an injunctive order ... restraining or enjoining conduct prohibited under [MCL 600.2950a(1)].” MCL 600.2950a(31)(d). MCL 600.2950a(7) notes that if the court refuses to issue a PPO, it shall state in writing the specific reasons for doing so.

LAW AND ANALYSIS

Michigan statutes provide for three types of PPOs, which are usually viewed in light of the underlying relationship had between the petitioner and respondent: 1) for a domestic relationship – MCL 600.2950; 2) for a nondomestic relationship – MCL 600.2950a(1); and 3) for a sexual assault – MCL 600.2950a(2)(a). The case at hand involves a nondomestic relationship between the Petitioner and Respondent.

Pursuant to MCL 600.2950a(1), "... an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin an individual from engaging in conduct that is prohibited under [MCL 750.411h]."

MCL 750.411h(1)(d) prohibits a person from engaging in action(s) that result(s) in "... **a willful course of conduct involving repeated or continuing harassment** of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested." (emphasis added).

Under MCL 750.411h(1)(c), "harassment" is defined as "... conduct directed toward a victim that includes, but is not limited to, **repeated or continuing unconsented contact** that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress." (emphasis added).

"Uncontested contact" under MCL 750.411b(1)(e) is defined as "... any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Uncontested conduct includes, but is not limited to, any of the following: ... (ii) Approaching or confronting that individual in a public place or on private property." Hence, actual contact with the person's body is not a requirement for uncontested contact. In the case at hand, Petitioner has not alleged that Respondent made any actual physical contact with her.

The term "emotional distress" as used in MCL 750.411h(1)(c) is defined as "... significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling." MCL 750.411h(1)(b).

Preliminarily, Respondent's alleged conduct in this case can only be described as childish and extremely inappropriate in any setting of interaction between two adults. Even more so for an elected official attending a public event in his role/capacity as the event planner. His desire to keep the event apolitical certainly does not justify the extreme reactions he exhibited and directed toward the Petitioner for her perceived "high jacking" of the event. As a result of Petitioner speaking for approximately 5 minutes, without any political overtone in her comments, Respondent's actions toward Petitioner can only be described as having occurred for childish and/or petty motives. They far exceeded the perceived disrespect shown to him.

However, while his behavior was admittedly inappropriate, the Court must determine whether the conduct is enough to warrant the Petitioner's request for a Personal Protection Order. In this context, the Court is well aware of the parties dislike for each other, however that is not a basis to which a Personal Protection Order would be entered by the Court. Upon examining the specific facts of this case, the Court does not feel that the conduct exhibited by the Respondent warrants the issuance of a Personal Protection Order. Based on all the testimony during the hearing, the behavior of the Respondent, while socially reprehensible, also appeared to be isolated in nature. There was no evidence taken during the hearing that would demonstrate to the Court that the Respondent is dangerous or that he has exhibited this sort of behavior before. Mr. Curley was angry that the Mayor spoke during his event and he overreacted. The Court is satisfied that the alleged conduct does not constitute "repeated or continuing" conduct sufficient to satisfy the standard set forth in MCL 750.411h.

In *Pobursky v Gee*, 249 Mich App 44; 640 NW2d 597 (2001), the Michigan Court of Appeals undertook an analysis of the respondent's conduct which took place over the course of an evening at an ice arena. The conduct at issue in that case actually involved physical

altercation(s) to go along with repeated threats. Respondent appealed the circuit court's denial of his motion to terminate the PPO entered against him.

In reversing the circuit court, the Court of Appeals centered its attention on the definition of "course of conduct". The term "course of conduct" as used in MCL 750.411h(1)(a) is defined as "... a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose." *Porbursky*, 249 Mich App at 47. In analyzing that standard, the Court of Appeals noted:

The statute does not define the words 'separate' or 'noncontinuous'. The word 'separate', used as an adjective, means 'detached; distinct.' *Random House Webster's New College Dictionary* (1997). The word 'noncontinuous' is a common compound word formed with non-that does not have a special meaning; it is to be understood as not continuous. *Webster's New Twentieth Century Dictionary of the English Language: Unabridged Edition* (2nd ed., 1979). The word 'continuous' is variously defined as 'joined without intervening space; without cessation or interruption; unbroken; constant; connected,' *id.*, or 'uninterrupted in time; without cessation' or 'being in immediate connection or spatial relationship.' *Random House Webster's New College Dictionary* (1997). Thus, two or more separate noncontinuous acts are distinct from one another that are not connected in time and space.

Porbursky, 249 Mich App at 47.

The Court of Appeals then held that because the "... petitioner alleged a single incident comprising a series of continuous acts, each immediately following the other", being "... a series of acts evidencing a continuity of purpose, the acts were not separate and noncontinuous." As a result, the Court of Appeals concluded that the alleged conduct did not satisfy the standard set forth in MCL 750.411h(1)(a) and that the trial court erred in entering the PPO and in denying the motion to set it aside. *Id.* at 48

In this case, as in *Pobursky*, Petitioner has alleged a single incident, spanning over the course of approximately 10 minutes, consisting of a series of continuous acts, each immediately following the other. For the reasons discussed in *Pobursky*, such conduct does not rise to the

level of being actionable under MCL 600.2950a(1). The incident that occurred was isolated in nature and was a result of the Respondent overreacting to the Mayors actions. It was not conduct that is so egregious and repeated that it warrants the issuance of a personal protection order and the Court does not feel that the Petitioner needs the further protection that a PPO would provide. Therefore, Petitioner has not met her burden of proof, and the Petition must be denied.

CONCLUSION

For the reasons discussed above, the Petitioner's Petition for a Personal Protection Order is hereby DENIED.

Pursuant to MCR 2.602(A)(3), this Opinion and Order resolves the last pending claim and closes the case.

RACHEL RANCILIO

CIRCUIT JUDGE

IT IS SO ORDERED.

SEP 16 2022

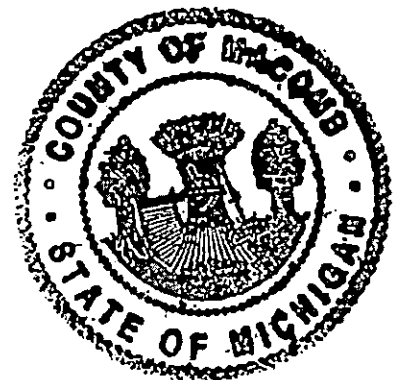
ATRUE COPY
ANTHONY G. FORLINI, COUNTY CLERK

BY: 47. Byffa-Sylvestor Court Clerk

RACHEL RANCILIO
CIRCUIT COURT JUDGE
FAMILY DIVISION

DATED: September 16, 2022

cc: Monique Owens and Harvey Curley



Hall-Rayford et al. v. Owens et al.,

**Exhibit D to
Plaintiffs' Verified Complaint
for Civil Rights Violations**

(Filed electronically as media file pursuant to Eastern District of Michigan ECF Policies and Procedures Rule 19(c)).

Hall-Rayford et al. v. Owens et al.,

**Exhibit E to
Plaintiffs' Verified Complaint
for Civil Rights Violations**



Eastpointe City Council
City of Eastpointe, Michigan

City Council Regular Meeting

City of Eastpointe, Macomb County, Michigan

TUESDAY, SEPTEMBER 6, 2022

Convening at **7:00 PM** | City Hall: 23200 Gratiot Avenue

AGENDA

Invocation

Pledge Allegiance

I. ROLL CALL

II. APPROVAL OF AGENDA

III. HEARING OF THE PUBLIC

IV. APPROVAL OF MINUTES

A. Regular Meeting Minutes - August 16, 2022

B. Special Meeting Minutes - August 19, 2022

V. SCHEDULED HEARINGS

VI. UNFINISHED BUSINESS

VII. REPORTS FROM ADMINISTRATION



Eastpointe City Council

City of Eastpointe, Michigan

- A. City Manager's Report - Mariah Walton
- B. Finance Director's Report - Randy Blum
- C. City Attorney's Report - Richard Albright

VIII. NEW BUSINESS

- A. Appointment to the Planning Commission
- B. Receive and File City Manager Review
- C. Bella Touch Massage Therapy Business License Application - 16583 Ten Mile Road

IX. PAYROLLS AND BILLS

- A. Payrolls and Bills

X. HEARING OF THE PUBLIC

XI. MAYOR AND/OR COUNCIL REPORTS

XII. ADJOURNMENT

NOTICE: The City reserves the right to hold a virtual meeting, should the State of Michigan authorize an extension of the ability for municipalities to meet remotely. **Only if such authorization is granted, the City Council will meet remotely.** Otherwise, the meeting will be held at City Hall in the Council Chambers.

To join the virtual meeting, please click the following link: <https://zoom.us/join> Meeting ID: 414 456 0744 or <https://zoom.us/j/4144560744>. A user may have to download the Zoom app to their device to log into the meeting. To access the meeting by phone, dial +1 312 626 6799.

The Eastpointe City Council has adopted the Sturgis Standard Code of Parliamentary Procedure as its rules in conducting its meetings. All persons attending a City Council meeting shall have a reasonable opportunity to be heard during the two hearings of the public (one hearing of the public during special meetings) on any matter within Council's jurisdiction. A person shall not speak unless recognized by the Mayor. A person who has been recognized to speak shall come to the podium, state their name and address for the record, and shall direct their comments to



Eastpointe City Council

City of Eastpointe, Michigan

the Council as a body, not to an individual member of Council or the public. The speaker shall not speak for more than three minutes. A wireless microphone is available to those speakers who cannot walk or stand so that they can address the Council from their seat when recognized to do so. When the Mayor determines that there are no other members of the public wishing to speak during a hearing of the public, the Mayor will close the hearing, after which time only the City Council may engage in discussion on matters coming before the Council without interruption from the public. The Chief of Police or his designee shall attend any regular or special meeting of Council to enforce the preservation of order when requested to do so. State law prohibits a person from disrupting a public meeting, and a person may be removed from a meeting for a breach of the peace committed at the meeting (Michigan Open Meetings Act).

The City of Eastpointe will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the meeting/hearing upon 5 days' prior notice. Individuals with disabilities requiring auxiliary aids or services should contact the City Manager by writing to Eastpointe City Manager, 23200 Gratiot Avenue, Eastpointe, MI 48021; or by call the City Manager's office at (586) 445-3661 ext. 2206.

Hall-Rayford et al. v. Owens et al.,

**Exhibit F to
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Hall-Rayford et al. v. Owens et al.,

**Exhibit G to
Plaintiffs' Verified Complaint
for Civil Rights Violations**

(Filed electronically as media file pursuant to Eastern District of Michigan ECF Policies and Procedures Rule 19(c)).

Hall-Rayford et al. v. Owens et al.,

**Exhibit H to
Plaintiffs' Verified Complaint
for Civil Rights Violations**

(Filed electronically as media file pursuant to Eastern District of Michigan ECF Policies and Procedures Rule 19(c)).

Hall-Rayford et al. v. Owens et al.,

**Exhibit I to
Plaintiffs' Verified Complaint
for Civil Rights Violations**

(Filed electronically as media file pursuant to Eastern District of Michigan ECF Policies and Procedures Rule 19(c)).