

Response to Robert Brackenridge Ethics Complaint

Important Issue Presented

Mr. Brackenridge's ethics complaint presents an important, and recurring, issue that eventually confronts all Town Board members and staff:

What do you do when a citizen repeatedly posts false information on social media and repeatedly insults the integrity of the Town Board and other citizens who volunteer to serve on Town boards and commissions?

Should you:

- A. Let it pass -- realizing some citizens will give credence to what has been posted?
- B. Engage in extended back-and-forth debates on social media?
- C. Note that the post includes false information or distortions and invite interested citizens to contact you if they desire more information?

At various times while serving as a trustee, I have employed all three of those methods – ignore it, engage in debate on social media, invite citizen inquiries – to deal with false and/or misleading information on social media. With regard to Mr. Brackenridge's Aug. 1, 2021, post, I opted for the latter approach: state briefly on social media that the post contained false and distorted information, then invite further inquiry from any citizen interested enough to do so.

Mr. Brackenridge takes exception to that approach, though he admits some of the information he posted was false. He claims innocent mistake based in part on an email he says he received from another trustee, but he refuses to provide that email, despite an initial promise to do so. His actions in that respect should be given appropriate weight in reviewing his ethics complaint.

Context is also important. Had Mr. Brackenridge's post stood alone, I may have elected to take the "let it pass" option. But his Aug. 1 post was just the latest in a series of social media posts providing false information to citizens while repeatedly questioning the integrity of those serving on Town boards and commissions. Others (the Mayor, the UEB Chair, another UEB member) challenged him on his posts, but he continued his course of action. I will explore that series of posts further below, for they are quite relevant to why I responded to the Aug. 1 post. I also think they raise a very important, general issue extending far beyond the Town of Lyons. That issue is trust in government, and how to counter those who seek to undermine it.

At the risk of being overlong in my response, I will also take this opportunity to speak to some general issues in our Town Code of Ethics, as well as how those issues relate to Mr. Brackenridge's specific complaint.

Initial Objection; Request to Dismiss or Not Proceed Further

Mr. Brackenridge's complaint should be dismissed or, alternatively, determined not to merit further investigation and proceedings. It is not "verified", as required by Code of Ethics Sec. 7.C.1. "Verified" means under oath. This is not a mere technicality. As set forth below, one aspect of the Board of Ethics' consideration of Mr. Brackenridge's complaint should be weighing his credibility. Requiring him to put his statements to this Board under oath is important. Unless Mr. Brackenridge amends his complaint to comply with the verification requirement, it should be dismissed, or the Board should not proceed further with it. Another ground for dismissal (or simply not proceeding further on the complaint, as the Code of Ethics allows) is Mr. Brackenridge's refusal to provide a relevant email he says he reviewed in drafting the Facebook post in question.

Code of Ethics Scope and Application

The Town of Lyons Code of Ethical Standards for Town Officers and Employees ("Ethics Code" or "EC") covers a lot of ground. It deals with true ethics issues – accepting gifts or favors in return for favorable treatment, conflicts of interest, obeying laws relating to local government, not using Town property for personal business, maintaining confidential and privileged information – and also proves a wide-ranging set of rules of good conduct, in some respects resembling an old "Rules of Etiquette" book or Girl Scout/Boy Scout pledges.

For example, read and applied literally, a trustee could be sanctioned under the Code of Ethics for "reading for a long period of time or gazing around the room", for "smirking", or for exhibiting a facial expression that could be interpreted as "disbelief". Ethics Code 5.B.23. Likewise, facial expressions should not reflect "boredom". (As to facial expressions reflecting disbelief or boredom, I am willing to sign a prepared-in-advance admission of guilt. I do not believe all statements made to the Board, and I am indeed bored at times during meetings, as my facial expression will doubtless reflect.) Or, a trustee could be sanctioned for not adequately preparing for a meeting. Ethics Code 5.B.6. Likewise, not following parliamentary procedure violates the Ethics Code (EC 5.B.27) – a violation that probably occurs at every BOT meeting.

The point is: a literal application of the Ethics Code at all times will result in numerous Board of Ethics proceedings and repeated sanctioning of trustees. That has not been and should not be the practice. Rather, discretion and judgment are appropriate in applying the Ethics Code. That should be the course employed with all ethics complaints, including Mr. Brackenridge's complaint.

As a brief aside, the Ethics Code needs some updating and re-writing, separately delineating true ethics violations (such as those noted above) from general rules of good conduct, with varying methods to deal with each.

Factual Background

A. August 1 Brakenridge Post

Mr. Brakenridge's complaint conveniently omits his own Facebook post that prompted the reply attached as Exhibit A to the complaint. A copy of his post and the reply are attached to this document as Exhibit 1.

Mr. Brakenridge's post contained at least three falsehoods:

(1) That the BOT had "grandfathered over decades" existing net metering customer. (The actual term was 8.5 years).

(2) That the BOT was considering using public money for a Town solar facility "[w]ith no plan to reduce consumer costs." (The packet materials prepared by the UEB clearly reflected an 8-year payback period, with cost savings to electric consumers thereafter.)

(3) "Let UEB members know too: they are supposed to independently evaluate such plans, and need to hear not only from utility representatives, but from the public they volunteered to serve." (This was the latest accusation in a long series of posts by Mr. Brackenridge stating or strongly suggesting that the UEB, in recommending a revised net metering policy, had heard only from "utility representatives". In fact, the UEB's recommendation originated with an *independent* rate study and the UEB's years-long process considered multiple perspectives, including existing state utility policies and the positions of rooftop solar installers and their customers.)

Mr. Brakenridge's post also contained distortions that, while not actual falsehoods, provided misleading or incomplete information. For example:

1. "The town utility is now acting to strongly discourage new home- and business-based solar." The Town is not "strongly discouraging" new solar. That would involve no credit for solar production and perhaps high fees for solar installation. Instead, the Town has reduced (but not eliminated) financial incentives for new solar. Mr. Brackenridge himself got it right in a 7/2/21 FB post: "there is much less financial encouragement for new solar installations and a much longer time for the customer to break even." That is a true statement. But "less encouragement" is not the same as "strongly discourage." The latter phrase is a distortion.

2. "Solar farms can be built on floodplains." (Followed by discussion of availability of Lyons buyout properties.) That is also a true statement, but it omits a decisive fact of which Mr. Brackenridge was well aware (because it was contained in UEB presentations Mr. Brackenridge had reviewed multiple times): DOLA, the state agency from which the vast bulk of solar farm

funds would come, was not in favor of building a solar farm in a flood risk area. Mr. Brakenridge distorted the true picture.

B. Prior Brackenridge Posts

Mr. Brakenridge's August 1 post was far from his first relating to recent BOT or UEB actions. There were many prior ones. The prior posts are relevant to Mr. Brakenridge's ethics complaint because (1) they show why I eventually felt it necessary to "call out" Mr. Brakenridge, (2) they show he was thoroughly familiar with details of the UEB's net metering and solar farm proposals to the BOT (including the "grandfathering" period), raising the question of how he got his facts so wrong in his Aug. 1 post, and (3) they call into question his credibility, which this Board is entitled to consider.

(a) June 23+ posts relating to net metering

On June 23, 2021, Mr. Brakenridge initiated a long series of posts relating mostly to the UEB's proposed net metering policy. He got many things wrong and accused the UEB of being "exceptionally one-sided" in its presentation. Mr. Brakenridge repeatedly hammered on the theme that the UEB had been unduly influenced by MEAN or "utilities", calling into question the UEB's objectivity. For example:

"I suspect that what it is happening is that our town's UEB is only really hearing one side of the issue, and it is the perspective of a large solar utility."

"[W]hy not at least have the UEB receive input other than just that from MEAN utility employees. It's plain that there has been no study at all on the downsides of this proposed change. That is not providing the Town the balanced input it needs." [In fact, there HAD been a study by an independent rate consulting firm, and the BOT was indeed provided the possible downsides of the proposed change.]

"UEB took only invited input from the carbon-fueled MEAN utility." [Note the conflicting descriptions of MEAN as a "large solar utility" and a "carbon-fueled utility.]

Mr. Brakenridge's posts about the UEB led UEB Chair and former Town trustee Jim Kerr to choose the "debate on social media" option for dealing with false information and Mr. Brackenridge's suggestions that a Town commission was not doing its duty to objectively consider all sides of an issue. In the discussion with Mr. Kerr, Mr. Brakenridge made it clear that he had read multiple times through the UEB's materials presented in BOT packets. Therefore, any suggestion by Mr. Brakenridge that he was uninformed about the contents of those proposals is not correct. Among other things, Mr. Kerr informed Mr. Brakenridge again and again that the UEB's proposal had resulted from an independent rate study, not simply consulting with "utilities" or MEAN.

Mr. Kerr, after repeatedly explaining how Mr. Brakenridge was misrepresenting the UEB's proposals, ultimately took him to task, saying, "Interesting how you keep obscuring the

facts." And then: "Robert Brakenridge – Just because you keep making an incorrect statement over and over again does not make it correct."

Ultimately, Mr. Brakenridge acknowledged his mistakes: "Jim, I appreciate your attempt to stay with this and correct any errors. I think I do have some errors to correct in several of my statements above ..." (Mr. Brakenridge, however, never acknowledged the falsity of his accusations that the UEB was "one-sided" and only considered the perspective of utilities. He has continued to pound that false narrative, including in his Aug 1 post.)

I have not attached the extremely long exchanges of posts between Chair Kerr and Mr. Brakenridge, but have a printed copies available for review upon request.

(b) June 30 post relating to BOT Summit housing actions

[For full post, see Exhibit 2]

"What is going on in town hall? An executive session of our town board was recently held. These sessions are strictly limited via Colorado law, they cannot be used to shield discussions related to town financial contributions to a developer's subdivision plans. The mere presence of the town attorney is specially not an excuse for executive session, nor are 'negotiations', unless those are for town purchase or sale of town land. The rules are very strict. There is an appearance ... that more general matters may have been discussed; matters that are not protected; an appearance that the town is keeping private what is not in any respect confidential information. But these are public matters, very public matters, must only be discussed in public meeting They have not been up to now! The only conceivable basis for executive session ... would be for the town to obtain legal opinion about its option to proceed to enforcement against the developer ... Anticipated lawsuits are protected; negotiations regarding financial concessions ... are not."

As with his Aug. 1 FB post about the BOT's action on net metering, and as with his June 23+ posts back-and-forth with UEB Chair Kerr, Mr. Brakenridge's June 30 post presents false information. It is NOT true (1) that Town board executive sessions for "negotiations" are limited to purchase or sale of town land or (2) that the only conceivable basis for an executive session is to discuss enforcement action against a developer. The Lyons BOT, like city councils all over Colorado, routinely holds executive sessions relating to contract negotiations, and not just contracts for the purchase or sale of town land. The Colorado Sunshine (Open Meetings) law (see Exhibit 2) clearly allows executive sessions for contract negotiations, with no limitation to land purchase or sale. The specific statutory reference and the description of "negotiations" and "developing strategies for negotiations" are included in every BOT meeting agenda or packet when such sessions are held and are read aloud prior to executive sessions.

Mr. Brakenridge's statements about what is proper to consider in executive session were false. And he coupled his errors with cleverly-worded potshots raising doubt about the BOT's integrity: "There is an appearance" improper matters may have been discussed, he stated. He later added a statement that the BOT "would have been required to come out of executive session" if contract negotiations were considered, concluding "I hope a taped record was kept of

the meeting", implying that BOT statements as to what was discussed in executive session should not be believed.

I saw those erroneous statements and unfounded suggestions the Board may have violated the law. But at the time, I chose the "let it pass" option for dealing with them.

(c) July 22 posts: Chastised by the Mayor

On 7/22/21, Mr. Brakenridge renewed his attempts to question the BOT's honesty as to executive session discussions, posting that two executive sessions were held "*supposedly* to (in part) consider legal remedies if a developer breaches an agreement." (*Emphasis added.*) Mayor Angelo called him out, in a responsive post, for the implication of his "*supposedly*" statement, calling it "offensive" and warning Mr. Brakenridge: "do not impugn or even imply a less than sincere attempt for the Board of Trustees to do what they feel is in the best interest of the Town."

Mr. Brakenridge responded that he stood by his words, further stating: "Clearly, what was discussed at these meetings included how the town might adjust its taxes and fees to comply with the developer's request to modify the development agreement. But this is not a fit subject for executive session, but only for public meetings. It is not protected by the language about 'negotiations' in Colorado law, which refer, mainly, to matters such as negotiating contracts with a teachers union, etc." See [Exhibit 3](#) for the full posts.

Once more, Mr. Brakenridge posted false information about Colorado open meetings law. Contract negotiations ARE protected by the law. And they're not limited to "matters such as negotiating contracts with a teachers union." (Note that Mr. Brakenridge changed his tune about the open meetings law provision, which in his June 30 post he described as being limited to sales of town property.)

Mr. Brakenridge didn't know what he was talking about as to Colorado open meetings law, even though he was replying to the Mayor and purporting to inform the large number of citizens on the Lyons OD forum. He may have looked at the wrong statute. A different section of the law governs STATE bodies' executive sessions than the section governing LOCAL boards' executive session (see [Exhibit 2](#)). The section on state bodies contains limitations to real estate sales and teacher negotiations; the section on local bodies is broader and allows general contract negotiations.

"Often wrong, but never in doubt" describes Mr. Brakenridge's posts in this area. Getting the law wrong isn't totally surprising (although the precise statutory reference is provided in the agenda for every executive session, and the statute is readily available online), but coupling false information about executive sessions with suggestions that the Lyons BOT may have violated the law takes it to another level. Note Mr. Brakenridge's further reply to Mayor Angelo:

"Listen to me, please. If I were a board member, as soon as the executive session veered from 'what legal remedies can the town pursue' (protected by executive session law) ... to 'how might we negotiate with the developer ...', I would have immediately asked for all to come out of executive session. If that did not occur I would have left the room."

Mr. Brackenridge's implication was quite clear: the Lyons BOT violated the open meetings law by discussing contract negotiations in executive session. The truth is that the Lyons BOT was in total compliance with the open meetings law by discussing contract negotiations. Mr. Brackenridge owes the Mayor and the Board an apology.

Although I saw Mr. Brackenridge's erroneous posts about the open meetings law, and (like Mayor Angelo) took strong exception to his continuing potshots at the Board's integrity, I again took the "let it pass" approach as to his posts, since the Mayor had already taken him to task.

(d) 8/2/21 post; Chastised by a UEB member; Credibility issue

Exhibit 4 consists of more posts by Mr. Brackenridge about the solar farm. Its relevance goes beyond accuracy/inaccuracy of statements about the BOT or UEB.. The 8/2/21 posts call into question Mr. Brackenridge's credibility generally, a factor the Board of Ethics should weigh in considering what is supposed to be a "verified" (under oath) complaint.

On August 2, 2021, Mr. Brackenridge in a Facebook post again raised questions about the UEB's solar farm proposal, an item set on the BOT agenda for that night.

Responding to that, UEB member Larry Quinn asked, "Robert Brackenridge Where were you when public comment meetings were held on the proposal? Why do you always weigh in at 11th hour on FB only?"

Mr. Brackenridge replied: "***To honestly answer your question, Larry, the first I became aware that the town was proceeding with a solar farm ... was when I read the packet for today's BoT meeting.*** Which is likely more than most residents have done." (*Emphasis added.*)

Mr. Brackenridge's statement on August 2 that he first became aware on that day of the town proceeding with a solar farm is demonstrably false.

In a post on July 2, 2021 – a month earlier – Mr. Brackenridge had informed Facebook readers that "Lyons is proposing a solar farm." He added "Finally, why would Lyons consider a local solar farm, maybe with grant support, after its utility and UEB indicate that the town is better off not adding any more local solar capacity? ... [W]hy would the town even consider owning and operating their own solar farm?"

One month later, asked by a UEB member about his "11th hour" comments on the solar farm set to be considered that evening by the BOT, Mr. Brackenridge stated that August 2 was the first he became aware the town was proceeding with a solar farm. His July 2 posts flatly contradict that statement.

The Board of Ethics can draw its own conclusions as to Mr. Brackenridge's credibility.

Specific Responses to Complaint

I. Specific Ethic Code provisions

A. "Respect"

"R-E-S-P-E-C-T, Find out what it means to me." -- Aretha Franklin

Most of the Ethics Code sections cited by Mr. Brakenridge deal with "respect" due from a trustee for citizens and their views:

13. ... interact with all persons and entities ... in a respectful and fair manner at all times.

26. interact with all persons and entities in a respectful and fair manner at all times, and should not criticize any member of the public for his or her requests or views.

6. ... respect for the dignity of each individual should be reflected in every word and action taken by Town officers, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

These sections bring into issue what was discussed above: should the Ethics Code be applied literally as written ("interact with all persons ... in a respectful ... manner at all times", do not "criticize any member of the public for his or her ... views"), or should discretion and judgment enter into its application?

Put another way, must a trustee ALWAYS show respect for citizens and their views, no matter how unfounded or offensive? Can a trustee never criticize a citizen's views?

I will begin by saying that if a Lyons citizen espouses racist or sexist or homophobic views, I will not respect that citizen's views or the citizen herself or himself. And, if stated at a Town board meeting, I would "call out" that citizen and criticize her or his views. I also have the First Amendment right of free speech to do so on social media, if I so choose.

By doing so, I would be violating the Ethics Code and subjecting myself subject to possible sanctions. So be it. I will not respect racist, sexist or homophobic views, or persons who espouse them, no matter what the Ethics Code says and no matter what sanctions might be sought against me. That would infringe on my First Amendment free speech rights, my conscience and my personal moral principles, though a literal application of the Ethics Code would result in a finding a violation.

By the same token, I do not respect, and will not respect, views of a Lyons citizen, or any other person, that reflect false information, are derived from refusing to review readily-available information (such as BOT packets and meeting videos) and insult the integrity of BOT or UEB members or other Lyons citizens who voluntarily serve on Town boards and commissions.

I do not respect the view of anyone who suggests that the Board of Trustees violated Colorado open meetings law in negotiating contract revisions as to Summit housing.

I do not respect the view of anyone who suggests UEB members only considered MEAN's or "utility company" perspectives on net metering or were "one-sided" in their deliberations. I know for a fact that the UEB considered multiple perspectives, as Chair Kerr informed Mr. Brakenridge and as reflected in packet materials reviewed by Mr. Brakenridge.

I do respect the honesty, commitment to service and proper actions of those who serve on the BOT and UEB, whether I agree with their opinions or not. And, exercising my First Amendment rights, I will defend the members of those boards from undeserved insults or attacks (express or cleverly implied) on their integrity. My defense may include pointing out false information provided to the public and criticizing those who, directly or by inference, make unwarranted allegations as to the integrity of Town board or commission members.

B. "Serve as a model of leadership"

As previously discussed, elected Town officials, like Town staff, are often presented with a quandary when encountering false, distorted or misleading information posted on social media. Ignore it, engage in debate, or invite further inquiry? My view is that part of modeling leadership is to see that citizens are properly informed of the facts and processes that lead to Town board or commission proposals or decisions. I frequently invite citizens to email me if they have questions or concerns about Town matters or desire more information, and I try to answer all reasonable emails I receive, whether I agree with a citizen's position on a given issue or not. I have frequently engaged with citizens, including Mr. Brakenridge, who do not agree with a Board decision or my vote as a trustee, and I try to explain the reasons for decisions and votes. I believe I have served, and continue to serve, as a model of leadership. Part of doing that was to try to counter Mr. Brakenridge's repeated postings of false information accompanied by direct or implied insults to the integrity of the BOT and UEB. I do not believe allowing such posts to go uncorrected and unchallenged would exhibit proper leadership.

C. "Avoid personal attacks of any kind"

First, it should be noted that this Ethics Code provision cited by Mr. Brakenridge in his complaint is in the part of the EC dealing with "Conduct During Meetings". It is therefore not relevant to his complaint, since no conduct during a meeting was complained of. The Board of Ethics should therefore disregard it.

However, since Mr. Brakenridge raises the issue, I will respond that I do not consider it a "personal attack" to accurately state that someone has provided false information, distorted information or "disinformation" (a term of art discussed in more detail below). The focus of my Facebook post was on the content of Mr. Brakenridge's post, not him personally. As noted in the following paragraph, I did not accuse him of "lying". I did not use any derogatory names or question his motives in making his post. I simply informed citizens that what he has posted was false (which it was), contained distortions (which it did) and included disinformation (which, under my understanding of that term, it also did).

II. Other issues raised by Mr. Brakenridge

A. "Lying"

Seven times in his complaint, and multiple additional times in emails and social media posts, Mr. Brackenridge has stated that I accused him of "lying" or being a "liar". The word choice is his, not mine. I never used those words, and his statements falsely accuse me of doing so.

B. Apology

(1) Mr. Brackenridge asserted in an 8/1/21 email to me that he based his Facebook post, in part, on information in an email received from another trustee. His exact words in his email were: "I have corrected the 'for decades' grandfathering term on FB to the 8.5 year term you state. I had an email from another trustee that implied the longer term; it certainly was not an intentional lie."

I never accused Mr. Brackenridge of an intentional lie, but I did offer to apologize for my criticism of his post if indeed it was based on information received from another trustee. Citizens should be able to rely on information provided by trustees as to Town matters, even if that information is wrong.

Mr. Brackenridge then promised to send me the email he referred to. He later reneged on that promise, contending the email had been sent from a personal account and was therefore entitled to expectations of privacy. That, of course, is also wrong. If a trustee sends Town-related emails to a citizen from a personal email account, those emails constitute public records under CORA and there is no legitimate expectation of privacy.

Nevertheless, Mr. Brackenridge refuses to provide the email from a trustee he says he reviewed. That refusal led to my CORA request seeking the email from whatever trustee sent it. Trustees' responses reflect no such email.

If the email does exist, only Mr. Brackenridge knows its contents, which he refuses to share despite the public record nature of the email and his initial promise to share it. In considering whether Mr. Brackenridge did or did not knowingly post false information, his refusal to provide an email relevant to that question should be taken into account.

It should also be noted that, again, Mr. Brackenridge has changed his tune with respect to the missing email. Initially, he said he "had an email from another trustee that implied the longer term." Later, in a Facebook post, he said that, rather than the trustee's email implying a longer term, "I had misread correspondence from another trustee." So perhaps the missing email did not "imply a longer term" at all, as Mr. Brackenridge stated, but instead Mr. Brackenridge erred in "misreading" it. Only he knows for sure.

With respect to the false information in question – net metering customers being "grandfathered in for decades" – it should be noted that information was readily available as to what both the UEB proposed and what the BOT did in that regard. The grandfathering period was addressed in packet materials available online. Those materials – which Mr. Brackenridge

had read many times, he told Chair Kerr -- included the UEB's proposed 8.5-year grandfathering period. He was therefore aware that "grandfathering for decades" had not been proposed. The BOT discussed the issue twice in public sessions and voted on it twice, with meeting videos available on the Town website.

Yet Mr. Brakenridge never bothered to check the documents, review the videos, or even ask any trustee what the BOT had done. He simply posted false information without checking his facts. His conduct was at best reckless (intentional disregard for the facts) or at worst intentional. Only he knows for sure, and his reliance on an email he refuses to provide as an excuse for posting false information rings hollow.

(2) "Disinformation" -- I did use the term "disinformation" to describe Mr. Brakenridge's social media post. I will explain what I meant by that term, and I am willing to apologize for using it to the extent it implies intentional deception.

My experience with the term "disinformation" arises from a time when it usually appeared as part of a two-word phrase: "Soviet disinformation." That was a common theme during the Cold War. (I'm old enough to actually remember the Cuban missile crisis.) The Soviet Union was often accused (with good reason) of "sowing disinformation" in its propaganda wars with the U.S. and its allies.

"Disinformation", as I understand the term, is most effective when it combines both true and false statements. Propaganda campaigns consisting totally of intentional falsehoods are not very effective. Outright lies that can be proven to be false do not carry much weight and undermine the source's credibility.

On the other hand, when true statements are mixed with false information, so that part of the propaganda message can be demonstrated to be true, the overall message is generally much more effective, because it is more believable.

That is what I meant by "disinformation" with respect to Mr. Brakenridge's post. It does contain some true information. It also contains some false information. It also contains some distorted information (noted above). Collectively, the effect of his post was to cast a misleading impression about the Town's approach to solar farms and net metering, including the allegation that the UEB had "heard only from utility representatives". I consider that disinformation.

If Mr. Brakenridge or anyone else takes "disinformation" to mean only "intentional deception", then I will apologize that my post led to such an impression. That isn't what I meant. What I meant is that Mr. Brakenridge had used false information and distorted information, along with true information, in his post, to create a misleading impression and that readers should not believe everything he says. I stand by that meaning.

C. Disclaimer as to not speaking for the Town

My short response to Mr. Brakenridge's post included the standard disclaimer for social media posts from a trustee's personal social media account: "(The postings on this site are my own

and do not necessarily represent the Town of Lyons's positions or opinions.)" The disclaimer was copied verbatim from the Town's social media policy and is something I routinely include in social media posts relating to Town business.

Mr. Brakenridge surmises that "Trustee Browning may believe that inclusion on this facebook posting of the ... disclaimer allows him to vent his anger at me, but they [sic] do not."

Including the disclaimer has nothing to do with any "belief" on my part. It is simply following the BOT's social media policy and following the Town attorney's advice to include such a disclaimer in postings from personal social media accounts. Nothing more, nothing less. Mr. Brakenridge's surmise about my "belief" is unfounded.

D. Invitation for email inquiries

Mr. Brakenridge additionally attempts to take me to task for inviting email inquiries from Lyons citizens regarding the issues raised in his post. He states: "Inclusion of the townoflyons email address belies that disclaimer." At other points in his complaint, he also complains of my invitation to citizens to email me at my Town email address.

My current approach for dealing with complex or controversial Town issues raised on social media, when I choose to respond, is (i) generally try keep my posts short and focused on facts, correcting any blatant factual errors posters may have made, (ii) invite those with serious interest in a particular issue to contact me at my Town email address if they desire more information or wish to discuss the matter further, and (iii) when possible, provide links to information (like BOT meeting packets) on the Town website.

In the past, I attempted to engage in point-by-point responses and detailed discussions on Facebook (usually in Lyons Open Discussion) as to Town-related issues. I abandoned that approach for several reasons, finding it non-productive overall and not worth my time and effort. In particular, I found that Lyons OD "debates" tended to deteriorate into nasty, non-substantive "flame wars", with many irrelevant or inane posts clouding attempts at reasonable dialogue.

In January 2021, I stopped posting on Lyons OD at all. My reasons were explained in a "goodbye" post in that forum. After the 2020 presidential election and the Jan. 6 capitol riot, Lyons OD had degenerated into a forum attracting many off-the-wall cranks and wackos, including QAnon sympathizers using the forum to spread their views (which, by the way, I do not respect). I suggested moderators should remove things like QAnon postings, but they declined, preferring to leave the forum available to all, even QAnoners.

I therefore decided not to post on Lyons OD anymore. Even if I confined my posts to local matters, contributing to Lyons OD might to some degree attract more readers and activity to that site. I did not wish to do that, so I "signed off", though I sometimes still look at posts relating to Town matters.

I still occasionally post on Town matters on Lyons Happenings, though it is not supposed to be a place to debate local issues. In posting there, I attempt to do as stated above: keep posts

short, focus on accuracy of facts, and invite further inquiry to my Town email address or provide links to information on the Town website. Occasionally, people do respond to such posts by emails to my Town address. When they do, I answer them. That approach, in my view, is preferable to social media "debates". It has the advantage of making email exchanges with citizens (which are public records subject to CORA) readily obtainable from my Town account, as opposed to having to search my personal Facebook account in the event of a CORA request. It also tends to screen out Facebook "flamethrowers" who like to stir the pot with mean-spirited posts, but who usually lack serious enough interest in a topic to take the time to email a trustee for more in-depth information and discussion.

I followed that same approach as to Mr. Brakenridge's post: keep it short, focus on facts, invite further inquiries to via Town email. I continue to believe that is the best approach, at least for me. Other trustees may opt for a different approach or avoid Facebook altogether.

To respond to a point in Mr. Brakenridge's complaint, I received 0 email inquiries from my invitation, other than those from Mr. Brakenridge himself.

E. Word Document

I prepared in Word document form a substantive, point-by-point response to Mr. Brakenridge's Facebook post about net metering and solar farm issues. That document reflects the type of point/counterpoint "debate" often engaged in on social media sites. If anyone asked, I was willing to share those point-by-point responses by email. No one other than Mr. Brakenridge asked.

I did not post that Word document, or even a summary of its contents, on social media. Mr. Brakenridge, however, chose to post on Facebook point-by-point responses. That was his choice, not mine. I deliberately ignored his posts. To the extent Facebook readers may have been influenced by discussion of the contents of the Word document I prepared, that is Mr. Brakenridge's responsibility, not mine.

I will not further lengthen this too-lengthy document by veering off into the substance of the issues covered in the Word document. The Board is already familiar with them. As to the use of the word "disinformation" in that document, see my discussion above. As to the use of the word "misinformation" in that document, that simply means false, wrong, incorrect information, with no implication intended as to the intentionality of anyone providing misinformation. Mr. Brakenridge's post included misinformation, whatever his intention. As with my Facebook post, I did not use the words "lying" or "liar" to refer to Mr. Brakenridge. Once again, those are his words, not mine.

III. Undermining Trust in Government

"All government is local." – Paraphrase of statement attributed to former House Speaker Tip O'Neill

What's the big deal, some may ask, if a local citizen posts false or distorted information about local government boards and commissions on social media, even if that information is coupled with direct or implied questioning of board members' integrity? Doesn't "if you can't stand the heat, get out of the kitchen" apply to local officials? Why bother to respond by refuting falsehoods/distortions and suggesting someone's post should not be believed?

At the cost of further lengthening this document, I'd like to explain why I bothered to respond to a post like Mr. Brakenridge's. "Trust in government", especially local government, is important to me, and that's why I responded.

This week, I read a CNN news article about two incidents at *elementary school* "meet the teacher" nights in Texas. In one incident, a parent loudly shouted, over and over, "I can't understand you if you don't take that mask off," to a masked teacher who was conducting a "meet the teacher" session. In the other, a parent attempted to physically rip off a teacher's mask.

Those incidents happened in the Austin-area Eanes School District. My wife taught in that district for years and still knows teachers and parents in that district. Both my daughters attended that district K-12. Such incidents concern me greatly. They hit too close to home.

Years ago (decades, actually), when I was in elementary school, such incidents would not have happened. Parents respected and trusted teachers and the volunteer, elected boards who govern local school districts and do things like set mask policies. Sadly, for many, that trust is gone.

What changed? In my opinion, as someone who spent 23+ years working in state government and who has now served for 8+ years on local boards and commissions, trust and respect for government have been undermined to a large degree at all levels – national, state, county and local. Social media posts containing false and distorted information have played a big role in undermining that trust. Election conspiracy theorists storm the capitol, using social media before and after their insurrection to organize and attempt to justify their actions. Anti-vaxxers don't trust what national, state and county officials (even doctors and scientists) advise them to do: get vaccinated. They don't trust the CDC. They don't trust Dr. Fauci and belittle him on social media. They don't trust state or county health departments and they resist local school district policies (set by elected citizen boards) sincerely intended to protect teacher and student health. On "the other side", some "defund the police" advocates do not trust local police departments or police officers, the vast bulk of whom are honest, dedicated, underpaid, conscientious public servants – much like citizens serving on our Town boards and commissions.

(All of which is not to say governments and government officials don't make mistakes. They do, and citizens have the unquestioned right to point out and criticize those mistakes, and protest against them. I am not an apologist for all government actions, even locally. The Lyons BOT and Town staff make mistakes, too, and our citizens have every right to point out and criticize those mistakes. However, that does not mean mistakes arise from anything other than sincere efforts to do what's right and fully comply with applicable state and local laws. Object to Town government decisions or proposals, but don't disparage the motives or integrity of those who make them.)

In my opinion, posts like Mr. Brakenridge's on Aug. 1 and his prior posts set out above undermine trust in local government. His too-clever insinuations, implications and conjectures about possible violations of open meetings laws and the UEB being unduly influenced by "utility companies", when repeatedly accompanied by false information, contribute, bit-by-bit, statement-by-statement, implication-by-implication to undermining trust in local government. He denies an intent to do that and offers conciliatory platitudes about his appreciation for those who serve in local government. But his words and actions such as those above, taken as a whole, over time, paint a different picture.

Mr. Brakenridge will doubtless disagree, but my view of his posts such as those summarized and excerpted above is that they amount to ongoing, repeated insults to the integrity of those serving in Town government. And I don't refer to just myself or fellow trustees on the BOT. I've grown accustomed to Mr. Brakenridge's insinuations about BOT actions, such as what the BOT "supposedly" did in executive sessions. I've also been willing to let pass some of his egregious errors, such as wrong explanations of the Colorado open meetings law.

What ultimately tipped the scales and prompted me to reply to his August 1 post was his ongoing suggestions that the UEB was being unduly influenced by MEAN or "utility representatives" and had not "independently evaluated" utility issues. I knew that to be false. I know most UEB members, though I would not characterize any of them as close personal friends. I know them to be smart, conscientious, honest people devoting many volunteer hours (the UEB meets twice a month, unlike most Town boards and commissions) to providing the BOT valuable advice on the most important, most complex parts of Town operations – utilities and infrastructure. Whether Mr. Brakenridge acknowledges it or not, his repeated posts regarding the UEB amount to insulting the integrity, fairness and competence of those who serve on the UEB. Even after the UEB Chair countered his erroneous posts, and even after the Mayor chastised him for his "supposedly" comment about BOT conduct, he continued his offensive insinuations about the UEB. Doing that undermines trust and confidence in Lyons local government, and I do not respect that aspect of Mr. Brakenridge's posts. Mr. Brakenridge having failed to change his approach after being challenged by the UEB Chair, Mayor and another UEB member, it was time for someone to "call him out" in no uncertain terms. I did so.

I do respect Mr. Brakenridge's right to disagree with and question BOT decisions or proposals from advisory Town boards and commissions. He has disagreed with decisions on housing, weed management policy, trash hauling, the Urban Renewal Authority, net metering and other issues. He has every right to do so, and sometimes I agree with him. However, when he repeatedly posts false information accompanied by insults – express or implied – to the integrity of those serving on Town boards and commissions, he crosses a line and loses my respect as to those statements and views. I chose to exercise my own right to call him out on those aspects of his posts. The Board of Ethics can determine if that warrants further investigation or sanctions. I do not think either is warranted, but I will abide by the Board's decision.

Mark Browning, Trustee

