

Testimony before the State of Kansas Legislature Elections Committee
on House Bill 2391 – February 16, 2023 at 3:30 pm

James G. Muir of Overland Park, Kansas

Background:

My wife and I are residents of south Overland Park

I became involved with several neighbors when it was discovered the Overland Park City Council was attempting to push through changes at the Overland Park Arboretum. These changes would drastically change it from an Arboretum & Botanical Garden to an Event Center.

During the process of objecting to these changes, we discovered many other issues which would affect our quality of life in south Overland Park such as the following:

Uncontrolled commercial development financed through Kansas STAR Bonds – which in the case of the Price Brothers development referred to as Blue Hawk imposes an additional 1% sales tax on purchases made at the development.

The use of Chip Seal on 179th Street which has a destructive impact on automobiles.

The conversion of Highway 69 into a Toll Road.

Our first action was to meet with neighbors with regards to the reelection of Rick Collins as the Ward 6 City Council Member from Overland Park. After review of his record as a City Council member it was soon determined he was not aligned with our quality-of-life issues. He was subsequently replaced by Scott Hamblin in the 2019 election.

In the beginning of 2021, a few of us banded together to form Fresh Vision OP, a 501(c)(4) Social Welfare Organization. Its Mission is to maintain the quality of life and unique character of Overland Park through thoughtful and fiscally responsible spending of our tax dollars. We sought this by supporting small businesses, maintaining safe neighborhoods and promoting responsible development.

As the campaign for the Ward 6 City Council Member from Overland Park in 2021, which was held by Chris Newlin, began – we understood he was not aligned with our quality-of-life issues. He was subsequently replaced by Jeff Long in the 2021 election.

During mid 2021, just some months after Fresh Vision, OP was created, Chris Newlin filed a complaint with the Kansas Ethics Commission. This is where life changed.

We were immediately classified as a Political Action Committee and sent a demand for a list of all those who contributed to Fresh Vision, OP. We responded that we were not a Political Action Committee and were in fact a 501(c)(4) Social Welfare Organization with the proper IRS filings. We were met with demands for the PAC filing or action would be taken against us personally.

We were not given the basis for the PAC determination, nor an explanation as to why we were a PAC under the Kansas State Statutes. What we were given was a notice of a hearing where we could each be subject to a \$5,000 fine.

In preparation for the hearing, it was discovered that the Executive Director of the Kansas Ethics Commission had a suspended law license. At the hearing, when asked if the Executive Director of the Kansas Ethics Commission, Mark Scogland, had an active law license – the presiding member, John Solbach, interjected that “of course he has an active law license.” At this point, the Mark Scogland (the Executive Director of the Kansas Ethics Commission) did the unethical – he failed to correct the incorrect statement made by John Solbach. We have been informed that Mark Scogland received a slap on the wrist for his unethical behavior by the Kansas Disciplinary Board for Attorney’s. Having grown up in Michigan and knowing several attorney’s and lawmakers who graduated from the University of Michigan Law School – they were to say amused at how the agencies within Kansas handled this issue.

During the hearing we were cut off, talked over and treated as meaningless individuals. We were scolded for even wasting their time by bring the matter to a hearing. We were given the option to make the PAC filings within 30 days or face a fine. We made the decision to disband Fresh Vision, OP.

Kansas Representative Pat Proctor, stated with regards to the Kansas Ethics Commission “They’re the cop, judge, jury and executioner”. I would add the investigator and the Prosecutor. We are a group of concerned neighbors who invested a little more than \$3,000 to maintain our quality of life in South Overland Park. We are now the posterchild of what needs to change with regards to the Kansas Ethics Commission.

After our hearing, we were introduced to Josh Ney, an attorney who has represented several individuals in front of the Kansas Ethics Commission. He fought for our rights and after spending over \$22,000 got the complaint dismissed (with prejudice), but with the stipulation we would not sue the Kansas Ethics Commission, its staff or Commission Members. John Solbach even asked our attorney - why we would want to spend so much money when we only had to file some paperwork. Well to answer that question – I was taught by my parents to stand by my principals – no matter the costs. It is your principals which make you who you are as a person.

I am encouraged that the new Section 1 (c) of House Bill 2391 states “No – order dismissing a complaint – shall require a respondent to waive any civil or legal rights to judicial recourse in any matter.” This is exactly what the Kansas Ethic Commission require of us.

It seems from the media attention; this is a typical Republican verse Democrat issue. That is not the case – I am a registered Libertarian, and my friend Chengny is a registered Democrat. I voted for a Democrat for Mayor of Overland Park. We are speaking in support of this Bill to eliminate the uncontrolled power of a State Administrative Agency and place that power back with our elected representatives.

Absolute Power, Corrupts Absolutely. This Bill is not Topeka corruption. This Bill is administrative constraint.