### Declaration of Admonishment

**Date Council Action Requested:** September 3, 2019  
**Prepared by:** Susan Duncan, City Clerk  
**Reviewed By:** Date: 08/28/2019

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**Committee:**  
- P&LU  
- PW&U  
- F&A  
- Mayor  
- X  
- City Administrator  
- X  
- City Clerk’s Office  
- X  
- Community Development Dept  
- Public Works Department  
- X  
- City Attorney’s Office  
- Finance Department  
- X  
- X  
- Police Department  
- Board/Commission  
- Hearings Examiner  

**ACTION REQUESTED:**  
**VOTE NEEDED TO PASS:**

**SUMMARY:** Please see staff report.

**DISCUSSION/ANALYSIS/ISSUES:** At the City Council meeting on August 19, 2019, Council directed Staff to bring this item to the September 3, 2019 regular meeting.

**RECOMMENDATIONS:**

**ATTACHMENTS:**  
- Staff Report  
- Resolution
On August 19, 2019, in executive session, the Council reviewed an investigative report (the Report) of an employee grievance filed by Ferndale Police Chief Kevin Turner against Councilmember Keith Olson. In response to the findings, conclusions, and recommendations in the Report, the Council voted and found that Councilmember Keith Olson had engaged in conduct of a harassing, discriminatory, and retaliatory nature and directed staff to draft a Declaration of Public Admonishment (the Declaration) to be read into the record at the next regular Council meeting. The Declaration has been prepared based on the record reviewed by Council and is attached.

The Report and associated documents are not currently included in the Council packet with the Declaration, because they are subject to pending public records requests. The affected parties named in the public records have been notified in accordance with RCW 42.56.540 and have the right to seek judicial intervention. The documents will be released on September 5, 2019 if the City is not enjoined by a court order from releasing them.
RESOLUTION #

A DECLARATION OF THE COUNCIL OF THE CITY OF FERNADELE, WASHINGTON, PUBLICLY ADMONISHING COUNCILMEMBER KEITH OLSON FOR DISCRIMINATORY, HARASSING, AND RETALIATORY CONDUCT

WHEREAS, Keith Olson is a member of the Ferndale City Council; and

WHEREAS, The Ferndale City Council is bound by the provisions of the City Council Rules of Procedure, and Appendix A, Ethics Handbook; and

WHEREAS, the Ethics Handbook states: “As public servants, we must perform our duties in a fair and equitable manner. This means that elected officials shall not exceed their legal authority to assist private entities or individuals where this would result in preferential treatment, not permitting oneself to be placed under any kind of personal obligation that could lead to expectations of favors, and not treating anyone less favorably because of their race, color, creed, religion, national origin, age, sex, or political affiliation”; and

WHEREAS, The Ethics Handbook further states that “The behavior of an elected official colors the public confidence and therefore the City Council and Mayor have a vested interest in promoting ethical behavior and adherence to established levels of professional public interaction”; and

WHEREAS, The City Council’s Rules of Procedure in Section 12 (Decorum) require that City Councilmembers treat City staff and members of the public with a high level of professionalism and respect, and Councilmembers require City staff and members of the public to extend the same courtesy. Personal attacks, insults, interruptions, inflammatory language, and profanity are not permitted. Nor are remarks that disparage groups or individuals because of race, religion, sexual orientation, age, or gender; and

WHEREAS, Councilmembers have the primary responsibility to assure that the Council’s Rules of Procedure including the Ethics Handbook are understood and followed, so that the public can have full confidence in the integrity of their local government; and
WHEREAS, The guidelines in the Council Rules of Procedure and Ethics Handbook are intended to be self-enforcing, thereby requiring an ongoing commitment by Councilmembers to faithfully honor the trust and dignity bestowed upon them as elected leaders and community role models; and

WHEREAS, the Council’s Ethics Handbook regarding Undue Influence also provides that “As leaders within City government, elected officials need to set the standard through their words and actions by demonstrating the qualities needed to ensure that our workplace culture supports personal responsibility, professionalism, collaboration, honesty, fairness, respect, and accountability. Undue influence involves one person taking advantage of a position of power over another person. Elected officials are expected to engage in the highest level of professional behavior when dealing with City employees or others who are supported by the City”; and


- “Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.”
- Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
- Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.
- Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.
- Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work
performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee; and

**WHEREAS,** The City Council has an obligation to protect City employees from behavior of a discriminatory, harassing, and retaliatory nature including defamatory statements which could damage and discredit the reputation of City employees; and

**WHEREAS,** The City takes allegations of discrimination extremely seriously and is required to investigate and take prompt and effective action to end misconduct, remedy the effects, and prevent it from occurring again; and

**WHEREAS,** Behavior of a discriminatory, harassing, and retaliatory nature by an elected official toward a City employee (or any citizen) is unacceptable and will not be tolerated now or in the future; and

**WHEREAS,** City Council has reviewed a comprehensive investigative report prepared by Mayor Pro Tempore Kate Bishop in response to an employee grievance filed by City Police Chief Kevin Turner against Councilmember Olson pursuant to City Personnel Policy 902(4)(a); and

**WHEREAS,** The investigative report details more than one occasion of behavior of a discriminatory, harassing, and retaliatory nature, as defined by the EEOC, by Councilmember Olson toward Chief Turner, which behavior could constitute a hostile work environment if allowed to continue; and

**WHEREAS,** The investigative report revealed behavior by Councilmember Olson toward Chief Turner that went far beyond a “petty slight, annoyance, or isolated incident” to behavior that would be considered by reasonable people to be intimidating, hostile, and offensive and which would constitute discrimination and harassment; and

**WHEREAS,** The City Council is the only body with the authority to take action against an elected official pursuant to RCW 42.30.110(f), RCW 35A.12.120, and the City Council Rules of Procedure and Ethics Handbook; and
WHEREAS, The City Council is vested with the authority to issue a public declaration admonishing Councilmember Olson for engaging in conduct of a discriminatory, harassing, and retaliatory nature toward a City employee and prohibiting such behavior from ever happening in the future;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FERNDALE DO RESOLVE AS FOLLOWS:

That the Ferndale City Council does hereby publicly find that Councilmember Keith Olson has engaged in conduct of a harassing, discriminatory, and retaliatory nature, as defined by the EEOC, toward a City employee in violation of the City Council Rules of Procedure and the City Council Ethics Handbook.

The Ferndale City Council does hereby condemn Councilmember Olson’s behavior toward Chief Kevin Turner.

Councilmember Olson is hereby prohibited from engaging now or in the future in any harassing and discriminatory actions toward any City employee in the future, including Chief Turner.

Councilmember Olson is further prohibited from any form of retaliation against Chief Turner, including defamatory statements which could damage and discredit the reputation of the Chief Turner, or actions in his role as the Chairperson of the Finance and Administration Committee that would prevent Chief Turner’s participation.

Any such conduct of a discriminatory, harassing, or retaliatory nature now or in the future will result in a resolution of censure and removal of Councilmember Olson from all committee assignments.

APPROVED AND ADOPTED by the City Council of the City of Ferndale in regular session this 3rd day of September, 2019.

ATTEST:

Kate Bishop, MAYOR PRO TEM          Susan Duncan, CMC, CITY CLERK