

MINUTES

Friday, May 13, 2011 at 2:00 p.m.

Board of Ethics Special Meeting

Commission Room
First Floor – City Hall
224 West Ninth Street, Sioux Falls, SD



ROLL CALL

BOARD MEMBERS PRESENT: Howard Paulson, Bill O'Connor, Mari Robbennolt and Bob Swanhorst.

BOARD MEMBERS ABSENT: Mike McKnight

STAFF PRESENT: Dave Pfeifle, Sioux Falls City Attorney and Cari Hanzel, Recording Clerk.

OTHERS PRESENT:

Board Chair Bill O'Connor called the meeting to order at 2:04 p.m.

APPROVAL OF MINUTES

A motion was made by Mari Robbennolt and seconded by Bob Swanhorst to approve the minutes from the Quarterly Meeting of March 29, 2011. Vote to approve: Roll Call: Yeses, Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed.

BUSINESS OR ISSUES BROUGHT BEFORE THE BOARD

1. Complaint against Jim Entenman filed May 3, 2011. Attorney for the Board of Ethics, Dave Pfeifle, made a brief statement to explain that the Board was meeting preliminarily to discuss ground rules on how to proceed with the complaint.

Mari Robbennolt made a motion to go into closed session to discuss counsel's legal advice pursuant to SDCL 1-25-2(3). Howard Paulson seconded the motion. Vote to approve: Roll Call: Yeses, Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed. The Board went into closed session at approximately 2:12 p.m. Due to the media's cameras and equipment set up in the Commission Room, the Board moved the closed session to Mr. Pfeifle's office.

Mari Robbennolt made a motion to come out of closed session. Bob Swanhorst seconded the motion. Vote to approve: Roll Call: Yeses, Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed. The Board came out of closed session at approximately 2:25 p.m.

Mari Robbennolt made a motion to have Board attorney David Pfeifle read the Advice of Rights to Jim Entenman. Bob Swanhorst seconded the motion. Vote to approve: Roll Call: Yeses, Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed.

David Pfeifle explained the process of the Board with regard to the complaint, and that the Board would be making its probable cause determination with regard to the complaint at the next meeting.

David Pfeifle read the Advice of Rights, after which Jim Entenman signed said document.

Board discussed the complaint and the questions it would like its investigator to answer. Specifically the Board wanted to know:

1. The exact location and parameters of the Event Center.
2. The exact distance from the proposed location of the Event Center to Mr. Entenman's property.
3. Is the parking lot in question considered part of the Event Center.
4. Specific information on the ownership and use of the property in question, including how long Mr. Entenman has owned said property, its current use and plans for its future use.
5. Specific information on the recent liquor license application made by Mr. Entenman.
6. Information from the Event Center study regarding the ownership of real estate near the Event Center and how that translates into profit or financial benefit and where did said values come from.
7. What benefit or potential benefit would there be for Mr. Entenman to own property near the Event Center.
8. The plan for routing traffic in the area if the Event Center is located at the Convention Center site.

Howard Paulson made a motion to have Board investigator, Capt. Mark Jensen of the Sioux Falls Police Department, conduct an investigation and prepare a report to answer the questions raised by the Board in reference to the May 3, 2011 Complaint. Bob Swanhorst seconded the motion. Vote to approve: Roll Call: Yeses, Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed.

2. Executive session to discuss personnel matter pursuant to SDCL 1-25-2(1) and consulting with legal counsel pursuant to SDCL 1-25-2(3).
Bob Swanhorst made a motion to go into closed session to discuss Item 3(b) on the Agenda. Howard Paulson seconded the motion. Vote to approve: Roll Call: Yeses,

Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed. The Board went into closed session at 2:42 p.m.

Delay while media disassembled and exited – closed session began at 2:46 p.m.

Bill O'Connor made a motion to come out of closed session. Mari Robbennolt seconded the motion. Vote to approve: Roll Call: Yeses, Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed. The Board came out of closed session at approximately 3:23 p.m.

Bill O'Connor made a motion to approve an opinion finding no conflict of interest in the request brought before the Board and discussed in executive session. Howard Paulson seconded the motion. Vote to approve: Roll Call: Yeses, Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed.

Bill O'Connor made a motion to authorize the City Attorney to draft a confidential Advisory Opinion consistent with the Board's discussion in executive session. Howard Paulson seconded the motion. Vote to approve: Roll Call: Yeses, Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed.

The Board further instructed the City Attorney to prepare a redacted version of the Confidential Opinion that could be released for the benefit of other employees and council members.

NEXT MEETING

The Board's next meeting will be held on: Thursday, June 2, 2011 at 10:00 a.m.

ADJOURNMENT

A motion was made by Bob Swanhorst and seconded by Mari Robbennolt to adjourn. Vote to approve: Roll Call: Yeses, Howard Paulson, Bill O'Connor, Mari Robbennolt, Bob Swanhorst, 4. Noes, 0. Motion Passed. Meeting adjourned at 3:30 p.m.

Respectfully submitted,

Cari Hanzel
Recording Clerk