

MINUTES	Friday, March 28, 2014 at 4:00 p.m.	 CITY OF SIOUX FALLS
BOARD OF ETHICS SPECIAL MEETING	Commission Room 1st Floor ~ City Hall 224 West Ninth Street Sioux Falls, South Dakota	

BOARD MEMBERS PRESENT: Jeff Gednalske, Carol Knudtson, Greg LaFollette (via phone) and Ron Sisk

BOARD MEMBERS ABSENT: Bob Swanhorst

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

GUESTS: Bruce Danielson, Brett Mathison, Scott Ehrisman and several other unidentified members of the community

CALL TO ORDER

A quorum being present, the meeting was called to order by Board Vice Chair Carol Knudtson at 4:00 p.m.

APPROVAL OF MINUTES

A motion was made by Greg LaFollette and seconded by Ron Sisk to approve the minutes from the Quarterly Meeting on March 21, 2014. Vote to approve: 4 Yeses. Motion Passed.

BUSINESS OR PENDING ISSUES BROUGHT BEFORE THE BOARD

1. Confidential Complaint (14-A) filed 3/26/14.

The Board briefly discussed the confidentiality of the Complaint and whether it should be dealt with in open or executive session.

A motion was made by Jeff Gednalske and seconded by Ron Sisk to consider the Complaint in open session. Greg LaFollette confirmed with City Attorney David Pfeifle that the Board would still have the right to move to executive session later if necessary. Vote to approve: 4 Yeses. Motion Passed.

A motion was made by Jeff Gednalske and seconded by Ron Sisk to approve opening the records for public discussion and consideration. Vote to approve: 4 Yeses. Motion Passed.

The following documents were then distributed to the Board members with copies made available to the public:

- a. Board of Ethics Complaint 14-A filed by Bruce Danielson on March 26, 2014;
- b. § 38.021 of the Ordinances of Sioux Falls, SD;
- c. § 3.03 of the Charter of Sioux Falls, SD;
- d. Executive Order 12-24; and
- e. Special Council Meeting Agendas for the following dates:
 - 1) March 23, 2006;
 - 2) March 27, 2008;
 - 3) March 26, 2009;
 - 4) March 24, 2010;
 - 5) April 13, 2011;
 - 6) May 3, 2012;
 - 7) April 25, 2013; and
 - 8) March 26, 2014.

David Pfeifle identified individuals present for the benefit of Greg LaFollette, who was participating in the meeting via speaker phone.

Carol Knudtson read the Complaint on the record.

Bruce Danielson made a presentation to the Board concerning the allegations in his Complaint, claiming that the Mayor's State of the City Address before the Council on March 26, 2014 was a campaign speech using propaganda, props and a PowerPoint, all of which was aired on CityLink.

The Board questioned whether Mr. Danielson objected to the information presented by the Mayor as being inaccurate or inappropriate, to which Mr. Danielson responded both.

Mr. Danielson alleged that the Mayor did not cover what his predecessors have covered in past State of the City addresses.

David Pfeifle questioned Mr. Danielson about a press release that was issued regarding the Complaint as the press release was issued when the Complaint was still deemed confidential. Mr. Danielson admitted to issuing the press release and apologized, indicating that he did not realize that was improper.

Copies of the press release were passed out to the Board members and made available to the public at this time.

The Board asked Mr. Danielson if there was any way in which the Mayor could make a State of the City address and meet his criteria for presentation. Mr. Danielson responded that it would have been acceptable only if presented three months before or three months after the election.

When asked if it was just a matter of timing, Mr. Danielson stated that all the Mayor presented was “campaign bluster”.

When questioned about when he filed the Complaint, Mr. Danielson advised the Board that he filed the Complaint at 1:30 or 1:31 p.m.

When the Board asked how Mr. Danielson could file a complaint based on content when he had not yet heard the Mayor’s State of the City address, Mr. Danielson indicated that he was pre-emptive.

The Board acknowledged that the State of the City address is done at a formal City Council meeting.

Ron Sisk acknowledged some sympathy for the spirit of the Complaint; however, he did not see a basis for it.

Mr. Danielson claimed that the address violated propriety and precedent.

The Board reviewed the previous agendas of the City Council meetings where the State of the City address was presented and noted that in the last eight years it has been presented around the same time of year.

Brett Mathison, the Multimedia Support Manager for the City of Sioux Falls, made a presentation to the Board regarding the programing of CityLink.

Mr. Mathison explained how certain shows are pulled 90 days before an election based on the guidelines set forth in Executive Order 12-24.

Mr. Mathison informed the Board that the annual State of the City address has been recorded and rebroadcast every year since 1999.

Mr. Pfeifle advised the Board that the Charter requires the Mayor to present an annual State of the City Address but does not set a date for it; he further informed the Board that historically, once the financial information is made available from the Finance Department, the address is given shortly thereafter. The release of the financial information drives the timing of the delivery of the address. In the present instance, the Director of Finance released the financial information of the City two weeks prior to the State of the City address.

The Board discussed the content of the Mayor’s address and reviewed the topics covered in his PowerPoint.

Mr. Mathison informed the Board that the content of Mayor Huether’s State of the City address was pretty typical of previous years’ addresses.

The Board discussed the fact that the Complaint did not identify an accused, but appeared to be addressed to the City and CityLink.

Discussion was had as to the sufficiency of the Complaint on its face and the Board's jurisdiction to act.

The Board noted that City Charter Section 3.03 requires the Mayor to present a State of the City message but does not specify when it needs to be given and the content it needs to contain. The Board also discussed the requirements of Section 38.021 of the Ordinances of Sioux Falls, SD and Executive Order 12-24.

Scott Ehrisman made a statement to the Board, asserting that the State of the City address did not contain matters that the City needed to improve upon. He felt it was a blatant political speech given two weeks before an election.

The Board noted that Mayor Dave Munson gave the State of the City Address on March 23, 2006, when he was running for re-election two weeks later in April 2006.

Mr. Pfeifle reviewed Ordinance Section 35.009(c) with the Board regarding factors to consider in determining if a complaint is frivolous.

A motion was made by Ron Sisk and seconded by Greg LaFollette that this Board finds that the Complaint is frivolous and lacks any basis in fact or law. Further discussion was had regarding the motion. Vote to approve: 4 Yeses. Motion Passed.

A motion was made by Jeff Gednalske and seconded by Greg LaFollette to authorize David Pfeifle, the Board's legal advisor, to draft the Board's findings and report to the City Council as required by Ordinance and to authorize Board Chair, Greg LaFollette to sign off on the same. No further discussion. Vote to approve: 4 Yeses. Motion Passed.

NEXT MEETING

No specific date for the next meeting was scheduled.

ADJOURNMENT

A motion was made by Greg LaFollette with a thank you to Carol Knudtson for running the meeting in his physical absence, and seconded by Ron Sisk to adjourn. Vote to adjourn: Four Yeses. Motion Passed. Meeting adjourned at 5:07 p.m.

Respectfully submitted,

Cari Hanzel
Recording Clerk