

MINUTES	Wednesday, April 23, 2014 at 2:30 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 (joined via phone at 2:40 p.m.), Carol Knudtson, Greg LaFollette, Ron Sisk and Bob Swanhorst

BOARD MEMBERS ABSENT: None

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

GUESTS: Bruce Danielson, Heather Hitterdal, Scott Ehrisman, Rebecca Dunn and several other unidentified members of the community

CALL TO ORDER

A quorum being present, the meeting was called to order by Board Chair Greg LaFollette at 2:35 p.m.

APPROVAL OF MINUTES

A motion was made by Bob Swanhorst and seconded by Ron Sisk to approve the minutes from the Special Meeting on March 28, 2014. Vote to approve: 4 Yeses. Motion Passed.

BUSINESS OR PENDING ISSUES BROUGHT BEFORE THE BOARD

A motion was made by Ron Sisk and seconded by Carol Knudtson to revise the agenda to hear Agenda Item 3C (Complaint 14-D) first. Vote to approve: 4 Yeses. Motion Passed.

1. Complaint (14-D) filed 4/1/14.

Dave Pfeifle advised the Board that the accused in each of the pending Complaints had waived confidentiality.

Greg LaFollette recused himself from the discussion and consideration of Complaint 14-D. Mr. LaFollette excused himself from the Board and sat in the audience at 2:37 p.m.

Vice Chair Carol Knudtson read the Complaint on the record.

Mr. LaFollette was not physically present at the March 28, 2014 Ethics Board meeting, but did participate in the meeting via speaker phone.

Jeff Gednalske joined the meeting via phone at 2:40 p.m. Mr. Pfeifle advised Mr. Gednalske who was present and the progress thus far on the agenda.

Bruce Danielson made a presentation to the Board concerning the allegation in his Complaint, that Board Chair, Greg LaFollette, had a conflict of interest in hearing Complaint 14-A previously filed and heard by the Board on March 28, 2014 and therefore should have recused himself from the discussion and consideration.

Mr. Danielson advised that he had a business relationship with Mr. LaFollette approximately 32 years ago in 1981 - 1982. Mr. Danielson explained that his family business at the time hired Mr. LaFollette, and his accounting firm to perform certified audits. Mr. Danielson recalled that this business relationship ended badly.

Mr. Danielson informed the Board that when he recognized Mr. LaFollette's voice on the speaker phone, he did not know how to handle it and therefore did not express his concerns at the meeting.

At Mr. Sisk's request, Mr. Pfeifle advised the Board on the law regarding recusal for board members.

The Board discussed the need to find some evidence of bias on Mr. LaFollette's part in his handling of Complaint 14-A.

When asked if he could point to anything that demonstrated that Mr. LaFollette did not fairly consider this issue, Mr. Danielson informed the Board that he felt Mr. LaFollette was putting him down.

When Mr. Gednalske asked if Mr. LaFollette ignored the testimony or made a decision that was completely without consideration of the testimony, Mr. Danielson responded that he could not answer that.

Mr. LaFollette then appeared before the Board and addressed the allegations made against him by Mr. Danielson.

Mr. LaFollette informed the Board that he did not recognize the name Bruce Danielson when Complaint 14-A was filed, and still had no personal recollection of a Bruce Danielson at the time of Mr. Danielson's subsequent filing of Complaints 14-B, 14-C and 14D.

Mr. LaFollette informed the Board that he has no recollection of the alleged facts Mr. Danielson relayed today regarding a bad business relationship between them.

Mr. LaFollette acknowledged having a client that was a corporation with a Danielson as a stockholder some 35 years ago. He did not recall why their business relationship ended.

Mr. LaFollette advised the Board that he does not recognize Mr. Danielson by looking at him today. Even if he had been present at the March 26, 2014 meeting and recognized him or his name, he still has no recollection of any negative business relationship so it would not have changed anything as far as his consideration of Complaint 14-A.

When questioned by the Board, Mr. LaFollette indicated that he does not have any bad feelings associated with Mr. Danielson or his family business.

The Board acknowledged Mr. Danielson's level of concern. The Board also acknowledged that Mr. LaFollette has no recollection of prior dealings with Bruce Danielson.

Mr. Danielson asked that Mr. LaFollette recuse himself from every proceeding Mr. Danielson brings before this Board.

Mr. Danielson admitted that the Board's dismissal of Complaint 14-A was the only decision that should have been rendered.

The Board discussed that there was no evidence of bias by Mr. LaFollette at the hearing on Complaint 14-A, nor was there any evidence of financial gain. Without evidence of bias or impropriety, there is no factual basis to support Mr. Danielson's claim.

A motion was made by Ron Sisk and seconded by Bob Swanhorst that the Board dismiss Complaint 14-D. No further discussion. Vote to approve: 4 Yeses. Motion Passed.

A motion was made by Ron Sisk and seconded by Bob Swanhorst 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 Vice Chair, Carol Knudtson to sign off on the same. Vote to approve: 4 Yeses. Motion Passed.

Mr. LaFollette rejoined the Board.

2. Complaint (14-B) filed 3/31/14.

Mr. LaFollette formally refused Complainant's request to recuse himself from consideration of Complaint 14-B.

Mr. Pfeifle recused himself as the Board's legal advisor as the Mayor was named in Complaints 14-B and 14-C.

Mr. LaFollette read the Complaint on the record.

Mr. Danielson again requested that the Chairman recuse himself based on the Complaint that was just dismissed.

Bruce Danielson made a presentation to the Board concerning Complaint 14-B, alleging that Mayor Huether violated Ordinance Section 38.021 by using Carnegie Town Hall, CityLink and the City of Sioux Falls web services to campaign for re-election through his presentation of the State of the City Address given on March 26, 2014.

Mr. Danielson provided handouts to the Board regarding the release of the City's financials.

The Board reminded Mr. Danielson that the Charter does not require a specific date for the State of the City address. Ms. Knudtson advised Mr. Danielson that his concerns should be addressed to the Charter Revision Commission.

Mr. Sisk asserted that there is no basis in the rules as they exist to find this Complaint valid.

Mr. Pfeifle requested that the Board take judicial notice of its prior findings and conclusions in dismissing Complaint 14-A as previously filed by Mr. Danielson.

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

- a. 2013 State of the City Address PowerPoint; and
- b. 2014 State of the City Address PowerPoint.

Heather Hitterdal, Communications Specialist for the City of Sioux Falls, demonstrated the similarity of the 2014 State of the City address to the 2013 State of the City address by comparing the PowerPoint slides of each presentation.

Ms. Hitterdal informed the Board that the last piece of factual information used in the presentation was received the day of Mayor Huether's State of the City address.

Mr. Pfeifle addressed the Board on behalf of the Mayor. He explained that the Mayor was not present at this Board meeting because the Board already dismissed as frivolous Complaint 14A, based on the same facts.

Mr. Pfeifle asked the Board to find the Complaint frivolous and further find that it was brought for harassment purposes as allowed by its by-laws.

Mr. Gednalske asserted that there was nothing presented today that would result in a different ruling. The Board must follow the applicable ordinances and executive order and in doing so, it must reach the same conclusion it reached regarding Complaint 14-A.

A motion was made by Jeff Gednalske that the Board find that based on the ordinance cited prohibiting the expenditure of funds and specifically the executive order allowing for candidate appearances on CityLink for conducting official City business, the Board has established that the Mayor shall provide an annual State of the City address and that it is conducted as official City business.

Mr. LaFollette asked that the motion be phrased to deal specifically with the disposition of Complaint 14-B and that Mr. Gednalske's comments will be recorded as part of the record.

A motion was made by Carol Knudtson and seconded by Bob Swanhorst to find that Complaint 14-B has no basis in fact in terms of ethical issues and that it be dismissed as frivolous and with bias. No further discussion. Vote to approve: 5 Yeses. Motion Passed.

A motion was made by Ron Sisk and seconded by Carol Knudtson to authorize the City Attorney's Office 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: 5 Yeses. Motion Passed.

3. Complaint (14-C) filed 3/31/14.

The Board asked Mr. Danielson whether he had any new information to present specific to Complaint 14-C. Mr. Danielson indicated that he did not.

Scott Ehrisman advised the Board that he had new information to present. Mr. Ehrisman discussed his experiences with clients and his ability to remember them. He further informed the Board that the content of the State of the City address was not the issue, the timing was.

Mr. Ehrisman asserted that giving grievances to elected officials is a constitutional right and not harassment.

Ms. Hitterdal spoke to the timing of the address, explaining that she is involved in the preparation of the address and that she began employment with the City about 8 weeks before the address in 2013. Ms. Hitterdal's position with the City makes preparation of this address easier and faster, especially the second time around.

Rebecca Dunn addressed the Board regarding her concern that an individual should be able to come before this Board and state their case without being accused of harassment. She suggested the Board review their dismissal.

A motion was made by Jeff Gednalske that Complaint 14-C be dismissed as there is no factual basis to support the allegations and the complaint is frivolous.

At the request of the Board Chair, the clerk read back the motion addressing Complaint 14-B.

A rephrased motion was made by Jeff Gednalske and seconded by Carol Knudtson that Complaint 14-C is without a factual basis, that there is no ethical violation, and that the Mayor's actions were within the ordinance and executive order and therefore, it should be dismissed as frivolous and with bias. No further discussion. Vote to approve: 5 Yeses. Motion Passed.

A motion was made by Carol Knudtson and seconded by Bob Swanhorst to authorize the City Attorney's Office 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: 5 Yeses. Motion Passed.

NEXT MEETING

No specific date for the next meeting was scheduled.

ADJOURNMENT

A motion was made by Carol Knudtson and seconded by Ron Sisk to adjourn. Vote to adjourn: Five Yeses. Motion Passed. Meeting adjourned at 4:22 p.m.

Respectfully submitted,

Cari Hanzel
Recording Clerk