

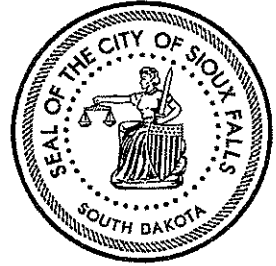
# MINUTES

Wednesday, February 25, 2009 at 3:30 PM

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## Board of Ethics Special Meeting

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



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### ROLL CALL

BOARD MEMBERS PRESENT: Lloyd Stivers, Bill O'Connor, Mike McKnight and Howard Paulson

BOARD MEMBERS ABSENT: Mari Robbennolt

STAFF PRESENT: Robert Amundson, Sioux Falls City Attorney, R. Shawn Tornow, Assistant City Attorney and Cari Hanzel, Recording Clerk.

OTHERS PRESENT: Debra Owen, Melanie Brandert, Argus Leader reporter

Board Chair, Lloyd Stivers called the meeting to order at 3:32 p.m.

### APPROVAL OF MINUTES

As the minutes from the last meeting were not available yet, this agenda item was bypassed.

### BUSINESS OR ISSUES BROUGHT BEFORE THE BOARD

#### 1. REVIEW AND DISCUSSION OF POSSIBLE ETHICS ORDINANCE REVISIONS.

Discussion was had regarding the Board's concerns regarding the ethics ordinance revisions currently being considered by the Council.

The Board raised a concern with the proposed change to the informal advisory opinion process and the fact that citizens would not be able to request an informal advisory opinion under the new proposed ordinances. It was suggested that a possible solution would be to make all informal advisory opinions confidential with some sort of penalty for a violation of confidentiality. It was agreed that the citizens should have the right to request an informal advisory opinion but that the Board should remain in control of the information and decision by keeping the same confidential.

Shawn Tornow suggested that the Board may want to consider using similar language as now used in the complaint process about confidentiality.

Mike McKnight raised a concern that there are several places in the proposed ordinance that state any person may request an advisory opinion and then at the end it says only the mayor or council can make the request.

Lloyd Stivers commented that it should be kept in mind that less than 10% of the advisory opinion requests come from citizens.

Following discussion, there was a consensus of the Board that all future requests for advisory opinions be confidential.

Tornow advised the Board that for those areas of concern for which a consensus was reached, that he would work up some proposed language pursuant to the Board's direction for the Board to review and further consider next week.

Amundson advised that the request for advisory opinion form or application should similarly be kept confidential.

The Board then held further discussion as to who could request an advisory opinion regarding council conduct.

Amundson mentioned that his thought would be that advisory opinions are normally to advise not criticize.

The Board discussed the use of the word "binding" in the charter relating to advisory opinions and whether that maybe should be restated. The Board did not reach a consensus on this issue.

The Board raised an additional concern that the proposed ordinance contains two different definitions for "officer." Tornow offered some history of the ordinance and explained that one needs to look to the definitions in each article to see how "officer" is used. It was agreed that for a bit more clarity, it might be best to eliminate the term "officer" within Article III.

Amundson suggested amending 12½-19(b) to reflect "city attorney's staff" instead of "city clerk." There was no objection from the Board as to this suggested change.

A discussion was had regarding the Board's ability to hire independent council pursuant to the authority allowed under the Charter.

The Board also discussed the proposition that candidates for office should be included or covered by the ethics ordinance. There was a consensus to come up with some proposed language for the Board to vote on at the next meeting.

With regard to the Board's proposal to keep all informal advisory opinion requests confidential, Tornow indicated that he would also draft a short ordinance revision proposal providing for an actual ordinance violation if confidential information is disclosed.

In the end, Tornow indicated that he would draft a set of the proposed revisions to the ethics ordinance pursuant to the discussions and decisions of the Board today and present them for the Board's consideration and vote next week.

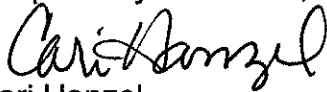
### **NEXT MEETING**

The Board decided to meet again in a week to review and vote on proposed revisions that would thereafter be considered to be presented to the Council. Date and time to be determined.

### **ADJOURNMENT**

A motion was made by Lloyd Stivers to adjourn the meeting at 4:35 p.m. Motion carried.

Respectfully submitted,



Cari Hanzel  
Recording Clerk