

MINUTES

Thursday, August 26, 2010 at 3:30 PM

**Board of Ethics
Special Meeting**

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



ROLL CALL

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

BOARD MEMBERS ABSENT:

STAFF PRESENT: David Pfeifle, City Attorney, Gail Eiesland, Chief Assistant City Attorney and Cari Hanzel, Recording Clerk

OTHERS/GUESTS PRESENT: None

Board Chair Mike McKnight called the meeting to order at 3:31p.m.

APPROVAL OF MINUTES

A motion was made by Mari Robbennolt and seconded by Bill O'Connor to approve the minutes from the Special Meeting of July 13, 2010. Five Yeses. Motion carried.

APPROVAL OF ADVISORY OPINION 10-3

A motion was made by Bill O'Connor and seconded by Bob Swanhorst to approve the Advisory Opinion 10-3. Five Yeses. Motion carried.

BUSINESS OR ISSUES BROUGHT BEFORE THE BOARD

1. It was advised by counsel for the Board that the Board would not be able to go into closed session to discuss suggestions or input the Board would consider making to the Public Services Committee about the current ethics ordinances as the subject matter did not qualify for an executive session.

The Board reviewed the Minutes from the Public Services Committee meeting of July 12, 2010 and discussed objections and suggestions to the proposed changes detailed in those Minutes.

Section 12 ½ - 2: Board had no objection to the suggestions/comments made by the PSC.

Section 12 ½ - 4: Board had no objection to the term limit language being added.

Section 12 ½ - 8: Board objected to changing the number of members required to make a quorum or requiring the entire Board be present when making a decision. Given situations where a Board member may need to recuse himself/herself and given the need for expediency in most matters before the Board, the Board recommended that the quorum stay at three members.

Section 12 ½ - 10: Board instructed Gail Eiesland to talk to Debra Owen about this section.

Section 12 ½ - 10(6): Board suggested the section be rewritten so it is clear that the Board of Ethics has the power to issue subpoenas both on its own behalf and on behalf of the accused if determined to be appropriate by the Board.

Section 12 ½ - 10(10): Board had no objection to the suggestions/comments made by the PSC.

Section 12 ½ - 10(11): Board opposed the elimination of its ability to promulgate rules and regulations for the conduct of the Board.

Section 12 ½ - 10(15): Board had no objection to the suggestions/comments made by the PSC.

Section 12 ½ - 11: Board had no objection to the suggestions/comments made by the PSC.

Section 12 ½ - 12: Board had no objection to the suggestions/comments made by the PSC. Board raised some concerns over potential conflicts of interest for the city attorney.

Section 12 ½ - 15: Board had no objection to the suggestions/comments made by the PSC.

Section 12 ½ - 23: Board expressed concern over language suggested by the PSC. Board agreed that whoever is bringing it public can't pick and choose what information to release; it would need to be all or nothing. The Board expressed the need for fairness to all parties involved in a complaint matter.

Section 12 ½ - 24: Board had no objection to the suggestions/comments made by the PSC.

Section 12 ½ - 26: Board suggested that the phrase "board's final action" should be changed as, in some cases, the Board's final action is not necessarily the final decision in the matter. Where the matter goes to the City Council after the Board's investigation, judicial review would follow Council's final action.

Section 12 ½ - 28: Board had no objection to the suggestions/comments made by the PSC.

Section 12 ½ - 34: Board had no objection to the suggestions/comments made by the PSC.

Section 12 ½ - 35: Board had no objection to defining what should be included in the report. Board was opposed to changing the term “majority vote” to “a vote of all of its members”.

Section 12 ½ - 35(c): Board raised the same concerns about upholding confidentiality as discussed with regard to Section 12 ½ - 23.

The Board made the following additional suggestions:

1. If during its investigation, the Board discovers a potential ethical violation not detailed in the original complaint, the Board will advise its counsel who will then bring the matter to the attention of the City Council through executive session or other means.
2. Ordinance verses Charter language should be cleaned up.
3. Advisory opinions should be published after removal of identifying information.
4. Board’s investigation and decision of a complaint should be presented to the City Council both orally and in writing.

A motion was made by Mike McKnight and seconded by Bob Swanhorst to authorize counsel for the Board to prepare a written report to the Public Services Committee consistent with what the Board discussed. Five Yeses. Motion carried unanimously.

2. Executive Session – Personnel Issues

Bill O’Connor made a motion to go into closed session to discuss personnel issues. Mari Robbennolt seconded the motion. Five Yeses. Motion carried. The Board went into closed session at 4:31p.m.

Bill O’Connor made a motion to come out of closed session. Bob Swanhorst seconded the motion. Five Yeses. Motion carried. The Board came out of closed session at 4:47 p.m.

A motion was made by Mike McKnight and seconded by Bill O’Connor that counsel for the Board, David Pfeifle, take the personnel action as discussed by the Board in closed session. Five Yeses. Motion carried unanimously.

NEXT MEETING

No future meetings scheduled at this time.

ADJOURNMENT

A motion was made by Bill O'Connor and seconded by Bob Swanhorst to adjourn. Five Yeses. Motion carried. Meeting adjourned at 4:49 p.m.

Respectfully submitted,

Cari Hanzel
Recording Clerk