

AGENDA	Friday, December 22, 2017 at 10:00 AM	 CITY OF SIOUX FALLS
BOARD OF ETHICS QUARTERLY MEETING	Commission Room 1st Floor ~ City Hall 224 West Ninth Street Sioux Falls, South Dakota	

1. CALL TO ORDER

2. APPROVAL OF MINUTES FROM OCTOBER 25, 2017 SPECIAL MEETING

3. APPROVAL OF WRITTEN ADVISORY OPINION 17-1

4. ANY BUSINESS OR PENDING ISSUES TO BE BROUGHT BEFORE THE BOARD

A. RECUSAL OF CITY ATTORNEY AND APPOINTMENT OF ALAN PETERSON AS COUNSEL TO THE BOARD OF ETHICS REGARDING CONFIDENTIAL COMPLAINT 17-B

B. CONFIDENTIAL COMPLAINT (17-B) FILED 11/30/17
(POTENTIAL EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTER PURSUANT TO SDCL 1-25-2(1) AND CONSULT WITH LEGAL COUNSEL PURSUANT TO SDCL 1-25-2(3))

5. ADJOURNMENT

BOARD OF ETHICS MEMBERS:

Greg LaFollette, Chair
Jack Marsh, Vice Chair
Jeff Gednalske
Wanda Harris
Sue Roust

CITY STAFF:

Karen Leonard, Acting City Attorney
Cari Hanzel, Paralegal/Board Liaison

If an ADA accommodation is needed, please contact the Human Relations Office at 367-8745 or humanrelations@siouxfalls.org at least 12 hours in advance of the meeting.

MINUTES	Wednesday, October 25, 2017 at 3:00 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, Wanda Harris, Greg LaFollette, Jack Marsh and Sue Roust

BOARD MEMBERS ABSENT: None

STAFF PRESENT: Dave Pfeifle, City Attorney, Karen Leonard, Deputy City Attorney, and Cari Hanzel, Recording Clerk

CALL TO ORDER

A quorum being present, the meeting was called to order by Board Chair Greg LaFollette at 3:00 p.m.

APPROVAL OF MINUTES

A motion was made by Jack Marsh and seconded by Jeff Gednalske to approve the minutes from the Quarterly Meeting on September 28, 2017. Vote to approve: 4 Yeses. Motion passed.

BUSINESS OR PENDING ISSUES BROUGHT BEFORE THE BOARD

- A. Complaint 17-A filed 9/27/2017 against Charter Revision Commission Member Jill Entenman

David Pfeifle provided a brief overview of the documents received by the Board in reference to Complaint 17-A as well as a review of the relevant ethics ordinances and rules of procedure.

Board Chair LaFollette asked for a motion regarding jurisdiction of the Board to hear the Complaint.

A motion was made by Jack Marsh and seconded by Sue Roust to accept Complaint 17-A and find the Board has jurisdiction to handle it. Vote to approve: 4 Yeses. Motion passed.

Discussion was had regarding whether this matter should be addressed as a complaint or a request for advisory opinion and whether there was a true conflict or a hypothetical situation. The Board decided to flush out the evidence first and then decide how to proceed.

Bruce Danielson made a presentation to the Board concerning the allegation in his Complaint questioning whether Jill Entenman, a citizen board member of the Charter Revision Commission whose husband is running for mayor, should continue to serve on the Commission where she could possibly influence the election process by her votes on the upcoming potential Sioux Falls Home Rule Charter Commission decisions.

Mr. Danielson clarified that he intended to file this as an ethics question and not a complaint.

Mr. Danielson further clarified that he is not saying Ms. Entenman has done anything unethical; only that it is possible.

The Board asked Mr. Danielson if he was asking for an opinion whether a conflict exists currently with a citizen board member being married to a candidate for mayor or if it's a potential future conflict if Jim Entenman becomes mayor and Jill Entenman serves on the Charter Revision Commission. Mr. Danielson advised that he was asking for an opinion on both scenarios.

Further discussion was had by the Board regarding acceptable solutions like recusal of a board member if faced with a conflict.

Jill Entenman provided a statement to the Board and entertained questions.

Ms. Entenman reiterated that the Charter Revision Commission does not have final decision making authority. They report their suggestions to the City Council and then the matters are placed on the ballot for a vote of the people.

Mr. Pfeifle explained the role of the Charter Revision Commission and how suggested amendments to the Charter get on the ballot.

At the Board's request, Ms. Entenman reviewed the Charter amendments that were recommended by the Charter Revision Commission and voted on in the last election.

Ms. Entenman was uncomfortable with addressing hypotheticals or "what ifs" but indicated that if there was ever a suggestion of impropriety, she would recuse herself.

The Board thanked Mr. Danielson and Ms. Entenman for their time and testimony.

A motion was made by Jack Marsh and seconded by Wanda Harris to convert the complaint to a request for advisory opinion. Vote to approve: 4 Yeses. Motion passed.

Mr. Pfeifle advised the Board that the only laws or prohibitions regarding relatives of elected officials serving on citizen boards or being employed by the City deal with conflict of interest of a financial nature or the acceptance of gifts or things of value. Mr. Pfeifle advised the Board to focus on Charter Section 7 regarding avoiding the appearance of impropriety. Mr. Pfeifle further advised that there are no prohibitions on the mayor or council member also having a relative employed by the City or appointed to a position or to a citizen board as long as there is no direct supervisory authority over that person.

Mr. Pfeifle provided the Board with the following documents to aid in their discussions: 1) Resolution 15-15 appointing Jill Entenman to the Charter Revision Commission; 2) Statement of Organization filed by Jim Entenman as a Candidate for Mayor; and 3) election data from 1994 through 2016.

Discussion was had by the Board regarding the facts before them and whether a conflict of interest or an appearance of impropriety could be found.

Mr. Pfeifle advised the Board that in looking at a financial conflict of interest, if the Charter Revision Commission was considering an amendment of Section 2.04 of the Charter regarding elected official compensation, because that could affect Ms. Entenman if her husband were to be elected mayor, then that would be an instance where her recusal would be necessary.

Further discussion was had by the Board.

A motion was made by Jack Marsh that the Board does not find an inherent conflict of interest when the spouse of the mayor serves on an appointed civic board.

Board Chair LaFollette suggested "mayor or mayoral candidate"; to which Mr. Marsh agreed.

No comments were made.

Motion died for lack of a second.

A motion was made by Mr. Gednalski to have David Pfeifle draft an advisory opinion finding the following: 1) that the spouse of a mayoral candidate serving on a board does not create an inherent conflict; and 2) that if there is a conflict or recommended change to the Charter that relates to the mayoral election or Article 3 of the Charter.

Ms. Roust suggested finishing the motion with, "that the person should recuse themselves from those issues," to which Mr. Gednalski agreed.

Discussion was had on the motion.

Ms. Roust seconded the motion. Vote to approve: 3 Yeses. 1 No. Motion passed.

The Board discussed Mr. Danielson's concern that there is no form for someone to request an advisory opinion only a form to request a complaint.

The Board confirmed that citizens can file requests for advisory opinions and that the form is available on the Board of Ethics page on the City's website, labelled "Request for Advisory Opinion."

NEXT MEETING

No specific date for the next meeting was scheduled.

ADJOURNMENT

A motion was made by Jack Marsh and seconded by Jeff Gednalske to adjourn the meeting. Vote to approve: 4 Yeses. Motion passed. Meeting adjourned at 4:01 p.m.

Respectfully submitted,

Cari Hanzel
Recording Clerk

DRAFT

**Board of Ethics
City of Sioux Falls
Advisory Opinion No. 17-1**

Request for Opinion

Bruce Danielson, a City of Sioux Falls resident, filed a complaint (17-A) on or about September 27, 2017. The Board of Ethics has the discretion to instead render an advisory opinion pursuant Section 35.010(l) of the Code of Ordinances of Sioux Falls, SD. After discussion, the Board determined the facts warranted an advisory opinion regarding the propriety of the spouse of a mayoral candidate serving on the Sioux Falls Charter Revision Commission.

Facts

Jill Entenman was appointed by the Mayor with the advice and consent of the City Council to be a member of the City's Charter Revision Commission in March 2015. She is married to Jim Entenman, who has announced his candidacy for mayor of Sioux Falls in the April 10, 2018 municipal election. Jim Entenman filed a statement of organization to seek the office of Mayor on March 21, 2017. The Charter Revision Commission will conduct meetings in the fall of 2017 to review and consider revisions to the Charter for the City of Sioux Falls. The Charter Revision Commission does not have final decision making authority regarding changes to the Charter; however, any amendments they propose by a super majority vote of its members will be placed on the April 2018 ballot for consideration by the voters of the City. Mr. Danielson questions whether a conflict of interest exists currently with Ms. Entenman serving on the Charter Revision Commission while her husband runs for mayor. Mr. Danielson also questions the propriety of Ms. Entenman's service on this citizen board if Mr. Entenman were to be elected mayor.

Opinion

Pursuant to Section 35.025 of the Code of Ordinances of Sioux Falls, SD, the guidelines setting forth actions which are incompatible with the best interest of the citizens of the city and directing disclosure of private financial or other interests in matters affecting city government, apply not only to city officers and employees, but also to members of all boards, commissions and committees of the city. Specifically, Section 35.028 provides that board members are prohibited from acting in an official capacity on matters in which they have a private financial interest separate from that of the general public and Section 35.029 provides guidelines for the acceptance of gifts and other things of value. In addition, City Charter Section 7.01 further cautions that, "[t]he appearance of impropriety shall be avoided." There is no provision in the Charter or ordinances prohibiting relatives of elected city officials from serving on citizen boards.

The Board of Ethics hereby finds that the spouse of a mayoral candidate serving on the Charter Revision Commission does not create an inherent conflict. The Board further

advises that there is an option to recuse oneself should a conflict arise. For example, if the Charter Revision Commission considers a recommended change to the Charter that relates to the mayoral election or Article 3 of the Charter, then the board member should recuse himself/herself from those issues as then a conflict would exist.

Greg LaFollette, Chair

Opinion decided: October 25, 2017

Written opinion approval: _____