

AGENDA	Thursday, September 13, 2018 at 4:00 PM	 CITY OF SIOUX FALLS
BOARD OF ETHICS MEETING	Commission Room 1st Floor ~ City Hall 224 West Ninth Street Sioux Falls, South Dakota	

1. CALL TO ORDER

2. APPROVAL OF MINUTES FROM JUNE 7, 2018 MEETING

3. APPROVAL OF WRITTEN ADVISORY OPINION 18-2

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

5. PUBLIC INPUT

6. ADJOURNMENT

BOARD OF ETHICS MEMBERS:

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

CITY STAFF:

Stacy Kooistra, 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	Thursday, June 7, 2018 at 3:30 p.m.	 CITY OF SIOUX FALLS
BOARD OF ETHICS 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 (by phone) and Sue Roust

BOARD MEMBERS ABSENT: None

STAFF PRESENT: Karen Leonard, Acting City Attorney, and Cari Hanzel, Recording Clerk

CALL TO ORDER

A quorum being present, the meeting was called to order by Board Vice Chair Jeff Gednalske at 3:30 p.m.

APPROVAL OF MINUTES

A motion was made by Sue Roust and seconded by Wanda Harris to approve the minutes from the meeting on March 29, 2018. Vote to approve: 4 Yeses. Motion passed.

APPROVAL OF WRITTEN ADVISORY OPINION 18-1

A motion was made by Wanda Harris and seconded by Sue Roust to approve the written Advisory Opinion 18-1.

Jeff Gednalske suggested a revision to the last sentence of the second to last paragraph to read, "The Board finds that Council Member Neitzert has not violated the provisions of this section; rather, he was researching constituent questions or concerns regarding this type of TNC as compared to other TNCs."

A motion was made by Jack Marsh and seconded by Wanda Harris to adopt the amendment to the written Advisory Opinion 18-1 as suggested. Vote to approve: 4 Yeses. Motion passed.

A motion was made by Wanda Harris and seconded by Jack Marsh to approve the written Advisory Opinion 18-1 as amended. Vote to approve: 4 Yeses. Motion passed.

Karen Leonard will amend the language of the written Advisory Opinion 18-1 as approved and Jack Marsh will sign off on it.

BUSINESS OR PENDING ISSUES BROUGHT BEFORE THE BOARD

A. Request for Advisory Opinion (18-2) filed April 25, 2018.

Gednalske introduced the pending Request for Advisory Opinion submitted by Council Member Theresa Stehly and advised that she waived confidentiality.

Board Clerk Cari Hanzel read Councilor Stehly's Request for Advisory Opinion.

Karen Leonard provided the Board with the following documents to aid in their discussions: 1) Rules of Procedure for the Board of Ethics; 2) Advisory Opinion 13-2; 3) Ethics Canons 3, 6 and 7 as found in Sections 34.005, 34.008 and 34.009 of the Ordinances of Sioux Falls, SD; 4) Advisory Opinion 07-1; 5) Advisory Opinion 06-1; 6) Section 35.054 of the Ordinances of Sioux Falls, SD; 7) Code of Conduct SD State Legislature; 8) Advisory Opinion 14-2; 9) Charter Sections 7.01 and 7.02; and 10) SDCL 9-20-1 and 9-20-8. Copies of the same were also made available to the public at the back of the room.

The Board discussed how to structure their review of the six questions raised and further discussed whether the questions were hypothetical or specific enough to address.

Greg LaFollette moved to bifurcate the issue into two sections, the first dealing with questions 1, 5 and 6 of the Request and the second dealing with questions 2, 3 and 4 and to have the discussions separate from one another. Sue Roust seconded the motion. Vote to approve: 4 Yeses. Motion passed.

The Board invited Council Member Stehly to speak to her request. She was sworn under oath.

The Board asked Councilor Stehly to first address questions 1, 5 and 6.

Councilor Stehly informed the Board that she meant to use the term circulate and not participate in each of her questions.

Councilor Stehly provided the Board with examples of other elected officials who have done petition drives and expressed her interest in leading petition drives at the municipal, county, state and school board levels.

The Board asked questions of Councilor Stehly.

Councilor Stehly clarified that she was not questioning whether she could be an advocate, just interested in circulating petitions for signature.

The Board discussed the guidance already found in the Canons and previous advisory opinions and well as the Board's Rules of Procedure prohibiting opinions on hypothetical questions.

The Board specifically reviewed previous Advisory Opinion 07-1 and the ordinances and canons tied to that.

The Board encouraged Councilor Stehly to come back with specific facts that the Board could address which weren't hypothetical in nature.

Greg LaFollette moved to decline to provide an opinion based on the fact that the Board finds the questions to be hypothetical and the Board refers the requestor to previous Advisory Opinion 07-1 for guidance. Jack Marsh seconded. Vote to approve: 4 Yeses. 0 Noes. Motion passed.

A motion was made by Greg LaFollette and seconded by Sue Roust to authorize the Board's legal advisor, Karen Leonard, to draft an Advisory Opinion consistent with the discussions and motion of the Board. Sue Roust moved to add the following to the end of the motion: "and to authorize the Board Chair to sign the opinion as drafted on behalf of the Board." 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 and seconded by Sue Roust to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 4:39 p.m.

Respectfully submitted,

Cari Hanzel
Recording Clerk

**Board of Ethics
City of Sioux Falls
Advisory Opinion No. 18-2**

Request for Opinion

City Councilor Theresa Stehly requested that the Board of Ethics provide guidance on the following:

1. Her right to circulate a Sioux Falls municipal citizen petition. (This could be an initiative, referendum or charter revision effort.)
2. Her right to lead a Sioux Falls municipal citizen petition drive. (This could be an initiative, referendum or charter revision effort.)
3. Her right to participate in a county, school district or statewide initiative/referendum petition effort.
4. Her right to lead a county, school district or statewide initiative/referendum petition effort.
5. Her right to circulate nominating petitions for other city council candidates.
6. Her right to circulate nominating petitions for school board, county and state candidates.

Facts

Councilor Stehly expressed interest in leading petition drives and circulating petitions at municipal, school district, county and statewide levels. She acknowledged that she interchanged the words, circulate, lead and participate in her questions one through three above. She clarified she wanted guidance on her right to circulate a Sioux Falls municipal citizen petition or a statewide initiative/referendum petition. Questions 5 and 6 were correctly worded. She provided the Board with examples of similar activities by other state and county elected officials. Councilor Stehly did not provide the Board with a specific factual situation which detailed what the issue would be surrounding the petition she wanted to circulate.

Opinion

In advisory opinion 07-01, the Board noted “[it] has historically taken a firm position against the idea of offering speculative or conjectural opinions as to what hypothetical activities

may or may not be allowed under the City's ethics provisions." In the matter at hand, the Board finds it difficult to apply the ethic ordinances without knowing the facts at hand. The Rules of Procedure adopted by this Board precludes it from giving opinions on hypothetical questions. Thus, the Board declines to provide opinions on questions it finds to be hypothetical and refers Councilor Stehly to the Advisory Opinion 07-01 for guidance and recommends she familiarize herself with the Canons of Ethics referenced in such opinion.



Jack Marsh, Chair

Opinion decided: June 7, 2018

Written opinion approval: _____