

AGENDA	Thursday, December 19, 2019 at 12:00 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 SEPTEMBER 19, 2019 MEETING
(ATTACHED)

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

A. INTRODUCTION OF NEW BOARD MEMBER – DANIEL FRITZ

B. RECOGNITION OF BOARD SERVICE – JEFFREY GEDNALSKE

4. PUBLIC INPUT

5. ADJOURNMENT

BOARD OF ETHICS MEMBERS:

Jack Marsh, Chair
Dan Fritz
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, September 19, 2019 at 10:00 a.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, Greg LaFollette, Jack Marsh, Wanda Harris and Sue Roust (arrived at 10:05 a.m.)

BOARD MEMBERS ABSENT:

STAFF PRESENT: Stacy Kooistra, City Attorney, and Cari Hanzel, Recording Clerk

CALL TO ORDER

A quorum being present, the meeting was called to order by Board Chair Jack Marsh at 10:00 a.m.

APPROVAL OF MINUTES

A motion was made by Wanda Harris and seconded by Greg LaFollette to approve the minutes from the meeting on August 16, 2019, which included Advisory Opinion 19-4 previously approved and signed by the Board Chair on behalf of the Board. Vote to approve: 4 Yeses. Motion passed.

BUSINESS OR PENDING ISSUES BROUGHT BEFORE THE BOARD

1. REQUEST FOR ADVISORY OPINION 19-5 FILED AUGUST 13, 2019

Jack Marsh introduced Request for Advisory Opinion 19-5 submitted by City Council member Janet Brekke. The Request was read into the record by the Clerk.

City Attorney Stacy Kooistra advised the Board that it had jurisdiction to hear Request 19-5 and further outlined the relevant law and prior opinions that merited review when considering the Request.

Councilor Brekke appeared before the Board and was sworn in.

Councilor Brekke provided some background to her request, including her actions to date with regard to the City Charter changes she supports.

Councilor Brekke asked the Board to determine how active she can be in the petition drive process and clarified that she is not interested in heading up the petition drive. She further directed the Board to Canons 4(b)(1), 7(a) and 7(b) as what she looked at when trying to understand what she would be allowed to do.

Councilor Brekke referred to activities she may participate in depending on whether she deems them helpful to the petition drive, including speaking engagements, providing funding or seeking funding on behalf of the organization, and any and all things associated with the petition drive that she might want to avail herself of as long as it's ethical.

With regard to the petitions themselves, Councilor Brekke advised the Board that she would be willing to waive her responsibilities as supervisor over the City Clerk's office while engaged in the petition process. She explained that she would like to be able to go out and speak and have petitions available for people to sign in her presence.

The Board referenced Advisory Opinion 19-4 it recently issued wherein it advised Councilor Stehly to avoid the appearance of impropriety and urged her not to be involved in the circulation of petitions.

Councilor Brekke explained that she views the Ethics Board's role as her insurance company. She wants to know with definitiveness what she can do and what she cannot do.

The Board expressed concern that the Request was without specific facts upon which to provide an opinion. The Board reiterated that it does not consider hypotheticals.

Further discussion was held regarding specific facts presented that were not detailed in the original Request and whether there was a problem with public notice.

A motion was made by Greg LaFollette and seconded by Jeff Gednalske that the Board decline to opine and suggested that if Councilor Brekke so chooses, she should file a request with enough specificity for the Board to be able to rule on it.

Further discussion was held.

Stacy Kooistra referenced the Canons in the Code of Ethics set forth in ordinance as a good source of guidance for city council members.

Vote to approve: 5 Yeses. Motion passed.

A motion was made by Sue Roust and seconded by Jeff Gednalske to authorize the Board's legal advisor, Stacy Kooistra, to draft a response to this request consistent with the discussions and motion of the Board and to authorize the Board Chair to both approve and sign the opinion as drafted on behalf of the Board. Vote to approve: 5 Yeses. Motion passed.

2. REVIEW OF TIME FRAME FOR RENDERING WRITTEN ADVISORY OPINIONS – SECTION 2.05 OF THE BOARD'S RULES OF PROCEDURE

Stacy Kooistra explained the current time frame for rendering written advisory opinions pursuant to the Board's Rules of Procedure and the difficulty in meeting that deadline when non-business days are counted in that calculation.

A motion was made by Wanda Harris and seconded by Jeff Gednalske to amend Section 2.05 of the Board of Ethics Rules of Procedure to render the written advisory opinion within 10 days excluding weekends and holidays. 5 Yeses. Motion passed.

PUBLIC INPUT

Bruce Danielson appeared before the Board and provided input on the Board's decision.

NEXT MEETING

No specific date for the next meeting was scheduled.

ADJOURNMENT

Meeting adjourned at 10:41 a.m.

Respectfully submitted,

Cari Hanzel
Recording Clerk

City of Sioux Falls
BOARD OF ETHICS

ADVISORY OPINION NO. 19-5

Request for Opinion

Sioux Falls City Councilor Janet Brekke requested an advisory opinion as to whether there is any provision in the City of Sioux Falls Canons of Ethics and Conflicts of Interest in Ordinance that would prevent or limit her participation in a municipal petition drive to amend the Charter of the City.

Facts

Pursuant to Article VIII – Charter Amendment of the Sioux Falls City Charter, on August 5, 2019, a committee of 15 citizens filed an affidavit and began a petition drive proposing amendments to Charter Article II – City Council. This is a grass roots effort provided for in the Charter. Councilor Brekke is in favor of having the proposed amendments brought forward to Sioux Falls citizens for a public vote. Councilor Brekke would like to participate in any and all aspects of the petition drive as she sees fit.

The Charter Revision Commission also has the authority to send the proposed amendments to a public vote. Councilor Brekke is also appearing before the Charter Revision Commission requesting similar amendments to those appearing in the petition drive.

Opinion

The Rules of Procedure adopted by the Board of Ethics preclude it from giving opinions on hypothetical questions. In Advisory Opinion 07-1, 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.” The Board reiterated this position in Advisory Opinion 18-2.

In the Request for Advisory Opinion at hand, Councilor Brekke indicated she would like to participate in any and all aspects of the petition drive as she sees fit. The Board finds it difficult to apply the ethics ordinances without knowing the specific details of the activities Councilor Brekke wants to participate in. Thus, the Board declines to opine on Councilor Brekke’s request as written and suggests, if she so chooses, that she file a request with enough specificity for the Board to be able to rule on it.



Jack Marsh, Chair

Opinion decided: September 19, 2019