


<h1>AGENDA</h1>	Tuesday June 8, 2021 at 1:30 PM	 <b>CITY OF SIOUX FALLS</b>
<h2>Board of Ethics Meeting</h2>	Commission Room 1st Floor ~ City Hall 224 West Ninth Street Sioux Falls, South Dakota	

1. CALL TO ORDER
  
2. APPROVAL OF MINUTES FROM MARCH 31, 2021 MEETING (ATTACHMENT 1)
  
3. NOMINATIONS AND ELECTION OF VICE CHAIR FOR 2021
  
4. PUBLIC INPUT
  
5. ANY BUSINESS OR PENDING ISSUES TO BE BROUGHT BEFORE THE BOARD
  - A. REQUEST FOR INVESTIGATION (ATTACHMENT 2)
  - B. REQUEST FOR ETHICS BOARD REVIEW-ETHICS TRAINING ORDINANCE PROPOSED BY COUNCILOR JANET BREKKE (ATTACHMENT 3)
  
6. ADJOURNMENT

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**BOARD OF ETHICS MEMBERS:**

Jack Marsh, Chair  
 Sue Roust  
 Dan Fritz  
 Wanda Harris  
 Glen Severson

**CITY STAFF:**

Stacy Kooistra, City Attorney  
 Bonnie Woolam, Paralegal/Board Liaison

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

<b>MINUTES</b>	Wednesday March 31, 2021 at 10:00 a.m.	 <b>CITY OF SIOUX FALLS</b>
<b>Board of Ethics Meeting</b>	Commission Room 1st Floor ~ City Hall 224 West Ninth Street Sioux Falls, South Dakota	

**BOARD MEMBERS PRESENT:** Jack Marsh, Wanda Harris, Dan Fritz.

**BOARD MEMBERS ABSENT:** None

**STAFF PRESENT:** Stacy Kooistra, City Attorney, and Bonnie Woolam, Recording Clerk

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**CALL TO ORDER**

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

**INTRODUCTION OF NEW BOARD MEMBER AND REAPPOINTMENT**

The chair introduced Glen Severson as the newest member appointed to the Board of Ethics and announced the re-appointment of Sue Roust to a second term. The Chair thanked both parties for their service to the Board; both appointments will become effective April 2, 2021.

**RECOGNITION OF GREG LAFOLLETTE’S SERVICE TO THE BOARD**

The Chair recognized Greg LaFollette for his 8 years of public service to the Board of Ethics. Other members spoke to recognize his contribution. The Chair presented Mr. LaFollette with a plaque as a token of appreciation for his service.

**ELECTION OF CHAIR AND VICE CHAIR**

Following some preliminary discussion Dan Fritz nominated Jack Marsh to serve as Chair of the Board of Ethics for 2021. Wanda Harris seconded the motion. With no further nominations on the floor, Jack Marsh declared the nominations closed and proceeded with a vote. Vote to approve: 3 Yeses. Motion passed.

Dan Fritz offered a motion to table nomination and election of other officers until the next meeting when a full board will be present for the vote. The motion was seconded by Wanda Harris. No Discussion. Vote to approve: 3 Yeses. Motion passed.

**APPROVAL OF MINUTES**

A motion was made by Dan Fritz and seconded by Wanda Harris to approve the minutes from the meeting held on October 6, 2020. No Discussion. Vote to approve: 3 Yeses. Motion passed.

**ANNUAL REPORT**

The annual report was read by the recording clerk. A motion was made by Dan Fritz and seconded by Wanda Harris to approve the 2020 Board of Ethics Annual Report dated March 31, 2021. No Discussion. Vote to approve: 3 Yeses. Motion passed.

**NEW BUSINESS OR PENDING ISSUES**

Board Attorney Stacy Kooistra confirmed that there was no new business before the board

**PUBLIC INPUT**

City Councilor Christine Erickson addressed the Board and thanked Greg LaFollette for his 8 years of service on the Board of Ethics.

**ADJOURNMENT**

Finding no other business, the Chair declared the meeting adjourned at 10:19 a.m.

Respectfully submitted,

Bonnie Woolam  
Recording Clerk



# City of Sioux Falls Board of Ethics Complaint Form

**Name of Complainant:** David Zokaites

**Address:** 2215 East Mulberry Street / Sioux Falls, SD 57103

**Telephone Number:** (605) 251-0691

**Email Address:** DavidZokaites@gmail.com

Please cite section of ethics ordinance violated: 35.029 and 35.053

Statement of alleged violation of the City's Ethics Ordinance(s). Please be specific and include names of individuals, locations, and dates, as applicable.

There are now two new members on the Ethics Advisory Board. Because we basically have a new ethics board, I feel it is appropriate for the new board to review the old board's summary rejection of my ethics complaint last October. The basic problem is that city officials have a common practice of accepting gifts of third party paid travel. Such is the written opinion of the ethics board itself. In other words, bribery is common in Sioux Falls. I ask the Ethics Advisory Board to investigate and disclose the extent of this bribery. See the attachments for more information. The cancer of corruption grows in darkness while the light of truth brings integrity and honest government (quoting myself).

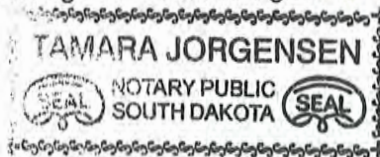
I have initiated the above complaint. The information provided is true to the best of my knowledge and belief. Pursuant to Sections 35.035 and 35.058(b) of the Code of Ordinances of Sioux Falls, SD, this complaint shall remain confidential unless the accused elects to waive confidentiality. I understand that I am bound by this confidentiality provision. I further understand that a violation of this confidentiality provision may result in the dismissal of this complaint.

David Zokaites  
Signature

April 6, 2021  
Date

On this the 6<sup>th</sup> day of April, 2021, personally appeared before me, David Zokaites, to be the signer of the foregoing document, and he/she acknowledges that he/she signed it.

Tamara Jorgensen  
Notary Public—South Dakota  
My Commission expires: 2/20/26



Received by:  
[Signature]  
Name

4/6/2021  
Date

**Please return completed form to the City Attorney's Office.**



Ethics Complaint – Illegal Gifts  
David Zokaites  
April 6, 2021

1) The promotion of honest government has been codified into Sioux Falls ordinance. City ordinance 35.029 "Acceptance of gifts and other things of value" includes (a) "No officer or employee shall directly or indirectly solicit any gift, or accept any gift whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer or employee, in the performance of official duties, or was intended as a reward for any official action."

2) City ordinance 35.053 also codifies pursuit of honest government. This section reads in part "City officials shall not: ... Directly or indirectly solicit any gift, or accept any gift whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer, in the performance of their official duties, or was intended as a reward for any official action:"

3) The ethics board wrote a letter to City Council dated August 11, 2020. Paragraph c on page 3 of this letter states with regard to third party paid travel, "the practice appears to be common" for "City officers". In other words, the ethics board wrote that city officials (or officers) regularly exhibited illegal unethical behavior. This letter is attached.

4) I do not know which public officials participated in the common practice of accepting third party paid travel and have no firsthand knowledge of the practice. I am basing this complaint solely on the above-mentioned ethics board letter.

5) I urge the ethics board to investigate and publicly disclose all third party paid travel by Sioux Falls city officials (and officers) over the last three years. This is the essence of my complaint: to uncover and disclose third party paid travel so that we the people may have greater confidence in our city government.

6) All parts of this complaint and the ensuing investigation should be public.

7) I plan to campaign for mayor of Sioux Falls. I did not file this complaint to support my campaign but to promote transparent government. Indeed, filing this complaint might hurt my election chances in politically conservative Sioux Falls. Nonetheless, my desire for better government is strong enough to justify the personal political risk.

*David Zokaites*

David Zokaites



August 11, 2020

Via hand-delivery

Sioux Falls City Council  
235 W. 10th Street  
Sioux Falls, SD 57104

Re: Ethics Complaint 20-B

Dear Honorable City Council Members:

This letter will serve as the Sioux Falls Board of Ethics' Report and recommendations to City Council.

A Citizen complaint was filed on May 18, 2020 requesting review of a course of behavior by a city council member. It has been identified as Complaint 20-B.

#### FACTS

The accused named in Ethics Complaint 20-B did not waive confidentiality, consistent with the rights provided in the Sioux Falls City Ordinances.

The Board of Ethics began consideration of Complaint 20-B on June 19, 2020. The Board voted to go into executive session, pursuant to SDCL 1-25-2 (1) and (3), to confidentially review the complaint and take initial closed-door testimony. The June 19<sup>th</sup> session was recessed to allow additional investigation. The Board resumed its consideration in another executive session on July 17, 2020. After discussion and consideration of additional research, the Board came out of executive session and agreed to what was anticipated to be the final meeting on the matter, beginning 3 p.m., Tuesday, Aug. 11. The Board reconvened in executive session on Aug. 11, discussed a draft of this report and then came out of executive session to consider a resolution in public session.

The following report was approved by the Sioux Falls Board of Ethics, in a 5-0 vote, at the meeting of Aug. 11, 2020.

Complaint 20-B alleges a violation of Sioux Falls City Ordinance 35.053(e) asserting that a city officer accepted a "gift of travel" "under circumstances which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer, in the performance of their official duties. ..."

The Board accepted the complaint and complied with the provisions of Sioux Falls City Ordinance §§ 35.009, 35.010, 35.058 and the Rules of Procedure, City of Sioux Falls Board of Ethics, Article III. The Board makes the following findings based upon the evidence received:

#### FINDINGS

1. The Board finds the circumstances and nature of the complaint worthy of investigation and chooses not to dismiss the complaint pursuant to Ordinance 35.009(b) based on any disclosure of the complaint.
2. The Board finds the complaint does not lack a rational basis in fact or law and, furthermore, the complaint is not "frivolous" as that term is used in Ordinance 35.009(c).
3. The Board finds the facts surrounding the event from which the complaint originated establish probable cause of a violation of the Ordinances that warrant the Council to conduct proceedings to review and clarify policies concerning travel paid for by third parties. The Board finds the facts surrounding the event from which the complaint originated do not warrant imposition of sanctions on any individual in this situation.
  - a. The accused acknowledges attendance at a seminar for which travel and other expenses were paid by third parties. The host of the seminar is a group with an acknowledged political agenda. The conference included multiple settings for attendees to be potentially influenced by commercial or political interests. The accused indicates attendance was educational and did not include overt attempts to influence regarding any specific issue. The Board notes that the complaint singled out only one individual for attendance at this conference, even though other Sioux Falls officials or officers also attended. Other attendees were not named in this complaint but were named in sworn closed-door testimony. The Board finds that attendance at such events funded by third parties raises ethical questions regarding the appearance of potential influence.
  - b. The Board finds the accused contemporaneously reported the travel in question to the City Council and the City Council took no action to disapprove, rebuke or otherwise sanction the travel for the accused or other city officers or officials in attendance.

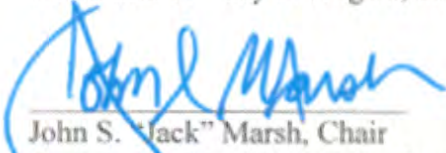


- c. The Board finds other incidents of past travel by City officers for which a third party paid expenses. While the Board did not thoroughly investigate or determine the full extent of such practices by City officers or officials, the practice appears to be common. The Board did not determine whether attendance at any prior event(s) was specifically improper.
- d. The facts here do not warrant individual sanctions for the travel subject to this Complaint 20-B. It would be unfair to find against a single individual who was following an apparent common practice among City officers.
- e. The Board finds the City Council rules lack specific guidance on attendance at seminars, conventions or other travel for which payment or reimbursement is provided by third parties. The Board finds that Ordinance 35.053(e) to be overly broad as it does not provide sufficient guidance of what actions or payments could reasonably be inferred or expected to influence an officer in an inappropriate or unethical manner. The Board notes that public accountability, transparency, and confidence in public officials would be enhanced if travel involving third-party payments were publicly announced and specifically approved by City Council before such travel takes place.

#### RECOMMENDATIONS

Based upon its consideration of Complaint 20-B, the board recommends no sanctions be imposed upon the accused. The Board generally would discourage attendance by City officers or officials at any seminar, convention or similar event financed by third parties in the absence of specific procedures requiring public disclosure and prior Council approval. At a minimum, the Board recommends (a) the City Council review and adopt policies that inform officers and officials when and whether attendance is acceptable for seminars, conventions or other travel that is financed by a third party and (b) that any such proposed travel shall be a matter of public record and be approved by vote of the City Council prior to attendance by the officer or official.

Dated this 11<sup>th</sup> day of August, 2020

  
John S. "Jack" Marsh, Chair  
On behalf of the Sioux Falls Board of Ethics



1st Reading: \_\_\_\_\_  
2nd Reading: \_\_\_\_\_  
Date Adopted: \_\_\_\_\_  
Date Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING CHAPTER 35 CONFLICTS OF INTEREST OF OFFICERS AND EMPLOYEES AND ETHICS BOARD TO IMPLEMENT A MANDATORY ETHICS TRAINING PROGRAM.

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

*Section 1. That section 35.005 of the Code of Ordinances of Sioux Falls, SD, is hereby amended to read:*

**§ 35.005 COMPENSATION AND TRAINING.**

No member of the board of ethics shall receive a salary. Members may be reimbursed for expenses in accordance with city policy.

In addition to the requirements of § 30.026, all board of ethics members must participate in an ethics training program within six (6) months after adoption of this ordinance or within six (6) months of their appointment, whichever is later, and at least every two years thereafter. All ethics training programs shall be in a form, scope and manner as determined by the Mayor provided that they include a review of this chapter, code of ethics ordinances and general ethics principles relevant to the board of ethics.

*Section 2. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding 35.037 to read:*

**§ 35.037 TRAINING FOR OFFICERS AND EMPLOYEES**

All officers and employees must participate in an ethics training program within six (6) months after adoption of this ordinance or within six (6) months after beginning their employment or appointment with the city, whichever is later, and at least every two years thereafter. All ethics training programs shall be in a form, scope and manner as determined by the Mayor provided that they include a review of this chapter, code of ethics ordinances and general ethics principles relevant to the officers' and/or employees' public service.

*Section 3. That the Code of Ordinances of Sioux Falls, SD, is hereby amended by adding 35.060 to read:*

**§ 35.060 TRAINING FOR CITY COUNCIL MEMBERS**

All city council members must participate, in an ethics training program within six (6) months after adoption of this ordinance or within six (6) months of their election or appointment, whichever is later, and at least every two years thereafter. An ethics training program shall include a review of this chapter, code of ethics ordinances and general ethics principles relevant to the city council and shall be provided by the City Attorney or his/her designee.

Date adopted: \_\_\_\_\_ .

ATTEST:

DRAFT