

# MINUTES

Tuesday, May 4, 2010 at 3:00 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, Howard Paulson, Mari Robbennolt, Bob Swanhorst and Bill O'Connor.

BOARD MEMBERS ABSENT: None

STAFF PRESENT: R. Shawn Tornow, Assistant City Attorney, Mike Hall, Director of Central Services and Board Investigator, and Cari Hanzel, Recording Clerk.

Board Chair Mike McKnight called the meeting to order at 3:00 p.m.

### APPROVAL OF MINUTES

A motion was made by Bill O'Connor and seconded by Mari Robbennolt to approve the minutes from the Special Meeting of April 15, 2010. Five Yeses. Motion carried.

### BUSINESS OR ISSUES BROUGHT BEFORE THE BOARD

1. Board action to enter into closed session to address a pending ethics complaint.

Board Chair McKnight explained to those present that the ethics complaint received by the Board was confidential and that the Board would need to go into closed session to address the complaint.

Bob Swanhorst made a motion to go into closed session to discuss the ethics complaint received by the Board on April 8, 2010. Howard Paulson seconded the motion. Five Yeses. Motion carried unanimously. The Board went into closed session at 3:01 p.m.

Bill O'Connor made a motion to come out of closed session. Bob Swanhorst seconded the motion. Motion carried unanimously. The Board came out of closed session at 4:38 p.m.



### NEXT MEETING

No future meetings were scheduled.

### ADJOURNMENT

A motion was made by Bill O'Connor and seconded by Bob Swanhorst to adjourn. Five Yeses. Motion carried. Meeting adjourned at 4:40 p.m.

Respectfully submitted,

Cari Hanzel  
Recording Clerk





TO: City Council Members  
City of Sioux Falls  
235 W 10<sup>th</sup> Street  
Sioux Falls, SD 57104

### CONFIDENTIAL REPORT PURSUANT TO ORDINANCE § 12 ½-35

A complaint was properly filed with the Sioux Falls Board of Ethics on April 8, 2010, alleging specific conduct or activity that might have been construed as a possible conflict of interest or standard of conduct violation of a Sioux Falls city council member. Thereafter, following a thorough review of the complained of council member's conduct and activities in light of applicable City ordinance(s) as well as City charter prohibitions and based upon a corresponding investigation by this Board pursuant to the provisions of City Ordinance §12 ½-35 (b), the Board, in part, hereby submits a report to the City Council as follows:

The Board hereby finds that the facts, as alleged, do not establish probable cause that there has been a violation of ethics ordinance §12 ½-31 by the city council member in question. As a result, as related to any alleged ethics ordinance violation(s), this matter shall be considered concluded.

Dated this 7th day of May, 2010 at Sioux Falls, S.D.

  
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Michael McKnight, Chairman  
Sioux Falls Board of Ethics





May 13, 2010

**CONFIDENTIAL**

Kermit L. Staggers  
616 Wiswall Place  
Sioux Falls, SD 57105

**RE: Board of Ethics Complaint - Private Letter of Reprimand to City Council Member**

Following the Board of Ethics review and investigation of the recent ethics complaint against you, including the Boards' opportunity to meet with you on May 4, 2010, the Board has made a decision to issue you a confidential written reprimand.

This Board has authority to both receive complaints as well as to initiate investigations of any real or perceived complaint involving any conduct or activity of a city council member. See, City Charter Sec. 7.01 (b), and City Ordinance § 12½ - 10(1). Based upon the City Charter, this Board is vested with the authority to determine and enforce violations of Charter Sections 2.05(a) and (b) and Sections 7.02(a) (3), (4) and (5) as well as related ordinances. The Board is also inherently granted the authority to issue private reprimands for both questionable and/or improper ethical activities and conduct of city council members.

As such, please be advised that the Board has determined that this private reprimand be issued to you as a result of the content and intent of your March 2010 letter to City employees during the recent mayoral election campaign. The Board determined that your letter was inconsistent with the spirit and intent of City Charter Sec. 7.02 (a) (4). As you are aware, the foregoing Charter section specifically provides that:

*No person shall knowingly or willfully solicit ... any assessment ... or contribution for any ... political purpose to be used in conjunction with any city election from any city employee.*  
[Emphasis added.]

Your letter can be interpreted as seeking contributions from City employees in the form of *information* to be held by you in the "absolute strictest confidence" as part of your political campaign. The Board notes that the very prohibitions set forth within the City Charter at Sec. 7.02(a) (4) and (5) are perhaps best described and explained within the National Civic League's Model City Charter, Seventh Edition, 1992, as being important and necessary "[p]rohibitions against political solicitation and participation in political campaigns afford[ing] protection for the employee as well as the integrity of the system." [Emphasis added.]



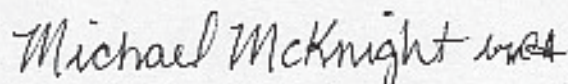
CONFIDENTIAL

As the Board indicated during its meeting with you, the investigation of the recent complaint also led to the discovery of the fact that, in spite of the prohibition at Section 2.05(a) of the City Charter, you have been holding another elected public office during your tenure as a city council member. At the meeting on May 4th you admitted that you were currently a Republican precinct committeeman for precinct 5-7 in the City. At the meeting you attempted to try to contend that you were not holding another "elected public office" because no election took place to seat you in that office some years ago. However, the Board has learned as part of its investigation that there are, in fact, elections that take place for the office of Republican precinct committeeman when and/or if there are challengers for that position. If there are challengers for such a position, the position is of course listed on the ballot for all Republican voters in that precinct. To attempt to claim that because there may have been no prior challengers to you for the position of Republican precinct committeeman in Precinct 5-7 somehow serves to make it a non-elected office is simply untenable. Moreover, your position as a precinct committeeman is clearly deemed to be a public office insofar as it is a publicly listed position with both the Minnehaha County Auditor as well as the South Dakota Secretary of State.

The Board has previously addressed Section 2.05. See, BOE Advisory Opinion No. 07-3. As a result, the Board's reprimand herein shall also be considered to extend directly to your prohibited conduct in holding more than one elected public office during your term(s) of office as a city council member.

Once again, please be advised that the foregoing complaint as well as any actions, activities or correspondence of the Board in response thereto continue to be confidential information which is not subject to being publicly disclosed or discussed at this time.

Sincerely,

A handwritten signature in dark ink that reads "Michael McKnight" followed by a small, illegible mark.

Michael McKnight, Chairman  
Board of Ethics