

Janet Brekke Press Conference April 2, 2018

First of all, I want to thank everyone for coming.

I've asked you to join me here today, because I want to share the results of some of my research related to the structure of city government. Transparency in city government has been the issue I have encountered most often during the course of this campaign.

As a former City Attorney, I am aware of procedures put in place when this government was implemented, designed to leave a paper trail of official actions and to hold government officials accountable for their actions.

A cornerstone of good government begins with an appropriate separation of powers.

So I began my research with the City Clerk's office.

The City Clerk, pursuant to Charter Section 2.08, is the only city employee hired by and under the direct supervision of the City Council. The City Clerk is not supervised by the mayor. The City Clerks are the only city employees not supervised by the mayor. **This is a separation of powers issue.** The City Clerk's office, is considered a neutral territory in City Government. **The City Clerk's office is the keeper of official city records ,records retention and historical documents.**

At least they used to be.

The city clerk is the custodian of the official City Seal.

Certified city clerks are members of the International Institute of Municipal Clerks and take professional oaths similar to those doctors and lawyers take regarding the keeping of Records.

I started my research with the City Clerk's office, because of all of the complaints I kept hearing, about how difficult it is to get official public documents and information out of City Hall.

I will refer you to your **first packet entitled City Clerk.**

I found in the past two administrations, there has been erosion in the duties of the City Clerk's office to such an extent; that the City Clerk has been literally stripped of its internal official record keeping responsibilities.

Some of the changes happened under Mayor Munson and some of the changes happened under Mayor Huether.

I'm only interested in the result.

The result is: **The City Clerk's office no longer the official keeper of the Mayor's Executive Orders.** They do not have Executive Order History or original documents. Instead they receive unsigned copies.

Executive orders are the official communications between the mayor and his staff.

City Ordinance section 31.02 Powers of the Mayor states: (and see your packet, it's highlighted) **all executive orders shall be filed with the city clerk.** However (turning your next page) **Executive Order Rules and Regulations states: Human Resources shall maintain the mayor's executive orders.**

So, **there is an executive order which conflicts with the city ordinance.** Currently they are following the Executive Order. However, the **City Ordinance is law and prevails over an Executive Order.** The Human Resources Department, is not trained in the receiving, filing, and keeping of official records.

The Mayor's Executive Orders, are official City Records and they are Official Public records. Executive Orders should be kept pursuant to city ordinance in the City Clerk's office. The office that is trained in the keeping and maintenance of Official Records.

Next, (see packet city ordinance **Section 30.026) Rules for Boards and Commissions: In a paragraph C** (again it's been highlighted) **"filed with city clerk " has been deleted.**

The final result is that minutes of agencies, authorities, boards, committees, and commissions, are not filed anywhere they are maintained by a city staff liaison. So we have internal city staff liaison taking the place of a professional City Clerk trained and sworn in the techniques of receiving filing and maintaining of official public records.

Also, it was once convenient to stop in the City Clerk's office to get copies of minutes from any of these entities, now citizens have to track down the liaisons for all these different entities located all over the city.

Finally, look at your packet **Executive Order Official Seal of the City of Sioux Falls:** This Executive Order was amended by both Mayor Munson and Mayor Huether.

It changed from the original under Mayor Hanson: Under Mayor Hanson the **City Clerk** was the keeper of the official city seal and a duplicate city seal was kept in the office of the **City Finance Director** who is recognized in state law as a position qualified to keep a City Seal.

It was changed: Finance Director was deleted and a **duplicate of the City Seal is now kept with a city licensing specialist** whose office is located outside of the City Clerk's office and under the **direct supervision of the mayor.**

Let me pause here, I cast no aspersions at either of the two previous Mayors. That is not my purpose today.

I am simply looking objectively at the result of what has happened over the past fourteen years.

However, **this situation as it currently exists, creates an environment in city government the that is ripe for document altering or tampering.**

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All of the Official internal records generated by the City are kept internally instead of in the neutral office of the City Clerk.

Finally, **our current City Clerk is not a Certified Municipal Clerk.**

The two assistants are, but our City Clerk is not. Our previous City Clerk, Diane Metli was. It is really important. The city of Sioux Falls, the largest city in the state, should have a Certified City Clerk. The City Council has the ability to correct this they have the ability to fund and make this training and certification available to our Official City Clerk and if elected would ask them to do so.

Now I'm going to give you an example of why this matters and how it affects the issues of transparency that are plaguing our city government.

I refer to your second packet: **Executive Order: Confidentiality**

This executive order was a new order which was issued by Mayor Huether on February 1st 2016.

This is the second area I researched, the area of Executive Orders.

By way of background, as you read the Executive Order on confidentiality you need to understand that there are only two City offices who routinely deal with confidential and privileged information, that is about twenty people. They are in Human Relations who deal with personnel matters and the City Attorney's Office who deal with privileged information, including pending and potential litigation, contract negotiations, collective bargaining. All of these subjects, these privileged and confidential matter, are subject to discussions in closed session. The rest of City Hall all of the thousand plus employees in City Hall deal in public information.

The two items I circled, I circled them because I simply don't know, as a lawyer, what they mean in the context of city government. The term sensitive has no legal definition and neither does the term business necessity in the context of City government.

This is a very broad confidentiality policy. I believe that this may be what is creating the culture of secrecy in city government and why is difficult to get information out of City Hall. I believe that city employees are afraid that they may be disciplined or lose their job if they accidentally release something that may be sensitive, and that they don't understand what sensitive is. This could be creating a chilling effect on City Hall.

A final note, the confidentiality executive order in your packet is not a copy of a signed original. I do not have a signed original ,it is what the City Clerk's office had. I requested one from HR . I also requested a copy of the historical or red line version so I could see the different amendments made under the previous Mayors. instead ,I received an email from the human resources department attempting to explain the information I requested.

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So, like all the citizens I am hearing ,...I cannot get official public documents out of City Hall out of City Hall.

I am bringing this forward now, because I have been concerned whether this transparency issue is just bad practices or whether it has been written into city ordinances and policies.

I did the research, you have it ,and it is written in the city ordinances and policies.
it is relevant to every candidate here today.

That is why they were all invited. The public needs to know, as they cast their vote, who is committed to restoring integrity to city government, who is committed to restoring checks and balances to city government by restoring the official record-keeping responsibilities to the City Clerk's office, and who is committed to dealing with this very broad confidentiality policy.

There is more I have found, but this is enough to cast the light on the problem.

If elected, I am committed to continue my research. I would like to look into the records retention process. I am currently looking into him the process by which the council is receiving information on Agenda items and why public information isn't getting to the City Council in a timely manner.

if elected, I am committed to and reestablishing an open, transparent, user-friendly government, where public input is welcome ,and public information is readily and easily available. I will take any questions and will stay afterwards if anyone wants to talk further.

For more clarity, interviews and information contact:

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