


AGENDA	Thursday, July 25, 2019 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 APRIL 25, 2019 MEETING (ATTACHED)

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

A. REQUEST FOR ADVISORY OPINION (19-3) FILED JUNE 24, 2019 (ATTACHED)

4. PUBLIC INPUT

5. 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, April 25, 2019 at 10:30 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, Wanda Harris, Jack Marsh and Sue Roust

BOARD MEMBERS ABSENT: Greg LaFollette

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 10:31 a.m.

APPROVAL OF MINUTES

A motion was made by Jeff Gednalske and seconded by Sue Roust to approve the minutes from the meeting on March 28, 2019, which includes Advisory Opinion 19-1 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 19-2 FILED APRIL 17, 2019.

Jack Marsh introduced Request for Advisory Opinion 19-2 submitted by City Councilor Theresa Stehly. As no objection to the Request was made by any member of the Board, the Request was accepted. Marsh read the Request for Advisory Opinion on the record.

Theresa Stehly appeared before the Board and was sworn in.

Copies of the invitation received by Councilor Stehly and described in the Request were distributed to the Board and made available to the public.

Councilor Stehly informed the Board that she had been told that Sioux Steel and Lloyd Companies are partnering together on the development of the Sioux Steel property and plan to come before the City Council to ask for a TIF in that regard at a future date.

Councilor Stehly provided testimony before the Board regarding her knowledge of the event in question as well as numerous other examples of events Council members are routinely invited to where food and or beverages may be served.

Councilor Stehly clarified that Sioux Steel is organizing the event in question and that Lloyd Companies informed her that they were not encouraging it.

The invitation identified that the event is in two parts: the presentations at 4:00 p.m. at the Receiving Building of Sioux Steel Company and heavy appetizers and drinks at 5:00 p.m. at The Market.

Councilor Stehly informed the Board that she is not questioning the attendance at the presentations at 4:00 p.m., only the event following where heavy appetizers and drinks will be served.

Stacy Kooistra advised the Board on the pertinent ordinances they should consider and what the Board would need to determine as they discussed the Request for Advisory Opinion.

Discussion regarding the Request for Advisory Opinion was held by the Board.

The Board opened the matter up to public input.

Bruce Danielson was sworn and provided input.

Cheryl Rath was sworn and provided input.

Further discussion was held by the Board, including whether the event would be open to the public and the timing of a potential request for a TIF and subsequent vote of the City Council.

A motion was made by Jeff Gednalske and seconded by Sue Roust that the Board of Ethics has insufficient facts to render an advisory opinion on the question whether a council member may consume free food or drink from an individual or private entity requesting or expected to request Council action that benefits them, and further moved that the Board of Ethics remind Councilors of their obligation to refrain from any appearance of impropriety. Vote to approve: 4 Yeses. Motion passed.

A motion was made by Sue Roust and seconded by Wanda Harris to authorize the Board's legal advisor, Stacy Kooistra, to draft an Advisory Opinion 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: 4 Yeses.
Motion passed.

PUBLIC INPUT

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

NEXT MEETING

No specific date for the next meeting was scheduled.

ADJOURNMENT

A motion was made by Wanda Harris and seconded by Jeff Gednalske to adjourn the meeting.
Meeting adjourned at 11:54 a.m.

Respectfully submitted,

Cari Hanzel
Recording Clerk

DRAFT

City of Sioux Falls
BOARD OF ETHICS

ADVISORY OPINION NO. 19-2

Request for Opinion

Sioux Falls City Councilor Theresa Stehly requested an opinion whether a Council member may consume free food or drink from an individual or private entity requesting or expected to request Council action that benefits them.

Facts

Sioux Falls City Council members received an invitation to an event hosted by Sioux Steel and Lloyd Companies to discuss architecture ideas for the downtown Sioux Steel redevelopment site. After receipt of the invitation, Councilor Stehly said she was informed by a representative of Lloyd Companies that Sioux Steel was organizing the event and that Lloyd Companies was not encouraging it. The invitation indicated that architecture ideas and presentations would be held at 4:00 p.m. at the Receiving Building of Sioux Steel Company and heavy appetizers and drinks would take place at 5:00 p.m. at The Market. Councilor Stehly was not concerned with Council members attending the 4:00 p.m. presentations, only the second part of the event at The Market.

Based upon information that Councilor Stehly said was provided to her, Sioux Steel and Lloyd Companies are partnering together on the redevelopment project and will possibly be coming before the City Council at a future date to ask for a multi-million dollar TIF. There is nothing currently pending before the City Council relative to the project. Consequently, the timeline for a request for Council action, if any, is unclear.

It is unknown who, besides City Council members, have been invited to this event or whether the event is open to the public.

Opinion

The Code of Ordinances of Sioux Falls, S.D., provides in pertinent part:

§ 35.050 DECLARATION OF POLICY.

(a) All city council members shall act with integrity, impartiality and dedication to the best interest of the city and the public trust which they hold.

(b) The citizens have a right to expect that city council members will conduct themselves in a manner that will tend to preserve public confidence in and respect for the government they represent.

(c) The public confidence and respect can best be promoted if city council members uniformly treat all citizens with courtesy, impartiality, fairness and equality under the law and avoid both actual and potential conflicts between their private self-interest and the public trust.

...

§ 35.053 CONFLICTS OF INTEREST; CITY COUNCIL MEMBERS.

City officials shall not:

...

(d) Except when acting in an official capacity, appear on behalf of any private person before any city agency. An official may appear at any place on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations. Officials shall not receive compensation for those appearances, unless specifically authorized by action of the city council. However, this section shall not apply to any official who has fully informed the city agency of his or her private interest in a matter and he or she does not participate in any decision related thereto;

(e) 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:

(1) Legitimate political contributions are not gifts under the provisions of this subchapter; and

(2) It is not a conflict of interest for any official to receive a gift or gratuity that is an unsolicited item of nominal intrinsic value.

...

§ 35.054 STANDARDS OF CONDUCT; CITY COUNCIL MEMBERS.

City officials shall not take action to:

...

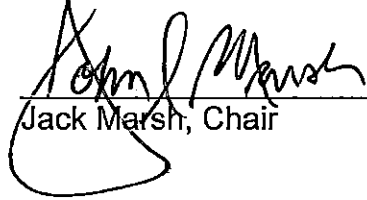
(d) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group;

(e) Use their elected position to secure special advantages, privileges or exemptions for themselves or others;

...

Councilor Stehly acknowledges that the invitation provided to the Council members was unsolicited and also of nominal intrinsic value. As presented, the Board agrees and therefore, based on the facts presented and the applicable law, the Board finds that the

invitations were unsolicited and that the “heavy appetizers and drinks” were of nominal intrinsic value. The Board further finds that it has insufficient facts with regard to the timing of any potential vote by the City Council to render an advisory opinion as to the question of whether a council member may consume free food or drink from an individual or private entity requesting or expected to request council action that benefits them.



Jack Marsh, Chair

Opinion decided: April 25, 2019



City of Sioux Falls Board of Ethics Request for Advisory Opinion

Name of Individual Requesting Opinion: Jeff Eckhoff

Address: 816 N. Savannah Drive, Sioux Falls, SD 57103

Telephone Number: (605) 553-6724

Email Address: jeckhoff@siouxfalls.org

Statement of the situation giving rise to the request for an advisory opinion. Include names of individuals, locations, and dates, as applicable.

Have been a member of the Xcel Advisory Board for the last 8-9 years and they have asked if I am able to continue in this role. The purpose of the board to inform business and government leaders on the operations of Xcel Energy and their long range plans for infrastructure, generation, maintenance, etc. Other members include representatives from business, the legislature and city council.

The group generally meets twice a year, once in Minneapolis where we have toured their nuclear plants, underground sub-stations, and generation facilities. We also meet with Xcel leadership at their corporate headquarters. Second meeting is generally in Sioux Falls and includes an update from Xcel leadership.

Xcel pays all travel expenses and provides the meals. Board members are paid a stipend which I would decline.

Please be advised that the Board of Ethics may hear and discuss requests for advisory opinions in executive session only to the extent allowed by law. Even if an executive session is allowed, the Board must take any final action on the matter in a public meeting, where they must reveal your name and the general substance of your inquiry. If you have any pertinent and sensitive details to your inquiry that you wish to remain confidential, please share them with the Board during a possible executive session rather than placing them on this form or stating them in an open meeting of the Board.

I request that this information be kept confidential: Yes _____ No x

The information provided is true to the best of my knowledge and belief.

Signature: 

6/24/19

Date

Received by: 

6/24/19

Date

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