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March 9, 2020

BY EMAIL & U.S. MAIL

Joel Landeen
City Hall
300 Sixth Street, 3rd Floor
Rapid City, SD 57701
joel.landeen@rcgov.org

Re: Lisa Modrick

Dear Joel:

I received the procedure proposed by you regarding the Code of Conduct complaint. As you know, the requirement set forth by South Dakota law, is a due process requirement. It is our position that there can be no due process unless there's a chance to examine the witnesses that claim to be against Lisa Modrick as well as the public officials that have lined up against her and have facilitated this complaint.

Without cross examination there is no due process. SDCL 3-17-6 mandates there can be no removal of local officers from office unless they have been charged and tried. In this case there have been no charges and there certainly will not be trial. As a result, the actions by this administration are contrary to South Dakota law, and violate her due process rights.

In addition, both the United States Constitution and the South Dakota Constitution provide for due process through facing your accusers. You cannot face your accusers without the opportunity to examine them. As a result, this proceeding, as set forth by City Administration is in violation of her due process right.

We also object to the Mayor involved in any sense, either presiding, or voting. The Rapid City Code of Conduct indicates that the officials "Must undertake their duties in a fair and impartial manner." The Mayor is not impartial and has already prejudged this matter.

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The City Attorney's office should also be disqualified from any involvement in this matter. The City Attorney's office has also prejudged this matter and has determined an outcome in violation of Lisa's rights to due process and in violation of the Rapid City Code of Conduct.

I also object to the fact that it appears that the Mayor, Mr. Haar, and the City Attorney, all make presentations prior to being heard from by Lisa Modrick and her attorney. After Lisa Modrick and her attorney present matters then all three, at least two of the named people, Mr. Haar or the City Attorney respond to Lisa Modrick and Lisa Modrick gets no further response. As a result, six different presentation may take play to one by Lisa Modrick and there is no spot for sur-rebuttal.

As a result of the violations set forth above, this matter is not being handled pursuant to the requirement of due process as provided in Resolution No. 2012-070. Additionally, this process is in violation of South Dakota law as specified earlier.

Sincerely,

BEARDSLEY, JENSEN, & Lee, Prof. L.L.C.



Steven C. Beardsley

SCB:elh

Cc: Client