

# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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## *Office of the Mayor*

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## **Memorandum to all city employees from Mayor Alan Hanks**

February 11, 2009

As Mayor I want to clarify city employee's ability to discuss issues with elected officials. If you have any questions, suggestions, or concerns, please contact me at CSAC at 394-4110.

### **Issues of general public concern**

Any City employee may speak with the Mayor or an Alderman about issues of general public concern without restriction. Matters of general public concern include things like proposed ordinances or City wide policies. Employees have a constitutional right to discuss matters of general public concern with elected representatives. The City of Rapid City has long acknowledged an employee's right to discuss matters of public concern with elected officials. The Council adopted a resolution on December 2, 2002, clearly recognizing the employee's rights to speak to elected officials on matters of public concern. A copy of the resolution is attached to this memo for your reference. As further outlined in the Council's resolution of December 2, 2002, the City will not retaliate against an employee for speaking with an elected official about a matter of general public concern.

### **Grievance process**

Employees should be aware that the City provides a grievance process for employees to bring concerns to management. Each collective bargaining agreement contains a grievance process as does the current Non-Union Employee Policy Manual and the proposed Non-Union Employee Information Guide. Employees should be aware that the time for filing a grievance is limited and that the right to bring a grievance can be lost if the process is not invoked in a timely manner. The City will not retaliate against an employee for filing a grievance.

### **Employment related issues**

Employees are encouraged to address employment related issues with their direct supervisor or other supervisor in the usual chain of command. In the event an employee does not feel comfortable discussing an employment related issue with a supervisor or within the usual chain of command, the employee may discuss the issue directly with the Mayor, or with the Human Resources Director, the City Attorney or a member of the City Council who will assist the employee with bringing the issue to the Mayor. Employees should be aware of the time frame for filing a grievance because discussions with the Mayor, or with the Human Resources Director, the City Attorney or a Council member does not constitute the filing of a grievance nor do such discussions extend the time for filing a grievance. The City will not retaliate against an employee for discussing employment related issue directly with the Mayor, or with the Human Resources Director, the City Attorney or a member of the City Council.



12-2-02

(Misc. Res. # 1)

A RESOLUTION AFFIRMING THE CITY OF RAPID CITY'S INTENT TO FOLLOW STATE AND FEDERAL LAWS PROHIBITING RETALIATION AGAINST CITY EMPLOYEES UNDER CERTAIN CIRCUMSTANCES

WHEREAS the law of both the State of South Dakota and the United States Federal Government provides legal protection prohibiting retaliation or adverse employment action against public employees who speak out, in a non-disruptive manner, on topics of public concern, and

WHEREAS adverse employment action is generally understood to mean discharge, refusal to hire, refusal to promote, demotion, reduction in pay, and reprimand; and

WHEREAS the South Dakota Supreme Court has found in the case of *Dahl v. Combined Ins. Co.* (2001) that an employee should not be retaliated against for seeking to aid the enforcement of law or for protecting the safety and/or property of citizens, so long as the employees' actions are not merely private or proprietary, but instead seek to further the public good, and

WHEREAS the United States Supreme Court has established that the First Amendment of the United States Constitution protects public employees who speak on matters of public concern, as long as such speech does not unreasonably disrupt the workplace, and

WHEREAS speaking on matters of public concern means speech related to political, social, or other concerns to the community, rather than merely a personal grievance of interest only to the employee.

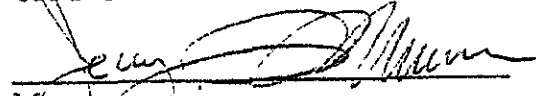
NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the City of Rapid City will not retaliate or take adverse employment action against city employees who seek to aid the enforcement of law or protect the safety and/or property of citizens, so long as the employees' actions are not merely private or proprietary, but instead seek to further the public good, and

BE IT FURTHER RESOLVED by the City of Rapid City that the City of Rapid City will not retaliate or take adverse employment action against city employees who speak out on matters of public concern, provided such speech is not unduly disruptive in the workplace.

BE IT FURTHER RESOLVED by the City of Rapid City that this resolution is not intended to replace, add to, or modify existing state or federal law regarding retaliation against public employees. Rather, this resolution seeks to affirm the City of Rapid City's intent to follow the mandate of state and federal law prohibiting retaliation against public employees under certain circumstances.

Dated this 2 day of <sup>December</sup>~~November~~, 2002.

CITY OF RAPID CITY

  
Mayor

ATTEST:

