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April 25, 2013

**VIA HAND DELIVERY / EMAIL**

The Honorable Robert Youngman  
President, Sun Valley City Council  
Sun Valley City Hall  
81 Elkhorn Road  
Sun Valley, Idaho 83353



RE: The matter of the intersection of Juniper Road at Elkhorn Road and grounds for voluntary disqualification of elected officials pursuant to:

- City of Sun Valley City Council and Mayor Code of Ethics and Code of Conduct
- Office of the Attorney General Idaho Ethics in Government Manual
- Idaho Statutes, Title 59 Public Officers In General, Chapter 7 Ethics in Government
- Supreme Court of the United States No. 10-568 NEVADA COMMISSION ON ETHICS, PETITIONER v. MICHAEL A. CARRIGAN

Dear City Council President Youngman:

This letter is written to express my strong objection to any further participation by Councilmembers Ribic, Suhadolnik, and Mayor Briscoe in the matter of the proposed augmentations to the intersection of Juniper Road and Elkhorn Road. By copy of this letter to each I am asking that they recuse themselves from further participation on this issue. Each of these public officials has an inalterable conflict of interest and for them to participate further constitutes unethical conduct.

The facts are not subject to interpretation or nuance; they are quite clear. Councilmembers Ribic and Suhadolnik have publicly stated that they have each held a personal interest in augmenting the Juniper Road – Elkhorn Road intersection for 25 years and 10 years, respectively. Both Councilmembers maintain residences which are accessed via Juniper Road.

Mayor Briscoe has publicly stated that while he does not maintain a residence accessed by Juniper Road, he is engaged to be married to a resident of Sun Valley who does, and that he frequently travels Juniper Road by car. All three elected officials are advocating the physical augmentation of the natural topography. Councilmember Suhadolnik and the Mayor are promoting additional illumination of the intersection.

It presently appears to be without argument that this intersection does not need augmentation, and that any perceived threats to public safety can be resolved by the Sun Valley Police Department's presence at the intersection and the department's emphasis on education and enforcement of traffic law compliance by all users in combination with other less invasive remedies.

It has been verified by the City's Street Superintendent, Assistant Chief of Police, and by the Community Development Director that the Juniper Road – Elkhorn Road intersection meets the safety compliance standards of the American Association of State Highway and Transportation Officials (AASHTO). The signage and illumination at the Juniper Road intersection, including the multi-use path signage, are consistent with other pedestrian crossings in the City, and meet applicable Idaho State Statutes. Since it is the case that there is no genuine public safety issue due to the intersection's design, and therefore, the intersection does not need augmentation, then the only rational inference is that this project exists for the wrong reasons.

According to *Idaho Ethics in Government Manual*, published by the Office of the Attorney General, public officials, by trusteeship given them by the electorate, are held to a higher ethical standard. And, according to the City's own Code of Ethics, further participation by these officials cannot be countenanced going forward. Paragraph 4 of the Code of Ethics is clear:

Every City Council Member and the Mayor shall adhere to the following: Refrain from any activity or action that may hinder one's ability to be objective and impartial on any matter coming before the City Council.

Paragraph 5 of the City's Code *requires* identification of the conflict, recusal and disqualification from further participation.

Continued participation by these officials may well also violate state law. Idaho Code 59-702 requires public officials to be impartial and prevents their public office from being used for personal gain or *the advancement of special interests from their governmental action*.

Beyond all that, their participation on this issue clearly conveys the appearance of a conflict and partiality.

I hereby request that Mayor DeWayne Briscoe, Councilmember Nils Ribi, and Councilmember Franz Suhadolnik immediately recuse themselves and be disqualified from participation in any discussion of, and in voting on the matter of, the proposed augmentations at the intersection of Juniper Road at Elkhorn Road. There exists no evidence that any other intersection within the City of Sun Valley has received the same level of focus and advocacy from Mayor Briscoe and Councilmembers Ribi and Suhadolnik as this single intersection location, where they each hold a personal interest.

The participation of Councilmembers Ribi, Suhadolnik and Mayor Briscoe has gone on for many months, seemingly oblivious to the clear law. At the 10/18/2012 Sun Valley City Council Meeting, Mayor Briscoe and Councilmembers Ribi and Suhadolnik offered anecdotes and personal opinions as to their individual views regarding the intersection. At the meeting, the Mayor deferred to Councilmembers Ribi and Suhadolnik for their opinions on the safety of the intersection, attributing more weight to their input given the location of their homes. At the conclusion of the discussion, in the absence of any quantitative information or safety assessments of any other intersection within the City, the Council voted unanimously to allocate public funds to illuminate the intersection and augment its topography.

When I became aware of the Council's decision in mid-November, I contacted the Mayor and City Council by email and telephone requesting consideration be given to the potentially detrimental precedent the City would be establishing by leveling the topography of our community. I asked the City to pause the process they had set in motion and allow for review of alternative measures in addressing any potential safety issues. Other community members followed with comments and requests of their own. Subsequently, Mayor Briscoe and Councilmembers Ribi and Suhadolnik are now known to have used their official positions to influence the residents whose homes are accessed by Juniper Road to support the proposed changes while characterizing those with diverse opinions as complainants.

During the 3/7/2013 City Council Meeting, when the intersection topic was next on the Council Meeting agenda for discussion, Mayor Briscoe rose from his seat on the dais and stated he was recusing himself from the discussion of the Juniper Road – Elkhorn Road intersection, citing “personal and economic reasons.” The Mayor then took a seat in the audience joining the

public and offered no commentary on the agenda item. Specific to this issue, this was the first and only occasion in which the Mayor complied with the clear ethical recusal rule.

At the same meeting, Councilmember Suhadolnik framed the Juniper intersection issue as a disagreement between residents, whereby the City had received 14 emails from residents of Juniper Road in favor of the proposed changes, and only 3 emails from those opposed, emphasizing the 3 residents in opposition to the proposed changes do not live on, or drive on Juniper Road each day. Revising an intersection is a significant alteration and it is unconscionable that it would be determined by the number of emails for or against let alone by those public officials whose personal interests are affected thereby.

The conflict Mayor Briscoe previously thought he had, apparently, was transitory. On 3/13/2013 Mayor Briscoe abandoned his recusal announced just six days prior. Ex parte communication occurred between Mayor Briscoe and the Sun Valley Elkhorn Association Board of Directors. In his official capacity, the Mayor was listed on the SVEA Board of Directors agenda as a presenter. Following the Mayor's introduction of the new City Administrator to the SVEA Board, Mayor Briscoe then delivered an ex parte (itself an abdication of transparency) presentation regarding the Juniper intersection. Before the SVEA Board he urged all those who live on Juniper Road to advocate for the installation of the intersection light and the augmentation of the adjacent land. Conflicts of interest do not dissipate so quickly or easily and recommencing his advocacy after recusal causes one to question his judgment, the ethics of his conduct, and serves only to highlight his conflict of interest and partiality.

Local government decisions should be made in the best interests of all citizens of Sun Valley – not on bias for or against a particular citizen or based on a public servant's own, personal interests. Continued participation by these three city officials serves to further erode the already tenuous confidence the people have in City of Sun Valley governance.

Supreme Court Justice Scalia, in 2011, when delivering the Court's unanimous decision in Nevada Commission on Ethics v. Sparks, Nevada Councilmember Michael Carrigan, discussed at length the fact that rules requiring judges and legislators to step aside when they have a conflict of interest date back to our country's foundation. Scalia also cited the recusal rule adopted by Thomas Jefferson in 1801 when he was President of the Senate:

"Where the private interests of a member are concerned in a bill or question, he is to withdraw. And where such an interest has appeared, his voice is disallowed, even after a division."

It is my belief that Mayor Briscoe, Councilmember Ribí, and Councilmember Suhadolnik cannot act impartially on this matter and must recuse themselves. Each of the three public officials has a clear conflict of interest, has acted in support of those interests, and, as it now appears, continue to act to protect their prior decisions regarding this matter.

I request that Mayor Briscoe, Councilmember Ribí, and Councilmember Suhadolnik voluntarily recuse themselves and be disqualified from participation in any discussion of, and in voting on the matter of the proposed augmentations at the intersection of Juniper Road at Elkhorn Road. Doing so will contribute to the restoration of the public's confidence in the equity of City decisions.

Respectfully,

A handwritten signature in black ink, appearing to read "Suzanne M. Hazlett", written in a cursive style.

Suzanne M. Hazlett

cc: Honorable DeWayne Briscoe, Sun Valley City Mayor  
Honorable Nils Ribí, Sun Valley City Councilmember  
Honorable Franz Suhadolnik, Sun Valley City Councilmember