

# GRIEVANCE

of

Russell J. Myhre  
City Attorney

**DATE:** January 25, 2016

**FROM:** RUSSELL J. MYHRE  
CITY ATTORNEY  
VALLEY CITY, NORTH DAKOTA

**TO:** VALLEY CITY ADMINISTRATOR DAVID SCHELKOPH AND VALLY  
CITY COMMISSIONERS

**SUBJECT:** GRIEVANCE AGAINST MAYOR BOB WERKHOVEN CONCERNING  
REMARKS MADE IN FORUM ARTICLE, JANUARY 22, 2015, AND  
INCIDENT ON NOVEMBER 24, 2015

I am making this Grievance against Mayor Robert “Bob” Werkhoven concerning remarks attributed to him in an article in the January 22, 2016, edition of the Forum, pp. A1, A12, in which Mayor Werkhoven was quoted as follows:

The mayor said he also recently ran into issues with City Attorney Myhre when the latter formed a committee to search for a new police chief without notifying city commissioners.

This statement by Mayor Werkhoven is false and entirely misrepresents the facts.

Furthermore, Mayor Werkhoven is attempting to cover up and mislead the public about his own actions and behaviors in an encounter which occurred on November 24, 2015, as more fully set forth below. This statement and the incident on November 24, 2015, have created a hostile and abusive work environment.

I am making this hostile work environment complaint and grievance and am reporting this issue under the protections afforded to me by NDCC Chapter 34-11.1 and the policies and procedures adopted by the City of Valley City.

## **BACKGROUND CHRONOLOGY:**

A copy of my Resume and Precis is attached hereto.

In October, 2015, Mayor Werkhoven stated in the Valley City Times-Record that he wanted to disband the Valley City Police Department. Thereafter, Robert Drake and others began

publicizing that they were preparing an Initiated Petition to disband the Valley City Police Department.

Police Chief Thompson submitted his resignation on October 16, 2015. See Exhibit #1.

On October 19, 2015, City Administrator Schelkoph sent an email to all City Commissioners indicating that he had applied for another position outside of the City, but would delay his decision “in the hope that we can resolve work issues that have created an impossible work environment for me.” See Exhibit #2.

On October 22, 2015, City Administrator Schelkoph sent an email to Mayor Werkhoven, Commissioner Nielson, Commissioner Madeline Luke, Commissioner Matt Pedersen, Commissioner Dewey Magnuson, and City Auditor Avis Richter, which had attached an earlier email to Heidi Harris, Valley City Times-Record reporter, with a cc: to Administrative Assistant Becki Anderson, outlining the timelines and the process by which a Police Chief Search would be conducted. See Exhibit #3.

Robert Drake made a request to be placed on the Agenda at the next City Commission meeting. On October 28, 2015, Bob Drake phoned City Administrator Schelkoph and rescinded his request to be on the Agenda.

On November 4, 2015, Robert Drake made another request to be placed on the Agenda. See Exhibit #4.

On November 17, 2015, Tony Drake posted on Facebook, indicating that Mayor Werkhoven was encouraging Robert Drake and others to protest the promotion of Lieutenant David Swenson at the next City Commission meeting. Tony Drake also stated that Mayor Werkhoven had:

came (sic) to visit my Dad about a dozen times to discuss the Sheriff’s department taking over the law enforcement responsibilities of valley city, all the while trying to urge my Dad to follow his lead in doing so. Yet when my Dad did, the Mayor threw him under the bus after he took some heat from other council members, he flip flopped calling exactly what they agreed on as being to (sic) extreme. If I didn’t see the mayor come visit the shop dozens of times personally I wouldn’t speak of it, but I’ve seen it and I’ve been involved in several of the conversations.

A copy of the entire screen message is attached hereto as Exhibit #5.

Although somewhat out of chronological order, Tony Drake came into City Administrator Schelkoph’s office and confirmed that Mayor Werkhoven had recruited his father, Robert Drake, to do his “dirty” work for him. See Exhibit #6.

On November 18, 2015, City Administrator Schelkoph sent a copy of Tony Drake’s accusations to Mayor Werkhoven. On November 20, 2015, City Administrator Schelkoph sent an email to Mayor Werkhoven, with a cc:ed copy to me. On November 23, 2015, Mayor Werkhoven replied to City Administrator Schelkoph’s email, with a cc:ed copy to me. See Exhibit #7.

On November 23, 2015, I received an email from City Administrator Schelkoph setting up a meeting of the search committee for a police chief, with copies sent to Commissioner Nielson, Commissioner Dewey Magnuson, Barnes County Commissioner Michael Metcalf, and City Auditor Avis Richter. See Exhibit #8. A reminder of this meeting on November 23, 2015, at 11:00 a.m., was later sent out by City Administrator Schelkoph.

At no time did I form the committee which met on November 24, 2015.

### **EVENTS OF NOVEMBER 24, 2015:**

The following description of the events of November 24, 2015, have been relayed in writing to Vice President Commissioner Pederson and to Commissioner Magnuson pursuant to the City's Commission Leadership Code, shortly after they occurred.

Acting in the position of City Attorney, I attended a meeting on Monday, November 23, 2015, at 11:00 a.m. in the Conference Room at City Hall in Valley City, North Dakota. The purpose of this meeting was to act as an administrative review committee for the position of Chief of Police for Valley City Police Department. Those present for this meeting included:

- a. Commissioner Mary Lee Nielson, who holds the Police Portfolio for the Commission and who appeared telephonically.
- b. Commissioner Dewey Magnuson.
- c. City Administrator David Schelkoph.
- d. City Auditor Avis Richter.
- e. Barnes County Commissioner Mike Metcalf.
- f. City Attorney Russell J. Myhre.

Without going into any specific conversations, there was concern expressed at this meeting that there had been only thirteen (13) applications for the position of Chief of Police which had been received as of the cutoff date. During the previous search for a Chief of Police, over forty (40) applications had been received. There was also a concern that after an initial review of the thirteen applications, there were few, if any, applicants who might be qualified for this position from which qualified applicants could be identified.

There was also a concern that the City would not be able to obtain applications from qualified persons due to the public statement issued by Mayor Bob Werkhoven about a month previous "proposing that the Barnes County Sheriff's Department oversee the Valley City Police Department"; the initiated petition to eliminate the Valley City Police Department which was floating around; and the attendant publicity which the petition's supporters have sought, including more than two dozen media interviews, news articles, and social media articles and posts, including calls for the termination of Chief Thompson.

The meeting ended roughly about 12:00 noon. Commissioner Nielson hung up, Commissioner Magnuson left City Hall, and City Auditor Richter left the room but was nearby.

Barnes County Commissioner Metcalf, City Administrator Schelkoph, and I remained in the room, chatting about other, unrelated matters. City Administrator Schelkoph was seated in the back of the room, Barnes County Commissioner Metcalf was on the south side of the room, near the door. I was standing on the east side of the room.

At approximately 12:15 p.m., Mayor Werkhoven entered the room. He was dressed in outdoor gear. He was obviously upset, which was apparent even before he spoke a word. His complexion was deeply red, his eyes were wide open, and he was visibly agitated. His voice was loud and was shaking with anger. He appeared to be out of control and physically aggressive. Please recall that earlier on November 23, City Administrator Schelkoph had asked Mayor Werkhoven about the Facebook post by Tony Drake, which indicated that Mayor Werkhoven had been acting in collusion with Robert Drake.

In an extremely loud voice, Mayor Werkhoven immediately demanded to know what we were doing in the Conference Room and what was going on. City Administrator Schelkoph attempted to explain the purpose of the meeting and what had occurred in this meeting. Mayor Werkhoven demanded to know why he had not been invited or informed of this meeting. City Administrator Schelkoph stated that Mayor Werkhoven had indicated he did not want to be involved in this process and had email confirmation of this.

Mayor Werkhoven interrupted City Administrator Schelkoph and shouted to City Administrator Schelkoph in a very loud voice, "You're lying!"

Barnes County Commissioner Metcalf said words to the effect of "Bob, that's not called for." City Administrator Schelkoph again attempted to respond, but Mayor Werkhoven shouted again to City Administrator Schelkoph, "You're lying!"

Barnes County Commissioner Metcalf began rising out of his chair to address Mayor Werkhoven and to calm him down. However, Barnes County Commissioner Metcalf kept emphasizing to Mayor Werkhoven that his comments and demeanor were out of line.

Up until that point, I had remained quiet in the back of the room. Mayor Werkhoven suddenly pointed at me and stated that it was my fault that Gary Schlagel was still in his home due to a short term rental agreement allowing Schlagle to remain in his home until the end of November. This matter was a non sequitur, given the nature of Mayor Werkhoven's statements to City Administrator Schelkoph. I also regarded this action by Mayor Werkhoven as an attempt to intimidate me because this was a matter which had been previously addressed and presumably resolved, in which I drafted the terms of the short term rental agreement as directed, including the length of the agreement. This matter about the rental agreement had been previously clarified in email correspondence on October 7, 2015. A copy of that email is attached hereto and incorporated herein as "Exhibit 9."

Since this matter about the Schlagel lease was inexplicably being brought up again in front of Barnes County Commissioner Metcalf, just after Mayor Werkhoven had twice called the City Administrator a "liar," I responded in a loud voice to be heard over Mayor Werkhoven, "No, I

was following the directions I got from the City.” Mayor Werkhoven continued his diatribe and I repeated my response.

Barnes County Commissioner Metcalf interrupted Mayor Werkhoven and repeated that the Mayor’s comments were inappropriate and out of line.

Seeing that Mayor Werkhoven was completely out of control and was acting in a violent and uncontrolled manner, I wanted to leave the room and leave the situation before it got any more out of hand. I walked toward the door to leave, but Mayor Werkhoven moved and blocked the doorway to the Conference Room, denying everyone in the room from retreating or leaving. He continued to appear to be out of control and even appeared capable of some sort of physical action or violence.

Mayor Werkhoven, who was holding a cup of coffee in his hand, made a sudden move with his arm with such force that he spilled coffee onto the carpet. At this point in time, I believed he might either strike me or throw his coffee at me.

Mayor Werkhoven then told me that I could resign. We looked at each other for a moment, and in that moment I believed Mayor Werkhoven was going to either hit me or throw coffee at me. Mayor Werkhoven then abruptly left the room.

At that point, everyone in that room was understandably taken aback at Mayor Werkhoven’s actions and behaviors. Barnes County Commissioner Metcalf, who was visibly upset, turned to face City Administrator Schelkoph and myself and stated that he was going to immediately go into the Mayor’s office and, as a private citizen and not as a County Commissioner, was going to demand the Mayor’s resignation. City Auditor Richter reentered the room, explaining she had overheard the incident and was concerned about the Mayor’s actions. When Barnes County Commissioner Metcalf again said he was going to talk to the Mayor and demand his immediate resignation, City Auditor Richter said the Mayor had left City Hall.

Barnes County Commissioner Metcalf has advised Commissioner Nielson what occurred in the Conference Room after she hung up. This conversation between Barnes County Commissioner Metcalf and Commissioner Nielson occurred in a separate conversation.

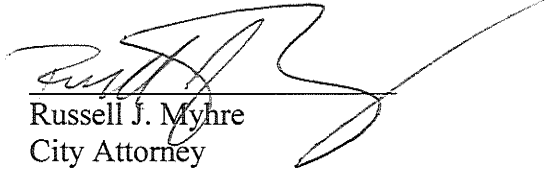
**REQUEST FOR RELIEF:**

The situation which occurred on November 24, 2015, has created a hostile and abusive work environment for me and for others who work for the City. I am submitting this Grievance to remove, remedy, and prevent these occurrences and circumstances, and the cloud it places over my appointment with the City of Valley City.

I am requesting that the City Commission direct Mayor Werkhoven to issue a statement to the media, retracting his false and misleading statements in the Forum on January 22, 2016.

I am further requesting that the City Commission take such steps as may be necessary to censure and reprimand Mayor Werkhoven for his hostile and abusive actions, including but not limited

to, formal censure, restriction on travel, and/or such other appropriate action to inform him that the City Commission and the City expect him to civilly and professionally carry out the duties of mayor.



Russell J. Myhre  
City Attorney

# ***RESUME' AND PRECIS***

of

**RUSSELL J. MYHRE**

**EDUCATION:** Bachelor of Science degree from North Dakota State University with a double undergraduate major in English and history; Juris Doctor from University of North Dakota; nondegree postgraduate work in education from St. Cloud State University and University of Kansas; and past candidate in Master of Business Administration program at North Dakota State University.

## **SCHOLASTIC HONORS, SCHOLARSHIPS, AND COLLEGE ORGANIZATIONS:**

NDSU Dean's List; UND Law School Scholarships 1971-72, 1972-73, 1973-74; State Board of Higher Education Scholarship; LEAA Criminal Justice Grant; Staff, NDSU Spectrum; Copy editor, NDSU Bison Annual; Contributing writer, Scopcraft; Phi Alpha Delta legal fraternity; Intern, Office of North Dakota Attorney General; Intern, North Dakota Legislative Council; Intern/Legal Advocate, Minnesota Migrant Council Moorhead, MN. Contributing writer, North Dakota Law Review; Editorial Staff, North Dakota Law Review; UND Legal Aid Society; NDSU-MBA Club; NDSU FutureQuest.

## **SELECTED ACTIVITIES AND ORGANIZATIONS:**

Cub Scoutmaster, Troop 538, Enderlin, ND; Chairperson, Subcommittee on Program and Demographics, Ad Hoc Building Committee, Enderlin School District; ABATE of North Dakota; past secretary, Jeffersonians; past president Maine Prairie Parents Association; Toastmasters; guest lecturer on local history in Enderlin Public Schools; Bismarck-Mandan Safety Council; established Judge Bernard Standing Crow Memorial Law Library at Standing Rock Community College, Fort Yates, North Dakota; guest speaker on lobbying for North Dakota Long-Term Care Association, North Dakota AFL-CIO, and North Dakota Manufacturers' Association, 1993; guest speaker, Native American Appreciation Week, Enderlin Elementary School; Staff, Northern Lights Council Cub Scout Day Camp at Fort Ransom State Park, 1993-present; guest lecturer, Northern Lights Council Boy Scout Camporee at Valley City, 1995; Adult Bible Study teacher, First Lutheran Church, Enderlin, North Dakota; President, Church Council, First Lutheran Church, 1996-2001; Enderlin Middle School Parents Advisory Committee; guest speaker, Abuse Resource Network (Ransom County) on "Racism and Sexism in America"; chairperson, Fundraising Committee for Enderlin Alumni Association [raised \$250,000 in private donations for school]; Article, "Governmental Immunity in North Dakota", Bismarck Tribune (Ap. 1979), p. 4; Feature article, "An Equal Form of Parenthood", FTD Magazine (July/August, 1993) pp. 9-12; Editor, North Dakota Higher Education Association Newsletter,

1977-78; Editor and publisher, ABATE of North Dakota Newsletter; Editor, Enderlin Alumni Association Newsletter.

#### LAW SCHOOL INTERNSHIPS:

Research intern, Office of the North Dakota Attorney General. Duties included examination of the criminal justice system, legal research, and investigation. Helgi Johanneson, North Dakota Attorney General.

Legislative intern, North Dakota Legislative Council, assigned to the Senate Finance and Taxation Committee [Senator Francis Butler, Chairman] and the Senate Transportation Committee [Senator Duane Mutch, Chairman]. Duties included the provision of legal, fiscal, and bill drafting services to standing legislative committees during regular legislative session. C. Emerson Murry, Executive Director, North Dakota Legislative Council. Jack McDonald, staff person in charge of intership program.

Research assistant, Office of the North Dakota Attorney General. Duties included legal and historical research regarding the powers and duties of the North Dakota Attorney General, preparation of a report, and publication of this report in the North Dakota Law Review. Allen I. Olson, North Dakota Attorney General.

Advocate/intern, Minnesota Migrant Council, Moorhead, MN. Duties include outreach and advocacy of migrant rights for migrant workers in Red River Valley.

#### PROFESSIONAL PUBLICATIONS:

Report, The North Dakota Criminal Justice System, published by the North Dakota Law Enforcement Council, 1972.

Recent Case, Indians--Protection of Personal Rights in General: The Right of Off-Reservation Indians to Receive General Assistance, 49 N.D.Law Rev. 405 (1972).

Note, Consumer Protection in North Dakota, 49 N.D.Law Rev. 643 (1973).

Article, The Attorney for the People, the Attorney for the State: The Powers and Duties of the Attorney General of North Dakota, 52 N.D.Law Rev. 349 (1976).

Myhre, R., How to Change Laws: A Guide to Lobbying in North Dakota, (RJM Book Sales, Bismarck, ND) 1979.

Myhre, R., How to Change Laws: A Guide to Lobbying in North Dakota 2d Rev., (United Transportation Union, 750 Augsburg Avenue, Bismarck, ND 58504) 1993.



**PROFESSIONAL INFORMATION:**

**North Dakota Bar Identification Number: 03180**

**General solo practice of law.**

**Admitted to practice in North Dakota, federal district courts for the District of North Dakota, and presented appeals to Eighth Circuit Court of Appeals, 1974.**

**Member of North Dakota State Bar Association; Southeast Judicial District Bar Association; North Dakota Association of Criminal Defense Attorneys [founding member and member of Federal Committee].**

**SELECTED WORK EXPERIENCES:**

**Staff Attorney, North Dakota Legislative Council, Bismarck, North Dakota.**

**Assistant Executive Director, North Dakota Education Association, Bismarck, North Dakota.**

**Hearing officer, pursuant to P.L. 94-142, North Dakota Department of Public Instruction, Bismarck, ND 1978.**

**Counsel, North Dakota Developmental Disabilities Protection and Advocacy Project, Bismarck, ND.**

**Chief Negotiator for collective bargaining, Vantines Paint and Glass, Bismarck, ND.**

**Assistant State's Attorney, Sioux County, Fort Yates, North Dakota.**

**Public Defender, Standing Rock Sioux Tribal Court, Fort Yates, North Dakota.**

**Tribal Prosecutor and Chief Law Enforcement Officer, Standing Rock Sioux Tribal Court, Fort Yates, North Dakota.**

**Field Representative, South Dakota Democratic Party.**

**Editor and Fundraising Chairman, Enderlin Alumni Association, Enderlin, North Dakota. In charge of raising approximately \$250,000 in private donations to local school district and ongoing fundraising activities, including gaming and private donations.**

**SELECTED GOVERNMENTAL AND LEGISLATIVE EXPERIENCE:**

**Legislative staff attorney in nonpartisan position to North Dakota Legislature. Duties included researching and drafting legislative bills and resolutions, analyzing**

budgets and appropriations, writing reports, and presenting testimony to legislative committees. Assisted committee chairpersons in preparing committee agenda, notices, witnesses, and reports. Prepared committee minutes for legislative records, internal memoranda, bill drafts, and amendments. Assigned to Interim Committees on Education; Political Subdivisions; and Industry, Business & Labor.

**ACCOMPLISHMENTS:** (1) Drafted major proposed legislation on educational funding of public schools, revenue sharing for political subdivisions, and collective bargaining for public employees; and (2) Utilized computers to model effects of proposed legislation. **POSITION HELD:** Staff attorney, North Dakota Legislative Council, Bismarck, ND.

Assistant executive director of North Dakota Education Association, a statewide, 7100 member education association. Duties included acting as liaison and legislative lobbyist on local political subdivision, state, and national levels. Interacted with local and state elected officials, legislators, and members of Congress and Senate on issues relating to education. Presented formal testimony at legislative committee hearings. Administered association's membership program, organized membership drives, and actively recruited members. Administered retirement, legal services payments, higher education, and student programs. Wrote and edited monthly newsletter to higher education members. Attended workshops on negotiations and collective bargaining, use of the media, and computerization programs.

**ACCOMPLISHMENTS:** (1) Fully implemented computerized membership and dues payment programs, and trained staff in computer functions; (2) Brought staff retirement program into ERISA compliance; and (3) Represented individual members in grievance, administrative, and termination hearings. **POSITION HELD:** Assistant executive director, North Dakota Education Association, Bismarck, ND.

Municipal program director within municipal justice system as public defender and later as prosecutor. Provided extensive representation and referral services within community. Supervised staff functions and policies. Wrote grant programs and reports. Established budgets and bookkeeping systems. Advised local governing body and governmental officials. Results of case activity cited in the book, The Broken Cord by Michael Dorris, and subsequent movie of the same name.

**ACCOMPLISHMENTS:** (1) Made in excess of 20,000 court appearances in Tribal Court, conducted jury trials, and streamlined procedures; and (2) Acted as chief municipal law enforcement officer within jurisdiction. **POSITIONS HELD:** (1) Public defender and (2) prosecutor for Standing Rock Sioux Tribe, Fort Yates, ND.

Field representative to gubernatorial, congressional, and senatorial candidates in statewide election. Duties included supervising voter registration teams; training and supervising volunteers; door-to-door solicitation; telephone surveys; and filing necessary forms and reports. Duties also included advance work for meetings and rallies; preparing and making speeches; representing candidates and their views; preparing second language advertising; and coordinating activities with local representatives. **ACCOMPLISHMENTS:** (1) Two lead candidates elected; and (2)

**Delivered key votes in targeted districts. POSITION HELD: Field representative, South Dakota Democratic Party, Sioux Falls, SD.**

**Executive director and chief lobbyist for ABATE of North Dakota, a safety and education association. As a position relative to a biennial legislative session, duties included presenting testimony at legislative hearings, advising executive board, and preparing and implementing annual budgets. Developed and coordinated fundraising and membership campaigns. Coordinated lobbying efforts and engineered coalitions between organizations with mutual interests and was lead lobbyist for coalition. Wrote and edited monthly newsletter to 2000+ members. ACCOMPLISHMENTS: (1) Landmark safety and education legislation; and (2) Coordinated implementation of \$200,000 education program. POSITION HELD: Executive Director and chief lobbyist, ABATE of North Dakota, Bismarck, ND.**

**SELECTED PROFESSIONAL TEACHING EXPERIENCES:**

**Faculty, Labor Law in the Public Sector, sponsored by the North Dakota Law Institute, Grand Forks, ND.**

**Faculty, Negotiation Workshop for North Dakota Teachers, Administrators, School Board Members, and Other Educational Personnel, Educational Center, University of North Dakota, at Grand Forks (and three other locations).**

**Guest faculty, Associate of Arts Criminal Justice Program, Standing Rock Community College, Fort Yates, ND.**

**Organization of inservice training sessions for staff for North Dakota Education Association and Standing Rock tribal court staff and law enforcement officers.**



## Valley City Atty

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**From:** David Schelkoph <dschelkoph@valleycity.us>  
**Sent:** Friday, October 16, 2015 1:51 PM  
**To:** Valley City Atty  
**Subject:** RE: Notice of Resignation

Dittos Bro!

Dave

**From:** Valley City Atty [<mailto:valleycity.atty@myhrelaw.com>]  
**Sent:** Friday, October 16, 2015 10:55 AM  
**To:** David Schelkoph; Fred Thompson; [marylee@quiltedceiling.com](mailto:marylee@quiltedceiling.com); 'Mary Lee Nielson'  
**Subject:** RE: Notice of Resignation

Dear Dave and Fred:

It is with sincere and deep regret that I learned Chief Thompson has tendered his resignation. Having worked with law enforcement officers through the past four decades, I have appreciated the level of professionalism and dedication that Chief Thompson has effectively and positively demonstrated during his tenure with the City of Valley City. He stepped into a troubled and chaotic department almost four years ago, and he led it into the 21<sup>st</sup> Century. I will sincerely miss Chief Thompson.

Russell J. Myhre  
City Attorney

**From:** David Schelkoph [<mailto:dschelkoph@valleycity.us>]  
**Sent:** Friday, October 16, 2015 9:53 AM  
**To:** Fred Thompson; [valleycity.atty@myhrelaw.com](mailto:valleycity.atty@myhrelaw.com); [marylee@quiltedceiling.com](mailto:marylee@quiltedceiling.com); Mary Lee Nielson  
**Subject:** RE: Notice of Resignation

It is with regret that I accept the resignation of our Chief of Police. Chief Thompson was hired in July of 2013. His three 1/2 years of service and leadership has brought the Valley City Police Department into the modern law enforcement era. From vehicle and equipment purchases to employee evaluations, Chief Thompson has implemented changes that build upon the high expectation of service and professionalism that our city deserves. The citizens of Valley City were lucky to have Chief Thompson here to create these changes.

As a new grandfather myself, I understand Chief Thompson's desire to establish a relationship with his new grandchild as well as build upon his relationship with his other family members. Please join with me in thanking Chief Thompson for his service and wish him well in his future plans.

David Schelkoph

What do you think Russ or Fred?

Dave

**From:** Fred Thompson  
**Sent:** Thursday, October 15, 2015 4:07 PM

**Exhibit 1**

**To:** David Schelkoph  
**Subject:** Notice of Resignation

Mr. Schelkoph,

I have now been in the business of policing for 7 years part-time and 32 years full-time. Over those years I have missed countless family gatherings, birthday parties, celebrations, and other events in life that people hold dear in my steadfast desire to serve the public good and to be the best that I could be in my profession. I have recently learned that my eighth grandchild, a grandson, will be born in the first part of February 2016. With this in mind I have made the decision that I am not going to miss spending time with this grandchild as I have done way to often with the others. This email is to notify you that I intend to tender my resignation as the Chief of Police for the Valley City Police Department effective 1700 hours on January 15, 2016. I want to inform you that it has been a pleasure serving the Valley City Police Department and the citizens of Valley City. Please contact me if you have any questions.

Thank you,

**Chief Fred J. Thompson**  
Valley City Police Department  
216 2<sup>nd</sup> AVE NE  
Valley City, North Dakota 58072  
Office: (701) 845-3110  
Cell: (701) 840-5741  
Fax: (701) 845-3100  
[ftompson@valleycity.us](mailto:ftompson@valleycity.us)  
FBINA Session #225  
IACP #1631406  
ND POST License #5103

## Valley City Atty

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**From:** David Schelkoph <dschelkoph@valleycity.us>  
**Sent:** Monday, October 19, 2015 10:48 AM  
**To:** dmagnuso@csicable.net; madelineluke@ymail.com; Marylee@hellovalley.com; Bob Werkhoven; info@hellovalley.com; marylee@quiltedceiling.com; commissioner\_pedersen@live.com; mpedersen@cpa.com; commissioner.magnuson@gmail.com  
**Cc:** valleycity.atty@myhrelaw.com; Avis Richter  
**Subject:** Job application

Hello Everyone.

To get everyone on the same page here. I have applied for another position outside the City. Since my application I have been asked to postpone my decision by commissioners and citizens alike, in the hope that we can resolve work issues that have created an impossible work environment for me.

To facilitate communication and promote amical resolutions to employee/city issues, I will accommodate this request. I will wait on any personal decision to leave my position here with the city for an appropriate length of time.

Dave  
David Schelkoph  
City Administrator  
Valley City, ND  
Office Phone # 701-845-1700 Ext. 1

**Exhibit 2**

## Valley City Atty

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**From:** David Schelkoph <dschelkoph@valleycity.us>  
**Sent:** Friday, January 22, 2016 3:53 PM  
**To:** valleycity.atty@myhrelaw.com  
**Subject:** FW: Police Chief Search

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**From:** David Schelkoph  
**Sent:** Thursday, October 22, 2015 11:32 AM  
**To:** Bob Werkhoven; Mary Lee Nielsen (marylee@quiltedceiling.com); Mary Lee Nielson; Madeline Luke; Matt Pedersen (commissioner\_pedersen@live.com); Matt Pedersen; Duane Magnuson (commissioner.magnuson@gmail.com); Dewey; Avis Richter  
**Subject:** FW: Police Chief Search

FYI

This is the schedule I sent out to the TR at their request,

Dave

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**From:** David Schelkoph  
**Sent:** Thursday, October 22, 2015 11:30 AM  
**To:** 'Heidi Harris'  
**Cc:** Becki Andersen ([bandersen@valleycity.us](mailto:bandersen@valleycity.us)); Avis Richter; Brenda Klein; Fred Thompson  
**Subject:** RE: Police Chief Search

Heidi,

Here is our plan.

1. By Oct. 26<sup>th</sup>, City will post Job.
2. Nov. 20<sup>th</sup> close job post.
3. Week of 23-27 Nov., review applicants create an interview list.
4. Dec 1<sup>st</sup> thru Dec 18<sup>th</sup>, schedule interviews.
5. 5<sup>th</sup> of Jan. 2016 have commission consider the committees choice for Chief.

Dave  
David Schelkoph  
City Administrator  
Valley City, ND  
Office Phone # 701-845-1700 Ext. 1

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**From:** Heidi Harris [<mailto:trnews1@times-online.com>]  
**Sent:** Thursday, October 22, 2015 10:57 AM  
**To:** David Schelkoph  
**Subject:** Police Chief Search

Exhibit 3



Hi Dave,

I have a couple questions about the city's search for a new chief of police. You had mentioned at Tuesday's meeting that the city plans to put a request in to advertise the position with Job Service.

Do you know when the city plans to advertise the position and start interviews? How many people, and who, will be on a search committee? And finally, when does the city plan to have a new chief hired?

If you have any answers to these questions, could you give me a call or email at your earliest convenience?  
Thanks!

Heidi Harris

*News Reporter*

*Valley City Times-Record*

*701-490-3411 - Direct*

*701-840-9388 - Mobile*


*701-845-0463 - Office*

[www.Times-Online.com](http://www.Times-Online.com)

Agenda Request

~~RECEIVED~~  
NOV - 4 2015  
BY: AR

I request to be put on the agenda for the Valley City Commission meeting for November 9, 2015. The purpose of my request is to demand that the Valley City Commission terminate the employment of the Valley City Police Chief Fred Thomson . This request is being made on November 4 2015.

  
Robert Drake

~~RECEIVED~~  
NOV - 3 2015  
BY: AR

*Nov 5, 11:30 AM  
Bob Drake called  
and requested to  
be removed from  
Nov 9 agenda  
& placed on  
Nov 17 instead.*

*AR  
11/05/15*

*He again is removed from Nov. 17 agenda*

On Tuesday, November 17, 2015 6:06 AM,

Let me pre-empt the below message by saying Valley City has many amazing people that are hard working with good hearts. That said; For years my Dad has done his best to help the citizens of Valley City by pointing out corruption in city hall, only to have people call him a trouble maker. Well I'm proud of my Dad for doing what no one else seems to have the courage to do. I may get in trouble for speaking out but a coward is Mayor of this city. I personally was handed a agan...da by Mayor Workhoven for last Monday nights promotion of officer Swenson to lieutenant. His exact words were " you guys need to be there in protest of this promotion because I cannot be there". He said "We cannot allow this to happen". What kind of gutless wonder asks citizens to make change when he has the power and influence to impart change as the mayor but doesn't have the courage to do so. He also came to visit my Dad about a dozen times to discuss the Sheriff's department taking over the law enforcement responsibilities of valley city, all the while trying to urge my Dad to follow his lead in doing so. Yet when my Dad did, the Mayor threw him under the bus after he took some heat from other council members, he flip flopped calling exactly what they agreed on as being to extreme. If I didn't see the mayor come visit the shop dozens of times personally I wouldn't speak of it, but I've seen it and I've been involved in several of the conversations. My Dad has ONLY EVER fought for the people yet he's marred as a trouble maker. Several years ago my Dad told the city that they didn't have to buy the railroad land where the rosebud center sits today, because the agreement between congress and the railroads was that once a line was abandoned by the RR it then reverts back to the entity neighboring the property. But instead the city administration mocked him, as did many in the city. Well guess what? My Dad was right and the city paid \$450,000 to the RR for property the city already owned, plus attorneys fees, and survey fees. But do you think anyone apologized to him? No not one. I am very proud of my Dad for having the guts to stand up for what he believes in, for putting the people of valley city before his own business, and never cowering to the pressures of the few wealthy people that control our city administrator, city council, and other city employees. If I turn out to be half the man my Dad is and have half the courage he does I'll still be twice the man many in this city are who just pat him on the back because they agree with him, but don't have courage to stand beside him. I'll be by his side at tomorrow night's city council meeting and I encourage all of you to do so too! You've got to stand for something or you'll fall for anything. I hope you all have a great day!

**Exhibit 5**

## Valley City Atty

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**From:** David Schelkoph <dschelkoph@valleycity.us>  
**Sent:** Monday, December 21, 2015 1:17 PM  
**To:** valleycity.atty@myhrelaw.com; Fred Thompson; marylee@quiltedceiling.com; Mary Lee Nielson  
**Subject:** Visit by Tony Drake

Hello Everyone,

Tony Drake came into my office this morning to let me know that what he had said in his Facebook page was accurate and he would testify to the content.

He also told me the following:

1. That the Mayor had recruited his dad to do his "dirty" work. Specifically about the Police Department.
2. That the Mayor had met with his dad on many occasions to push this agenda.
3. Tony repeated over and over again that the Mayor told his dad that he could not bring this in front of the commission and that he needed Bob Drake to do it for him (Mayor).
4. Tony also said that Heide from the TR was at one of the meetings and she could collaborate his testimony.

Thought I should document the meeting.

ML, I bring this to your attention only because you are the portfolio holder.

Dave  
David Schelkoph  
City Administrator  
Valley City, ND  
Office Phone # 701-845-1700 Ext. 1

Exhibit 6

## Russell Myhre

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**From:** Bob Werkhoven <mayor@valleycity.us>  
**Sent:** Monday, November 23, 2015 7:42 AM  
**To:** David Schelkoph  
**Cc:** russell.myhre@myhrelaw.com  
**Subject:** RE: Facebook Accusations against the Mayor

Dave

The definition of accusation is "A formal charge of criminal wrong doing". I hardly think face book comments can be considered a formal charge. As long as we are on the subject

The chief told me in my interview with him on 10/28/15 that the allegation against him of sexual harassment was not true. This happened during the June July time frame I guess.

You can imagine my surprise, having not heard about it. Obviously you found no evidence

To corroborate the allegations. If that is the case, that's good, because not following through is actually sometimes worse than the allegation.

Bob

**From:** David Schelkoph  
**Sent:** Friday, November 20, 2015 3:23 PM  
**To:** Bob Werkhoven <mayor@valleycity.us>  
**Cc:** [valleycity.atty@myhrelaw.com](mailto:valleycity.atty@myhrelaw.com)  
**Subject:** RE: Facebook Accusations against the Mayor

Talked with the Mayor this morning and he told me that the accusations were false and that we should just let this issue just fade away.

Dave

**From:** David Schelkoph  
**Sent:** Wednesday, November 18, 2015 9:11 AM  
**To:** Bob Werkhoven  
**Cc:** [valleycity.atty@myhrelaw.com](mailto:valleycity.atty@myhrelaw.com)  
**Subject:** Facebook Accusations against the Mayor

Bob,

I know you have seen the accusations leveled against you on a Facebook page posting. I need to meet with you to discuss these accusation as it pertains to a city employee. If this accusation were to be true in whole or part the city is exposed to an employee grievance or lawsuit.

I will make myself available tomorrow any time if you can meet with me.

Dave

David Schelkoph  
City Administrator  
Valley City, ND  
Office Phone # 701-845-1700 Ext. 1

**Exhibit 7**

## Valley City Atty

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**From:** David Schelkoph <dschelkoph@valleycity.us>  
**Sent:** Monday, November 23, 2015 10:08 AM  
**To:** marylee@quiltedceiling.com; Mary Lee Nielson; commissioner.magnuson@gmail.com; dmagnuson@puklich-chevrolet.com; Mike Metcalf; Avis Richter; valleycity.atty@myhrelaw.com  
**Cc:** Avis Richter  
**Subject:** FW: Police App Chart  
**Attachments:** Applicants.xlsx

Hello Everyone,

Attached is a list of the applicants for Police Chief. I am trying to set up a meeting for tomorrow at 11:30 here at city hall. Will get everyone a copy of the applicants paperwork today so that you will have time to review before the meeting.

Dave  
David Schelkoph  
City Administrator  
Valley City, ND  
Office Phone # 701-845-1700 Ext. 1

**From:** Becki Andersen  
**Sent:** Monday, November 23, 2015 8:43 AM  
**To:** David Schelkoph  
**Subject:** Police App Chart

*Becki Andersen  
Administrative Assistant II  
City of Valley City  
(701) 845-8125*

**Exhibit 8**

## Russell Myhre

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**From:** Russell Myhre <russell.myhre@myhrelaw.com>  
**Sent:** Wednesday, October 07, 2015 1:29 PM  
**To:** 'Bob Werkhoven'  
**Cc:** 'dmagnuso@csicable.net'; 'madeline luke'; David Schelkoph (dschelkoph@valleycity.us)  
**Subject:** RE: Lease agreement with Schlagel

Mayor Werkhoven:

Our office did not participate in any of the negotiations with Gary Schlagel. The information regarding this transaction was relayed to our office through multiple sources, and the documents which were prepared were drafted pursuant to the information which we received.

As you will recall, the final negotiations with Schlagel were handled by Commissioner Magnuson after Commissioner Peterson indicated he had reached an impasse with Schlagel.

In an email dated June 15, 2015, Commissioner Magnuson laid out the terms of the agreement he reached with Schlagel, which included a four (4) month lease. I was directed to prepare the appropriate documents to effect this sale.

However, since none of these oral agreements were in writing, the City did not have an enforceable contract with Schlagel. The so-called "Statute of Frauds" contained in Section 9-06-04(3), NDCC, states that a "sale, of real property, or of an interest therein" must be in writing. If the agreement to purchase real property is not in writing, the agreement is "invalid" and cannot be enforced.

I sent several emails on and after June 15, stressing the importance of obtaining a written agreement with Schlagel because this would delay or postpone any closing and vacation of the property, and could even result in Schlagel withdrawing from the agreement altogether with no legal consequence to him.

As a result, negotiations with Schlagel continued over the next two (2) months, including right up to the closing date at the end of July, 2015. During that time, Schlagel attempted to renegotiate the oral agreement with Commissioner Magnuson. He sent additional demands to the City, which included demands that, in addition to the \$115,000 sales price, that he receive the following additional compensation:

1. Moving expenses.
2. Reimbursement for his utility hookups.
3. Payment for any realtor's commission.
4. Payment for an inspection of any property which he might purchase.
5. Payment of his real property taxes.

However, as a result of this delay in obtaining a signed Purchase Agreement, including a denial of these additional claims for compensation over and above the \$115,000 purchase price, plus the additional negotiations which occurred after the oral agreement was reached with Schlagel, I was advised that some of the terms of the oral agreement had changed, including the lease period.

A signed Purchase Agreement was finally obtained from Schlagel, and a closing date of July 27, 2015, was set. On July 15, 2015, prior to the closing date, I emailed City Administrator David Schelkoph indicating that Schlagel wanted to stay in his house until October or November. Accordingly, the Lease Agreement was prepared in that manner and according to the terms which were relayed to this office by other parties.

We trust this information is sufficient for your purposes.

**Exhibit 9**

Russell J. Myhre

City Attorney

**Russell J. Myhre**

Attorney at Law



341 Central Avenue N, Ste. 3

Valley City, ND 58072

701-845-1444

russell.myhre@myhrelaw.com

www.myhrelaw.com

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**From:** Bob Werkhoven [mailto:mayor@valleycity.us]

**Sent:** Wednesday, October 07, 2015 7:05 AM

**To:** russell.myhre@myhrelaw.com

**Cc:** dmagnuso@csicable.net; madeline luke

**Subject:** Lease agreement with Schlagel

Russ

I'm curious, who authorized you to make a lease agreement with Gary Schlagel? From a construction perspective, it would be in the best interest of the City to be able to get the dike keyway in the original ground in the fall because its dryer. (Spring installation generally means higher water tables, and more difficult to obtain densities in dike soil.) I'm meeting with him today to try to get him to expedite his move, but the lease potentially gives him until Nov. 30 at the least and Dec. 31 at the most. October 4, is the date Dewey and I recall for him to moved.

Bob