

MINUTES OF THE MEETING
SENATE STATE ADMINISTRATION COMMITTEE
JANUARY 21, 1977

The meeting was called to order by Senator Towe, Chairman, at 11:15 a.m. in the Governor's Reception Room in the State Capitol. Senators present were Senators Towe, Story, Brown, Rasmussen, Roskie, Jergeson, Blaylock and Devine.

Hearings were conducted on the Governor's appointees Kent Kleinkopf as Director of the Department of Business Regulation and Harold Frysli as Director of the Department of Community Affairs.

The transcript of the testimony from Mr. Kleinkopf is attached to these minutes.

HEARING ON HAROLD FRYSLIE AS DIRECTOR OF COMMUNITY AFFAIRS

Mr. Frysli appeared before the committee and stated he had prepared no formal statement but would review his credentials with the committee. He was born in Glasgow and lived in Scobey and Glendive during his childhood. He lived in Bozeman from 1944 until 1976 when he moved to Helena. His degree is from Montana State University in Industrial Engineering. He served approximately eight years with the National Guard in Bozeman spending a large portion of his time in supply and logistics. He was employed by the Bozeman Chamber of Commerce from 1957 to 1960 when he became the Administrative Assistant to the City Manager. He served in that position for nine years and has been the Bozeman City Manager since that time. He has retained his intensive involvement with the National Guard and also owns a small farm. His wife is involved in several areas of business: printing, secretarial services, executive secretary of a ski organization and cattlemen's association, and is a licensed realtor and insurance agent.

There being no proponents or opponents to the appointment, questions by the committee followed.

Senator Towe inquired if alcohol was a problem and Mr. Frysli replied that he had once been charged with driving while intoxicated but the charge was subsequently dropped. Senator Towe further asked Mr. Frysli if his office would be open to the public and would he accept public comment. Mr. Frysli responded his office in Bozeman was always open and he has always maintained an open door policy and expects to continue to do so. He further stated he has five field assistants in the Department and they have asked if he would travel with them on occasion to their districts and he had assured them that within normal limits he fully intended to do so.

Senator Roskie questioned Mr. Frysli regarding land use planning. Mr. Frysli replied that he feels land use planning can best be done at the local level with some input or help from the state if local expertise is not available. He prefers the joint city-county planning board as the best planning vehicle. He stated some communities need help in the mechanics of setting up a planning board and the state planning board can provide tremendous assistance in these areas. They also can provide great help in obtaining federal planning monies for local areas.

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Senator Roskie inquired about Mr. Frysli's opinions on plating and subdivisions. Mr. Frysli replied that he felt we have a good basic law today in plating and subdivisions and that he saw his role as being a limited advocate of land use and subdivision planning. The advocacy should be tempered with what the people want even if it means going through the legislature. Senator Roskie asked Mr. Frysli to comment on the Beaver Creek decision and he commented he was only close to it geographically, not administratively or personally. He replied he felt the decision of the Supreme Court was correct in saying the Department of Health cannot deny the approval of a subdivision.

Senator Towe asked Mr. Frysli if he had any comments on MELDA and he replied he felt it needs to either be repealed as the Governor has called for or at least put in a state of suspension until it can be well studied. His own research and study has convinced him we must not be impetuous. It is a very touchy and complex situation.

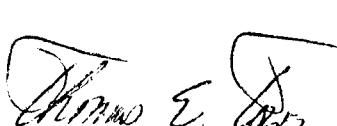
Senator Jergeson was concerned with the conflict of interest issue and asked Mr. Frysli if he sees his wife's involvement in real estate as being a potential conflict. Mr. Frysli stated he felt there was absolutely none and in Bozeman if there were situations in his job as city manager that arose concerning his wife's involvement she completely withdrew from any involvement in the situation and he assured the committee if such a situation ever arose in his administration that the same would be the case.

Senator Blaylock expressed concern over a large amount of prime agricultural land being subdivided. Mr. Frysli expressed his support of Representative Bradley's bill which would amend current subdivision review law so that judicious and conscientious review by local government would prevent that happening. He said he could, as a last resort, live with some state regulation of land but he would sure hate to see it start.

The hearing was closed and the appointee thanked for appearing before the committee and for his cooperation.

Senator Towe announced the committee will meet Saturday, January 22, 1977, at 8:00 a.m. in Room 410 to consider bills and appointments. Senator Story cast his vote aye for SB 72 and nay on the Do Not Pass recommendation on SB 82.

There being no further business, the meeting was adjourned to reconvene Saturday, January 22, at 8:00 a.m.



Chairman

PUBLIC HEARING
BEFORE THE COMMITTEE ON STATE ADMINISTRATION
REGARDING APPOINTMENTS BY THE GOVERNOR

Governor's Reception Room
State Capitol
Helena, Montana

January 21, 1977
11:00 a.m.

Senator Towe:
Chairman

This hearing, as you know is to investigate the appointments of the Governor. We have asked two people to appear today; Mr. Kleinkopf and Mr. Frysle, and before starting, I want to point out that the procedure we will use is as follows: We will first of all, allow the appointee and we will ask the appointee to come and appear before us and say a few words, if he would like. Now, we hope that all person will restrain and restrict their comments to not more than five minutes. We will then ask if there are any other persons who would like to speak in favor of the appointee, and we will then ask if there are any persons who would like to make any other comments. We will then ask the appointee if he would like to close and say any concluding remarks, and at that point we will open the Committee for questions from members of the Committee only. We will handle this just as we handle the passage of any bill that comes before the Committee, and that means we will have to restrain our questions to the members of the Committee. If you have question that you want to ask, you can certainly indicate to the Committee when we ask for any persons that have any comments - at that time you can say what questions you have and if any member of the Committee feels the question ought to be asked they will, I am sure, ask it. Now, a couple of other points I want to comment about: This is a part of the procedure that's outlined in the Constitution, Article VI, Section 8, which provides that the Senate must confirm certain appointments - appointments to the heads of the departments. We do not take this duty lightly, it's an important task and the Senate must, I think, in order to discharge its responsibility under the Constitution, make an investigation into the qualifications, the ability, perhaps the temperament, of the individuals who have been appointed by the Governor before we confirm, or refuse to confirm them. We would be interested I submit, in that regard, into anything that might embarrass the State, but I want to point out very, very carefully, before we get started, th

we will not look kindly upon any comments that simply relate -- that have no bearing on this particular hearing, on the qualifications, the abilities or anything else relating to the appointment. In specific, I refer to any specific previous acts of misconduct. We are not interested in what somebody did when they were a boy. We are not interested in certain specific acts of misconduct that would not, in any way, have any relevance to our appointment. For that reason, although there may be some that might be relevant I am going to ask you, if any of you wish to testify in this manner, about any acts of misconduct, that you not do so until you first come up to this table and clear it with myself and the Vice-chairman, Senator Story. We will, if necessary, recess for a few minutes so that you have an opportunity to speak with us. We do not want to have a witch hunt in this hearing. Now, in addition to that, I think it only incumbent upon me to point out that the immunity that applies to witnesses before the Legislature would apply if you were sworn and giving sworn testimony. We do not, at this point, contemplate swearing in any witnesses. Perhaps we could do that if requested but we have not contemplated doing so, so I am not certain that I can assure you that you will have any immunity, either from criminal or civil prosecution for libel. I want to point that out again, as a cautionary measure. We want to look into the matters that relate to people that are important to this Committee and not other matters. In the same manner, I will also exercise my prerogative as Chairman, if I feel the comments or the questions are not relevant or have no bearing, I will certainly so indicate and stop the testimony or the questioning. At the same time I also want to emphasize that we do not take the obligation of the Senate lightly so we will make a thorough investigation. The end result, I hope, will be that the people of the state of Montana will feel more confident in the people that have been appointed to lead them in the various departments. That is certainly the procedure. That is certainly the intent of the Constitution when it authorizes this confirmation authority. One more comment I want to make; this hearing is being recorded. There is authority in our rules for that recording. It is my understanding that in addition to the official recorder that we have for the Committee's use, there has been at least one request for a tape recorder and I have authorized that. If any persons -- Committee members feel that that privilege is being abused and it is interfering in any way with the Committee hearings, please call it to my attention and we'll take care of that matter, one way or another at that time. We'll

commence, at this point, with the hearing on the first appointee. We will call, at this point -- to come, and if he has some words for us -- to present them to us -- Mr. Kent Kleinkopf who has been designated as the appointment to the Department of Business Regulation, as Director. Kent -- and you may sit or stand there, or whatever you prefer

MR. KENT KLEINKOPF

Mr. Chairman and fellow Senators. My name is Kent Kleinkopf. I am 33 years old. I've been appointed by the Governor of Montana to serve as the Director of the Department of Business Regulations, and requested to appear before you under statutory provisions which you have the right and the responsibility to exercise.

I am happy to have the opportunity for this appearance, and I will attempt, to the best of my ability, to answer any questions you may have.

I would like to very briefly give a sketch about what I consider to be my qualifications for this position. I grew up on a diversified farm and ranching operation, which included a dairy operation. I graduated from college with a degree in social sciences and became a teacher for a period of four years. I taught economics, civics, history and English in high school and junior high school in southern Idaho and in Los Angeles. I then went back to the University and attended courses, including a thesis program wherein I received a master of science degree in economics. I specialized there in course work and finance and banking and particularly, in economic impact theory.

My wife and I then moved to Montana, largely because she's a life long resident of Missoula and this is where we chose to make our home after my attendance at the University. I went to work as Assistant Commissioner of State Lands at that time. I then was offered the position and accepted it in the new administration of Governor Judge, in 1973. Late in 1973, I was appointed the State's first Citizen Advocate and organized and administered the duties of that office for a period of approximately a year, in which time I became experienced in the overall consumer protection -- consumer concern area.

I then accepted a position as Administrative Assistant with the Governor and I functioned in that capacity until my appointment to this position. During my tenure in the Governor's office, I was responsible for screening appointments for boards and commissions, I acted as liaison with several important state and federal governmental organizations, including the Old West Regional Commission, the Western Governor's Conference, the National Governor's Conference and the Federation of Rocky Mountain States.

I also acted as liaison between the Governor's office and several state agencies, among which is the Department of Business Regulation, and I acted in that capacity for four full years.

I believe that I am fully qualified for this position and after the procedures are followed today and in the future, I believe that

I believe that I will be able to earn the respect of the Committee, and the full Senate, in showing them that I do have the qualifications for this important position. That's the extent of my remarks, Mr. Chairman.

Senator Towe:

Thank you very much, Mr. Kleinkopf. We would, at this point, ask if there are any further persons who would like to speak in favor of the appointment. Kent, you might want to relinquish the chair to any further testimony, if there are any. Is there any further persons who would like to speak in favor of the appointment of Kent Kleinkopf? O.K. Yes, would you like to come forward please? Please state your name.

PAUL JOHNSON

I am Paul Johnson and I am President of First Federal Savings and Loan Association in Great Falls. I am also Chairman of the Legislative Committee for the _____ and I have a prepared statement, and my remarks will be really brief.

We feel that Kent is well qualified for this position, and in the past, it's been our experience that one of our superintendents of the bank and the head of this department, which was formerly the banking department, has always been somebody that's been connected with the banks and there has been some conflicts between the savings and loans and the banker, in view of the fact that there about 150 banks and only 12 savings and loan associations, so we feel that Kent's background, and the fact that he has no allegiance to any segment of the financial institutions in the state, he would be able to administer the office with a degree of impartiality and objectivity and we think that his background would well qualify him for this position.

We are not asking for any special treatment, whatsoever. We just feel that it would be better to have somebody that isn't connected with any financial institution to be the chairman of the Department. That's the end of my statement.

Senator Towe:

Thank you very much, Mr. Johnson. Are there any further persons who would like to testify for Mr. Kleinkopf? Are there any further persons who would like to testify for Mr. Kleinkopf? If not, are there any persons who would like to make any other comments about Mr. Kleinkopf?
Senator Smith?

Senator Ed Smith

Yes, Mr. Chairman. I am Senator Ed Smith, District #1. The only comment that I would make is, is first of all, I'm not either appearing as an opponent or proponent. I'm not telling the Committee what to do because that's your privilege. I did make up a list of questions -- there were several of us who worked on this -- we did make up a list of questions and it's going to be up to your Committee to decide which questions you want asked, and I feel that after these

questions are asked, I will be in a better position to either vote for or against Mr. Kleinkopf's appointment.

The one thing that I do want to mention, and that is that under Executive Reorganization we lost citizen's boards with political balance which did have an effect on the action of any individuals concerned with positions such as this, and now, I feel it's the only way the citizens have any protection and that is that by careful scrutiny by Senate members and confirm only those that they feel have the ability and experience to fill that position. As you mentioned, Mr. Towe, I am obligated by law to do so. I want all shadows of doubt removed from any appointment. This could put me in a better position as to either vote for or against the person to fill that position. Thank you.

Senator Towe:

Thank you, Senator Smith. Are there any other persons who would wish to testify about the appointment of Kent Kleinkopf to the Department of Business Regulation? Are there any other persons who wish to testify? If not, Kent, would you like to come forward -- do you have anything further that you would like to say?

Mr. Kleinkopf:

No, I don't, Mr. Chairman.

Senator Towe:

O.K. Questions from Members of the Committee Does any member of the Committee have any questions?

STATE ADMINISTRATION COMMITTEE

Senator Brown:

Mr. Chairman, with the Committee's indulgence I would like to pursue a line of questioning. Mr. Kleinkopf, is it your intention, if confirmed to base your decisions on merit and not to have them be subject to any kind of outside political influence or political pressure?

Mr. Kleinkopf:

Yes, it is.

Senator Brown:

Have you indicated to any interests, subject to the regulations of the Department of Business Regulation, on how you might decide matters which could affect such interests?

Mr. Kleinkopf:

No, I have not.

Senator Brown:

Have you indicated to any individual associated with a bank or a savings and loan association how you might decide on a matter which could affect banks and/or savings and loan associations should your appointment be confirmed?

Mr. Kleinkopf:

I have indicated, Senator Brown, only insofar as I would be -- do everything in my power to be as fair and objective as possible in any determination that I made regarding anything that had to do with

my department.

Senator Brown:

But, have you commented to anyone in the bank or savings and loan business on anything specific that you might make a decision on?

Mr. Kleinkopf:

Not that I'm aware of, Senator.

Senator Brown:

Has any person indicated, on your behalf, to the best of your knowledge, what your position might be on matters related to savings and loans and banks?

Mr. Kleinkopf:

To the best of my knowledge no one has indicated that, no.

Senator Brown:

Have you ever solicited or received any political contributions from a person in the banking or savings and loan business on behalf of the Governor?

Mr. Kleinkopf:

Yes, I have.

Senator Brown:

When was this?

Mr. Kleinkopf:

It was during the 1976 campaign.

Senator Brown:

Would you have any idea how much money you might have solicited or received?

Mr. Kleinkopf:

I don't have any idea.

Senator Brown:

What's your background in the banking business? Do you have any?

Mr. Kleinkopf:

No, I do not.

Senator Brown:

So I suppose you've made an effort to inform yourself about banking and the banking business here in the past month or so since --

Mr. Kleinkopf:

Well, I've made quite an effort. That process is an on-going one and naturally I would be working very hard at that in the coming months and years.

Senator Brown:

Then you're familiar, I think, probably with the ruling made by your predecessor, Mr. Harold Pitts regarding the proposed merger of the State Chartered savings and loan firm in Great Falls with a savings and loan firm headquartered in North Dakota - the Gate City firm?

Mr. Kleinkopf:

I'm somewhat familiar with that, yes.

Senator Brown:

Would you care to discuss with the Committee, your position on that? Or do you have a position on that?

Senator Towe: Just a minute, I think I would ask if you'd keep the question to policy, not any specific individual decisions that relates to specific individual firms.

Senator Brown: I think this might be important later on, Mr. Chairman.

Senator Towe: I think it should be a question relating to a policy --

Senator Brown: Well, let me ask you this.

Senator Towe: A policy that went into the granting of that charter.

Mr. Kleinkopf: Mr. Chairman, if the Committee would allow me, I have no objection to answering that question at all.

Senator Towe: O.K.

Mr. Kleinkopf: I have no position, Senator Brown. I'm not fully aware of the facts that went into the decision that was made there. I am aware that there is pending litigation on that decision. I have not been asked to comment or form an opinion in that regard and at this point, I have no opinion.

Senator Brown: I see. Did you ever discuss the Gate City Savings and Loan decision with Mr. Pitts prior to the time of your appointment?

Mr. Kleinkopf: Yes, I did.

Senator Brown: Would you care to comment further on that?

Mr. Kleinkopf: I would be happy to. We are operating from the Governor's Office from a position of attempting to respond to our constituents, which includes the citizens of Montana. We received concerns in the form of either correspondence or telephone calls from citizens around the state regarding this decision. I discussed, with Mr. Pitts, as a result of concerns that were expressed to the Governor's office, the various things that go into making up a decision of that kind. I felt very confident that Mr. Pitts made the best decision he could make, with the information he had, and I feel very confident he made it fairly and objectively.

Senator Brown: And you didn't try to persuade him to change his mind in regard to this decision?

Mr. Kleinkopf: I did not.

Senator Brown: I don't think I have any more questions.

Senator Towe: All right. Senator Devine.

Senator Devine: Mr. Chairman, I would like to ask; outside of banking, how do you feel you qualify for the regulation department -- what experience have you had?

Mr. Kleinkopf: My experience, Senator Devine, goes back to, as far as I'm concerned, personally, my childhood and my experience in the farming and ranching business and assisting my father with the management of a large successful farming and ranching operation, which included a dairy operation, so I would think that I still might be, though that was quite a few years ago, I would think that I still might be quite familiar with at least some of the aspects of the dairy business, which is a very important function of the Department of Business Regulation. The Board of Milk Control is attached to the Department for administrative purposes only. The departmental functions, under the Board of Milk Control are therefore, somewhat limited. However, we still are asked, and I'm sure will be asked, on pending legislation, for our opinions and our concerns as regarding this legislation. I have travelled widely in the state of Montana. I've been in almost every town in the state. Certainly any town of any size at all I have met, and become acquainted with a an awfully large number of people - businessmen, professional people, laboring people, housewives, students, right down the line. I feel, and I can honestly say that I have good rapport with people around the state; that I have a good working knowledge of what Montana is, and what it can be, and I feel very comfortable because of those experiences. In my position in the Governor's office, in working with the appointments of the various boards and commissions, I have become acquainted with, and have had some experience with the kinds of decisions that go into trying to come up with the best qualified people for service on state boards and commissions, and I think that that qualifies me, in an administrative capacity, for determining, in my department, the kinds of people that I can deal with effectively to get the job done.

Senator Devine: Give or take banking then, you would say with the other departments you were dealing with, you have the qualifications and the standards that --

Mr. Kleinkopf: I would say, Senator, that I have a broad, general understanding of the functions of that Department

As Citizen's Advocate, I worked very closely with the consumer protection function of that department. As liaison to that department for four years, I worked closely with Mr. Pitts on various constituent questions, problems, concerns etc.

Senator Towe: Any further questions from members of the Committee? Senator Rasmussen?

Senator Rasmussen: Yes. Mr. Kleinkopf, I think we have all agreed that someone in your position would -- or in any position heading one of our agencies in state government would have to be above any hint of being involved in any political favoritism or the use of political pressure in performing the basic functions of his job. There are some questions about the situation in Billings and as I quote Mr. Stokel -- was he one of the partners in The Chalet operation or of manager?

Mr. Kleinkopf: Senator Rasmussen, if you would bear with me, I would very much like to make a few comments in that regard.

Senator Rasmussen: Would you and then I'll continue.

Mr. Kleinkopf: All right. I invested the sum of \$10,000 in The Chalet Corporation of Montana in 1974. Subsequently, I lost most of that investment. I was in a position, as other investors are, of purchasing shares in a corporation. I had no management in that corporation. If I could ask if I could answer any questions you may have, I would be happy to now.

Senator Rasmussen: Mr. Stokel, who is apparently one of the -- was one of the partners is quoted as saying that, "There are records around which would answer a lot of questions about Kleinkopf, Judge and the '72 campaign and The Chalet, but he won't talk about it; he can't afford it", and I think this relates to my initial statement. I wonder if you could comment on that?

Mr. Kleinkopf: O.K. Senator, I appreciate your concern very much in this regard. I don't have any comments to make in regards to a newspaper article. I will comment to you that due to the possible inaccuracies, outright erroneous statements and lack of knowledge that I have regarding any person who may or may not have been involved in this endeavor, because of that, I don't find myself in a position to respond to your question directly. Rather, my position is this: I would think that questions involving direct activities of any other person would be more properly directed to that person. I am more than happy, and I have asked

for the opportunity, and I'm here today to answer any questions that you may have about my personal dealings, my business investments and how they affect me and my qualifications for this position.

Senator Rasmussen: So you don't feel then, that there is a problem with this being somewhat of a possible political appointment, or would you say that it is, or is it --

Mr. Kleinkopf: Senator, I would think that the concerns you have my comment to that is that they would be, with all due respect, considering the newspaper, and so forth, my position is that those are irrelevant.

Senator Rasmussen: Just a comment that this obviously is an important department head position that you're being appointed to and I think everyone has concerns about possible political influences occurring that shouldn't occur, so I really don't know if it is irrelevant or not.

Mr. Kleinkopf: Senator, I appreciate your concern. I have the same concern exactly. I don't want you to misunderstand me in my use of the term "irrelevancy". As far as I'm concerned, in my conduct in the operation of this office in this department, things that you may be referring to in the newspaper article, as far as I'm concerned, are irrelevant.

Senator Towe: Perhaps with Senator Rasmussen's permission, I could ask a question too.

Senator Rasmussen: Yes.

Senator Towe: Kent, have you been involved in any other business ventures or investments of this nature?

Mr. Kleinkopf: No, I have not, Mr. Chairman. I suppose I have been involved in the normal trade and commerce of any boy growing up on a farm or ranch. I had 4-H projects selling cattle and growing livestock.

Senator Towe: The manager of The Chalet is now -- has since the time, committed the offense for which he was convicted and placed in prison. Did you have any knowledge of this individual before you made this investment?

Mr. Kleinkopf: I did not.

Senator Towe: Did you have any knowledge -- an awareness of other persons who would be directly involved in the management of The Chalet?

Mr. Kleinkopf: Mr. Chairman, if I could, I was given the

opportunity to make an investment -- an investment incidentally which I considered, at the time, to be a very good opportunity. With the information that I had, the circumstances being what they were I considered it to be quite a good business opportunity. We all have the benefit of 20/20 hindsight at this point and I'm sure that we all recognize that in fact it was not a good business investment, in any sense of the term. But rather than, you know, feel too badly about that, I think that I have gained a great deal from that experience. I think that I have grown a lot from that experience and I would feel much more confident at this point in carrying out any kind of business investment or in administering anything that had to do with --

Senator Towe:

I would mention that perhaps the persons upon whom you rely for advice -- who you associate with, might steer you into another problem of the nature, that's why the question was, to what extent did you know any of the persons who were directly involved in the management of The Chalet

Mr. Kleinkopf:

I appreciate that concern, Mr. Chairman, and I assure that I would be -- it would be a cold day before that would happen again.

Senator Towe:

Those same persons don't have your ear at this point?

Mr. Kleinkopf:

Not exactly, no.

Senator Towe:

O.K. Do you have any further questions, Senator Rasmussen?

Senator Rasmussen:

Not at this time.

Senator Towe:

I do have a few more. As a stockholder, what extent did you play in the management affairs of The Chalet? Were you a director?

Mr. Kleinkopf:

I was a director of the corporation, Mr. Chairman and I was an officer of the corporation. In that regard, I might add that that being my first real venture into that part of the business world -- in that regard, obviously now, it's apparent I should have had much more involvement than I had. The facts are that I had no involvement in the management affairs of the corporation.

Senator Towe:

Have you any evaluation from your experience as it would apply to the regulation of various businesses that would be under your jurisdiction in the directorship you're now seeking?

Mr. Kleinkopf:

Well, Senator, this is what I was attempting to explain. My position now, as far as I'm concerned

is significantly different from a position I may have had, having never ventured into this realm of the business world. My perspective, my judgments, as far as I'm personally concerned at this point, are much more balanced. You might even say skeptical, than they would have been had I not had this experience. In fact, that's one of the reasons that I feel better qualified to administer one of the important functions of this department, the Consumer Affairs and Unfair Practices Act portion of the department, because of my experiences.

Senator Towe:

Just one other question. You've mentioned that you invested \$10,000. Was that your own money?

Mr. Kleinkopf:

It certainly was.

Senator Towe:

Does anybody else have any questions? Senator Roskie?

Senator Roskie:

I just want to follow up very briefly on that same line. I think I appreciate Mr. Kleinkopf's position. That's one of the nice things about the free enterprise system. It gives you the opportunity to succeed and the opportunity to fail. What was your specific position with the board -- were you secretary or treasurer or president of the corporation?

Mr. Kleinkopf:

No, I was vice-president of the corporation.

Senator Roskie:

Just one little follow up. You -- as I understand it, you had no direct or indirect managerial responsibilities?

Mr. Kleinkopf:

That is correct.

Senator Roskie:

Were you involved in it in anything other than stockholder's meetings or review?

Mr. Kleinkopf:

No, I was not.

Senator Roskie:

Did you spend any time with the business, at all significant?

Mr. Kleinkopf:

No.

Senator Towe:

Any further questions from members of the Committee? Senator Brown?

Senator Brown:

Mr. Chairman, just a couple more. Now, obviously you weren't the sole owner of The Chalet. Can you tell us who some of the other stockholders were?

Mr. Kleinkopf:

Senator Brown, I made an earlier statement and I don't want to -- well, if you'd bear with me I

would like to reiterate, only briefly -- I do not feel I'm in a position to comment on any other individual who may or may not have been involved in this operation. I don't feel qualified to do so, because I do not have full information and knowledge. I therefore, believe it would be unfair on my part to make any judgements or to offer any information which may be misleading, inaccurate or outright malicious.

Senator Brown:

Let me ask you this. Do you know if a state-owned airplane was ever used in connection with the promotion or development of The Chalet enterprise

Mr. Kleinkopf:

No, I do not.

Senator Brown:

You don't know whether it was or not?

Mr. Kleinkopf:

I don't know whether it was or not. I -- as far I'm concerned personally, Senator, I certainly had no knowledge or involvement in any dealings of that kind, and if there were dealings of that kind, I had no knowledge of that.

Senator Brown:

I see. Well, if I could refer back maybe to an earlier question that I asked you. I think I have just one more after this one. You mentioned to me earlier that you solicited contributions from savings and loans and banks for the governor for the 1976 campaign -- or at least that you receive contributions? Do you want to enlarge on that at all? Is there any more you'd like to tell us about that?

Mr. Kleinkopf:

Well, I honestly don't feel, Senator Brown, that that question is terribly relevant to my qualifications for this position. However, I would like to say --

Senator Brown:

They may be relevant in regard to these business that you regulate.

Mr. Kleinkopf:

I appreciate that concern very much and I'm sensitive to that concern. I was in a position, naturally on my own time, and with my own effort, to accept contributions from various individuals around the state and they may have involved businessmen from all walks of life and all professions, and the result of the associations with those businessmen around the state would leave me to feel, personally, that I would be in a better position to properly administer this department for several reasons. (1) I would have, as I have said, a lot of contacts. (2) I have spent a good deal of time in discussion with these various individuals regarding their concerns, their philosophies, their experiences, and so forth. I

feel that the benefit to me, in administering a department that has a lot to do with businessmen and with business regulation -- the benefits to me, have been great in that regard, and I would not feel any partiality toward any segment of any industry that I have come in contact with in any regard in the past. I believe, as I state earlier, that I bring to this position a degree of objectivity and impartiality, if you will, a degree of fairness that I would hope, you know, should be present in the Director of the Department

Senator Brown:

I think every member of this Committee, and perhaps most of the members of the Senate, have been contacted by presidents of savings and loan associations and presidents of banks, officers of savings and loan associations and officers of banks, in support of your nomination. They seem to think that you would really be favorable to their position. At least that's what I get in my conversations. Now, I don't know whether this bears on the fact that you worked closely with them politically and that they've given contributions to you; I'm not sure what it all means, but frankly, I'm suspicious.

Mr. Kleinkopf:

Senator, let me say this. I would hope that in my travels around the state, either with the Governor or by myself, or with other state employees or whatever -- in travelling with the Governor through some 80 or 90 public forums, and in coming in contact with a wide variety of people statewide, I would have developed, in a four year period, some pretty close friends and acquaintances and I would hope that that would be the reason you would have received correspondence or phone calls from these individuals -- because they would have had confidence in my ability to carry out the functions of this department. If that's not the case then I'm afraid I have no knowledge of it.

Senator Devine:

Mr. Chairman, I was just wondering about the relevancy of the question. Personally, in my campaign I've gotten money from business men, I've gotten money from individuals and the only thing that seems to happen to me is everytime I go to the legislature I think I'm cutting my campaign contributions. I think it's a personal thing that you have to look on the best side and there are many times that the people who get you elected, don't always get you to vote. Hopefully it will average out. I was just wondering about the relevancy of the question.

Senator Towe:

Are there any more questions? Senator Blaylock?

Senator Blaylock: Kent, do you want this job?

Mr. Kleinkopf: I want it very much.

Senator Blaylock: This job does involve regulation of business, involving millions of dollars.

Mr. Kleinkopf: Right, it does.

Senator Blaylock: So, we do have to find out -- I think one of the troubles always with this if you get into the gray area where its relevant or its irrelevant; but I think without questioning who might have been involved in anything else, we do have to find exact where you are.

Mr. Kleinkopf: I appreciate that.

Senator Blaylock: So I think that if you're qualified for this job, you should have it, but we have to know - you have to lay it out here. Now, I have the articles of incorporation of the Chalet. Are those articles accurate?

Mr. Kleinkopf: Well, as far as I know they are, Senator. I have no reason to believe they wouldn't be.

Senator Blaylock: I think this question should be asked too. Did you put together the Chalet Enterprise while you were a full-time state employee?

Mr. Kleinkopf: No, I did not.

Senator Blaylock: Now, you said to the best of your ability you didn't know -- and I'm going to ask this question again -- during the time that the Chalet was operating -- because I think this does bear on it because I personally think this is wrong -- did the state-owned airplane ever fly to Billings with you on it to do primarily Chalet business?

Mr. Kleinkopf: To the best of my knowledge, Senator, that did not happen.

Senator Blaylock: All right, another one -- were you ever commanded to appear before the Lewis & Clark County Grand Jury during its investigation of the workmen's comp. problem?

Mr. Kleinkopf: I was subpoenaed, yes I was.

Senator Blaylock: Did you appear?

Mr. Kleinkopf: Yes, I did.

Senator Blaylock: Did you fail to answer any question that was put to you by that group?

Mr. Kleinkopf: I did not answer any questions from that group.

Senator Blaylock: You refused to answer all questions.

Mr. Kleinkopf: That's correct.

Senator Story: I would like to explore certain areas, Mr. Kleinkopf. It seems to me that we are living in a post-Watergate era, where there is great cynicism on the part of the public about the conduct of our public officials. It would appear to me that the Governor and his chief administrators must not only be clean but be better than that -- be as pure as the driven snow and be above suspicion on these matters. Would you agree with me?

Mr. Kleinkopf: I would agree, Senator.

Senator Story: We're all human but that we must neither do anything improper but we must not give the appearance of impropriety.

Mr. Kleinkopf: I would agree.

Senator Story: Following this up, now if you are confirmed and become the department head, would you say that it would be better for the sake of appearances and propriety itself if you never again ask anyone for any contribution to the Governor -- would you feel as a citizen that you would be able to refuse to solicit campaign contributions in some future campaign?

Mr. Kleinkopf: Senator, are you asking me as a private citizen..

Senator Story: No, as the head of a department which does regulate these businesses which is in a position to grant or withhold favors. Do you feel it would be proper for you to ever again -- yourself or employees under you -- to ask these businesses for contributions to any campaign?

Mr. Kleinkopf: I think that that would be very difficult for me to do; however, I would like to say, Senator, that if you're asking me to give up any rights which I may have as a private citizen on my own time and in my own way to work for the election of a person whom I believe in, then I would have to disagree with you on that point.

Senator Story:

Well, what is your feeling -- do you think as a private party, even though you are a department head, that you could go to a banker, let's say, and say, look, I'm coming to you as a private person -- let me put it this way -- I'm being philosophical now -- I'm asking you if any department head under either administration, could, at the same time, go to a person whose business he regulates and ask for a contribution without being plied, whether it was intended or not, even if he knew that or had reason to believe that you were not the type of person who would threaten him -- whether there would be an implication that he would be better if he gives the contribution; and even if this implication isn't to him but might be to the press, which later on gets ahold and says look, here are all the attorney or all the bankers or whatever, getting the bite put on them. What are your views in this regard?

Mr. Kleinkopf:

I would agree with you wholeheartedly; as I said, I think that would put a department director in an extremely difficult position with potential conflicts of interest and I would not expect to act in that capacity.

Senator Roskie:

Just a followup on that, you commented about what you might do as a private citizen on your own time -- how do you view a position as responsible as yours in that light? Let me explain what I mean, maybe I can rephrase the question this way, don't you feel that accepting the responsibilities which are significant in this instance to serve the public and to serve the executive branch, puts some severe limits on your ability to disassociate yourself from these responsibilities at 5:00 p.m. and not pick them up again until 8:00 a.m. the next morning or from Friday through Monday -- do you see yourself as being totally a free citizen to do, perhaps, as you choose during the off time and being in a whole different position during the on time?

Mr. Kleinkopf:

Senator, if I could, I have taken on a responsibility and as far as I'm concerned, quite a grave responsibility, in administering an important state department for all the people of this state. I have found so far that it takes even more time than I had thought that it would and I am sure that whatever amount of time it takes to do a good job -- to do the best the job I can -- I'm going to be more than happy to put in that time. I appreciate the intent of your question and I wholeheartedly agree with you.

Senator Roskie: Would you say that the price of leadership is a 24-hour dedication?

Mr. Kleinkopf: I would say that.

Senator Jergeson: I have a couple of questions. Did your involvement in the Chalet ever reduce the amount of time you devoted to your job?

Mr. Kleinkopf: No, it did not, Senator.

Senator Jergeson: The second question is you are not now currently involved in any investment scheme or business?

Mr. Kleinkopf: No, I'm not.

Senator Jergeson: President Carter and his Cabinet and a great many people when they get into high office, they disassociate themselves from their businesses in some manner to avoid conflict of interest. You're not now involved in any business in particular. While serving as the director during your tenure to come, if you're confirmed, would you anticipate investing in any type of business?

Mr. Kleinkopf: Senator, would you be willing to clarify that question for me in the form of what I might do with my own private banking account, savings account, and how I might choose to earn the highest rate of interest that I can on those funds. Will you please clarify what you mean by a business? In other words, am I free to invest in the stock market or are you speaking strictly of perhaps a new business venture, small business.

Senator Jergeson: I'm speaking, I think, primarily of say a new business venture or buying stock in a bank or something.

Mr. Kleinkopf: Well, Naturally I would be prevented from that. I have no intentions whatever of starting any new businesses during this four year period, or participating in any businesses. I don't take the responsibilities of my office lightly I assure you, and I would not put myself in any potential conflict of interest situation.

Senator Rasmussen: I'm not quite clear, Mr. Kleinkopf on your answer to the series of questions about what you would do on your free time in relation to campaigning for the Governor. Did you say that you wouldn't do that or that you may do it on your free time away from your responsibilities as a department head?

Mr. Kleinkopf:

Well, Senator, I don't believe, pardon me if I don't fully understand your question, but I don't believe you're asking me or anyone in taking over a department in state government to give up any of his rights or privileges as a citizen of this state and country in the electoral process. I don't believe you're asking anyone to do that. I rather think that your proper concerns are to what degree and what extent I might assist a gubernatorial election or some other election whatever it may be. And as I stated to Senator Roskie and also to Senator Story, I would intend to devote full time to this position; I would devote whatever time it takes to properly and effectively administer this department and would not expect to be placed in a position in any election process where I might be questioned with regard to conflict of interest or impropriety.

Senator Rasmussen:

Well I guess it depends on what your position is. I would just see problems with a decision coming up on Monday concerning a bank and maybe solicitations of campaign funds two days before on Saturday.

Mr. Kleinkopf:

I certainly do not expect to be in that position, Senator, and if I were, I'm afraid I would have to remove myself from that position one way or the other.

Senator Towe:

Could I summarize what you've said by suggesting that you would be very much aware of the possibility of abuse of your position, particularly as it relates to raising funds among the various businesses that would fall under the regulations of your department and would be careful not to engage in any kind of conflict?

Mr. Kleinkopf:

I believe, Senator Towe, that is very well said and that would be my position.

Senator Blaylock:

Just pursuing that Kent, I think we have to be very sure here. I'm sure that's what you've said that you would not go in and solicit and I've been in politics a long time and they would know your position of power. If you were to walk into a bank and the banker knows who you are and he tries to press \$2,000 in your hand for the good of the old cause, would you say, no sir, I will not accept it?

Mr. Kleinkopf:

I would have to resist those efforts Senator.

Senator Blaylock:

Full force?

Mr. Kleinkopf:

That is right.

Senator Brown: A couple of more quick ones. Kent, now in response to questions from Senator Blaylock, I think Senator Blaylock asked you if you had appeared before the Lewis & Clark Grand Jury on the workmen's comp. thing? And you said you had?

Mr. Kleinkopf: That is right.

Senator Brown: And then he asked you if you'd answered any questions before the Grand Jury and you said you hadn't?

Mr. Kleinkopf: That's right.

Senator Brown: Am I correct in assuming that you pled the 5th Amendment?

Mr. Kleinkopf: That's right.

Senator Devine: In going back and I think we're off the subject when you ask him if he goes into a bank and asks for money, the way the laws are written, a bank or corporation can't give you money - the individual in the bank gives you the money, but not the bank, not the railroad, just the individual.

Senator Towe: I will point out at this point that Senators Smith Murray and Kolstad have submitted 25 questions to us and copies have been distributed to all members of the Committee, and as I've reviewed these I think most of these questions have been answered. I was originally going to suggest that we could ask for responses that weren't covered specifically in the same manner that these questions were put to us, namely, in writing from the appointee. However, it appears that most of the questions have been answered. There are two, however, that I will ask at this point that it does appear perhaps and will be relevant. First, how long have you been acquainted with Governor Judge?

Mr. Kleinkopf: Approximately five years, Senator.

Senator Towe: And the second question, and it would appear that it requires nothing more than a yes or no answer. However, if you wish to add more you may. I will read it. "Is it possible that because of the discrepancies and campaign fund reporting, you are in a position to pressure Governor Judge in appointing you to this position?"

Mr. Kleinkopf: No, it is not possible.

Senator Towe: Are there any further questions from members of the Committee?

Senator Roskie: On your resume, Kent, I gather that you've not been engaged in any other business at least for any extended period of time other than your investment with the Chalet as an entrepreneur or major stockholder.

Mr. Kleinkopf: That's correct.

Senator Towe: No further questions? If there are no further questions, we will conclude the hearing on Mr. Kleinkopf. Thank you very, very much for coming and appearing before our Committee.

Mr. Kleinkopf: Thank you Mr. Chairman and Senators.

Thomas E. Towe
Thomas E. Towe, Chairman

ROLL CALL

to the Administration COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 12/1/22

Kleinbopf
BILL Frye

SENATE 3rd AND 4th COMMITTEE

VISITORS' REGISTER

DATE 1/21/7

ADDRESS: Great Falls, Mont

PHONE: 761-2200

REPRESENTING WHOM? Sony & Son Feasure

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

Paul Johnson

STATEMENT OF THE MONTANA SAVINGS AND LOAN LEAGUE
WITH RESPECT TO THE NOMINATION OF KENT KLEINKOPF
AS DIRECTOR OF THE DEPARTMENT OF BUSINESS REGULATION

The Montana Savings and Loan League supports the Governor's nomination of Kent Kleinkopf to be the Director of the Department of Business Regulation. It has been the League's experience over a long number of years that previous directors of this department and previous Superintendents of Banks have not been able to afford fair and equitable treatment to savings and loan associations when their interests have conflicted with those of banks.

It is because of this long and unsatisfactory experience with banking-oriented administrators that virtually all of Montana's savings and loan associations have converted to federally-chartered institutions.

We ask no special treatment from a Director of this Department-- rather we ask for fair and equitable treatment. Because the Governor's nominee has no previous banking connections the Montana Savings and Loan League feels it can look for such objective and even-handed treatment of matters involving Montana savings and loan associations.

Moreover, we consider that this nominee's educational attainments and experience in government are equal to that of any of his recent predecessors and fully qualify him for this important position.

The League supports the nomination.

Senator Smith

1. How long have you been acquainted with Gov. Judge?
2. How did you first become acquainted with Gov. Judge?
3. Have you ever worked for Gov. Judge as a campaign worker, private employee, state employee, or in any other capacity?
4. If so, what services did you perform?
5. Have you ever assisted in any fashion with the solicitation or gathering of contributions to finance any political campaign for Gov. Judge?
6. If so, what did you do with any funds gathered by you for the gubernatorial campaign?
7. To whom did you deliver the campaign contributions? Were you given a receipt?
8. Is it possible that because of discrepancies in campaign fund reporting, you are in a position to pressure Gov. Judge into appointing you to this position?
9. The resume you provided the committee states you assisted in the placement of individuals in state positions. Did you recommend Tom Power, Henry Delaney or Robert McTaggart for state positions?
10. What is the extent of your experience in the private business sector?
11. In terms of gross annual income, what is the size of the largest business operation you have managed?

12. What was the nature of this business and where was it located?
13. When did you manage this business?
14. Were you ever commanded to appear before the Lewis and Clark County Grand Jury during its investigation of the Workmen's Comp problem?
15. Did you appear?
16. Did you ever fail to answer any question propounded to you by the Grand Jury on the ground of possible self-incrimination?
17. Were you the sole owner of The Chalet in Billings?
18. If not, name all of the other stockholders in The Chalet.
19. Was Gov. Judge a stockholder in The Chalet at any time?
20. Were you an original stockholder of The Chalet?
21. How long were you a stockholder?
22. Is it true that you have been a state employee continuously since early 1973?
23. Did you put together The Chalet enterprise while you were a full-time state employee?
24. Was a state-owned airplane ever used in connection with the promotion or development of The Chalet enterprise?

25. How was it possible to discharge the duties of a full-time state employee while engaged in The Chalet business?

Sen Ed Smith
Sen Bill Murray
Sen. Allen Kolstad