



City of Columbia, Missouri

Meeting Minutes

City Council

Monday, April 15, 2019
5:00 PM

Work Session

Conference Room
1A/1B
Columbia City Hall
701 E. Broadway

I. GROUP AND INDIVIDUAL CITY COUNCIL PHOTOS

The meeting began at approximately 5:00 pm with individual and group city council photos taking place in the Council Chamber.

II. CALL TO ORDER

After photos were completed the meeting in Conference Room 1A/1B began at approximately 5:36 pm.

Present: 7 - Ruffin, Trapp, Thomas, Peters, Treece, Skala, and Pltzer

Review of Council Rules, Ethics, and Conflicts of Interest

Attachments: [Ethics and Conflicts of Interest Presentation](#)

Interim City Manager introduced City Counselor Nancy Thompson to present on ethics and conflicts of interest.

Ms. Thompson stated that the role of ethics laws are to provide accountability, protect the public, and punish wrongdoers. An elected official is in a position to serve the public, not for personal benefit. She reviewed statutory requirements noting that Chapter 576 of the Revised Statutes of Missouri (RSMo) include: bribing a public servant, corruption, obstructing government operations, misconduct and misuse of information. Chapter 105 RSMo addresses Conflicts of Interest, which generally prohibits an elected official from participating directly in an action that would result in gain to self, spouse or dependent children. The official must report the conflict and there is a penalty for non-compliance. Ms. Thompson reviewed specific profited acts including: performing any service to the city for additional compensation; selling, renting or leasing property to the city (for pay more than \$500/transaction or \$5,000/year unless there is a public bid and official is the lowest bidder); and participating directly or indirectly to influence decision making that would result in financial gain to self, spouse, child or a business in which those persons are associated. Associations may include an officer or director role or a business or trust in which the official, spouse or child owns 10% or more interest. Dependents include children, stepchildren, foster children, and wards who are under 18, reside in the household and receive in excess of 50% support from the official.

Another set of statutes applies to rule-making authorities. If you have that authority, (such as Planning and Zoning or the Board of Adjustment) you may not attempt to influence decisions or participate. This includes the adoption of rates or zoning plans. Those with rule-making authority may also not perform any service to the city for additional compensation. They may not perform for one year after termination of employment any service for compensation to influence the decision of the agency of which was a member, and they may not sell rent, or lease property or perform service to any person who received zoning plan approval or license during prior year if such pay is in excess of \$500

per transaction or \$1500 per year.

Ms. Thompson explained that it is unlawful to use confidential information obtained in an official capacity with the intent to result in financial gain for yourself, spouse, dependent or associated businesses. It is also unlawful to disclose confidential information with the intent of financial gain for any person. Confidential information may be transmitted verbally or in writing and is not a matter of public knowledge.

Ms. Thompson stated that it is unlawful to misuse the public position by acting or refraining from acting on matters that may result in any payment or receipt of anything of value to themselves or any third party. This includes gift or campaign contributions made as a condition of the performance of an official act. They may also not use decision-making authority to obtain financial gain that would materially enrich themselves, spouse or dependent children or for the purpose of coercing or extorting from another anything of value. Officials may not offer, promote or advocate for political appointments in exchange for anything of value to the city.

Ms. Thompson reviewed reporting requirements for elected officials noting that they are required to file personal financial disclosure statements to the Missouri Ethics Commission. This applies to council as well as the City Manager, Finance Director and general counsel who may adopt rules and regulations. The report should also be filed with the City Clerk and make a statement that may be recorded in proceedings. Our City Code requires the consent of council for abstentions and the reasons must be stated on record.

Ms. Thompson discussed issues of incompatibility of office. Under common law, an individual may hold more than one office if the offices are compatible. Requirements for compatibility include: one office is subordinate to the other, one office has supervisory powers over the other, one office audits the others accounts, and one office has power of appointment or removal over the other. Violations of law result in a complaint filed through the Missouri Ethics Commission and may result in a penalty. A first offense is a class B misdemeanor and a second offense is a class D felony. There are protections for complainants including no discrimination or discharge of employees who are reporting violations or participating in investigations.

Ms. Thompson stated that the City of Columbia is a Charter City. Our Charter establishes the Council-Manager form of government. Chapter 12 of the Charter is a non-interference clause stating that council shall not request or interfere with appointment or removal of officers or employees; except for purpose of inquiry, shall deal with administrative officers and services solely through the city manager; and shall not give orders to subordinates of the city manager, either publicly or privately. There are also additional conflict of interest clauses in the Charter, as well as campaign financing requirements. The penalty for Charter violations is forfeiture of office.

Ms. Thompson explained that nepotism applies to any relative of the 4th degree through affinity or consanguinity. Penalty is forfeiture of office. She reviewed degrees of nepotism. Legislative decision making is when the City makes the rules (adoptions of budget, rezoning, etc.). Administrative actions are when the City applies the rules. The Council has some administrative decisions, but most are left to City Manager and Department Heads. An example of an administrative decision that the council might make is a plat approval. Quasi-Judicial acts are statutorily mandated and decisions affect property rights. These instances have due process. Decisions cannot be made from communication outside the public record. If there is outside contact, that must be disclosed.

Ethics requires we use public funds for public benefit. Public funds may not be used to advocate, support or oppose any ballot measure or candidate. This includes the use of public resources such as computers or emails. Council has three employees which they may give direction to: City Manager, City Clerk and Municipal Judge. The Council must be involved in the appointment and removal of the City Counselor position, but that role still reports to the City Manager. Ethics as it relates to land use may consider whether the area to be annexed must be "contiguous and compact", it is reasonable and necessary to the proper development of the city; and whether the city has the ability to furnish normal municipal services to the area within a reasonable amount of time.

Zoning regulations govern the use of land and location, size and height of buildings. Zoning divides the city into multiple districts with each district containing a distinct set of regulations that are uniformly applied to all property within the district. There are limits on zoning that require procedural due process or substantive due process. Council may consider the following in site plan reviews: building placement, architectural standards, building appearance, etc. An exaction is a requirement to dedicate land to construct public improvements or payments of fees in lieu as a condition of development approval. The authority is derived from general police powers and specific statutory authority and is imposed by local ordinance. The law requires a reasonable relationship exist between the exaction demanded and the proposed activity of the landowner.

Council may only act at an official meeting which is open to the public. Acts of officials beyond the scope of their authority do not bind a city. Charter Section 14 states that no action by Council has legal effect unless vote takes place at meeting open to the public. Ms. Thompson briefly reviewed Sunshine Law requirements including proper notice.

Mayor Treece asked if the "acting or refraining to act" as it relates to the misuse of public position applies to the Planning and Zoning Commission. Ms. Thompson stated it does since they have rule-making authority. Ms. Thompson added that if you serve on a Board of Directors as a non-council related position, you would need to be cautious and be sure to note conflicts of interests. The same rules may apply to ex-officio members.

III. ALL OTHER ITEMS THE COUNCIL MAY WISH TO DISCUSS

Mr. Glascock reminded council to communicate to staff through either himself or a city management fellow. He reminded council that there will be a Sister City Delegation Reception in place of the Pre-Council Meeting on May 6th. Ms. Buckler reminded Council of the timeline for the City Manager hiring process. The consultants plan to review qualified candidates on May 8th and the interviews are tentatively to be held on Thursday, June 6th. Two to three weeks after that will be a finalist process. The group discussed dates for the budget retreat and agreed on Monday, June 10th from 9:00 am to approximately 4:00 pm.

IV. ADJOURNMENT

The meeting adjourned at approximately 6:44 pm.