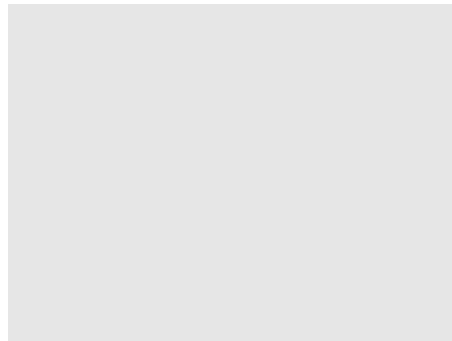


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Councilman Thomas' deal with developer quashed as potentially illegal

BY VICTORIA CHEYNE Feb 9, 2019



Ian Thomas

ROXANA POP

Fourth Ward Councilman Ian Thomas reported himself to the Missouri Ethics Commission in November after the city counselor warned he might have broken the law when he agreed to support two developers' plans if they contributed money to a nonprofit for affordable housing, according to documents obtained by the Missourian.

In October, Thomas asked Justin Barnes and Shannon Sapp, the would-be developers of Oakland Crossings at Oakland Gravel and Prathersville roads, to include affordable housing in their plans, according to a document Thomas sent to a staff member of the Missouri Ethics Commission on Nov. 19. Oakland Crossings as proposed would include 165 single-family homes, two commercial properties and eight common lots.

When the developers declined because their plans were too far along, Thomas promised to go ahead and support the request for annexation and zoning — if they made a contribution to the Columbia Community Land Trust, a nonprofit devoted to creating and preserving affordable housing in the city.

Thomas was communicating with the developers through Jay Gebhardt, principal engineer for A Civil Group. He originally asked for a payment of \$44,000 to the trust. Gebhardt replied in a Nov. 14 email.

“After some thought, Justin and Shannon have a counter proposal for you to consider,” Gebhardt wrote. The developers offered to pay \$213 each time a building permit were issued for a single lot. That, Gebhardt said, would allow them to absorb the cost over time. Once permits for all the lots had been issued, the total contribution would have been \$35,000.

“We also require that the original zoning request we made be approved without alterations,” Gebhardt wrote, noting that the Planning and Zoning Commission had denied the developers’ request for M-C zoning on one corner of the development.

Thomas then sent an email Nov. 15 asking for \$40,000 — \$242 each time a building permit were issued.

“The amount of \$40,000 is approximately equal to the construction subsidy for a single affordable home and this will allow us to frame the agreement that way to other council members and the public,” Thomas wrote in an email to Gebhardt. “In return, we will champion your project (and especially your willingness to make a philosophical and substantial commitment in support of the inclusionary zoning concept) and urge other council members to support an amendment to make the Prathersville Road corner property M-C, and the overall annexation, zoning and plat.”

Second Ward Councilman Mike Trapp, who is also on the Land Trust’s board of directors, was copied, named and directly addressed in some of the emails as if he were in on the talks. But Trapp said he “wasn’t party to any agreement.”

“I was satisfied with the (annexation and zoning) proposal as written,” Trapp said.

Thomas said in an interview Friday that he didn’t think his actions violated state statutes because the donation wouldn’t have benefitted him personally and because the arrangement wasn’t secretive. He informed the Missouri Ethics Commission of the arrangement at City Counselor Nancy Thompson’s urging.

“I was trying to do something for the public good,” Thomas said.

City Housing Programs Manager Randy Cole suggested in the email thread with Thomas and Gebhardt that any donation go not to the land trust but instead to a local housing trust fund, a model used in the ordinances of other communities and that allows payments in place of providing affordable housing. Cole said he worried about “negative appearances.”

Thomas then asked Thompson whether she could offer advice about how to create an account to which the developers could contribute.

“No,” Thompson replied before telling Thomas that he might have violated state statutes related to conflicts of interest and lobbying. She advised him to consult a private attorney about whether he needed to “take any corrective action.”

“It is unlawful for a city to accept funds in consideration of favorable action on the developer’s application,” Thompson wrote. “The email thread gives the impression that you will vote in favor of the proposed project if there is a negotiated payment with the CCLT (Columbia Community Land Trust), which is a private entity.”

After the possibility of legal violations was discussed, Thomas and the developers decided to nix the agreement, and Thomas said he would recuse himself from any future council discussion or vote on the matter.

Thompson informed Mayor Brian Treece of the quashed arrangement on Nov. 19, the day the City Council was scheduled to have a public hearing on the Oakland Crossings annexation and zoning request.

In an interview Saturday, Treece said he asked the city manager and city counselor, within hours of learning of the agreement, to remove the public hearing and the bill from the agenda in order to “protect the public’s interest” and its right to know about communications that were in potential violation of state law. He also wanted to know what the appropriate next steps would be.

“It is illegal to request any payment in exchange for a favorable vote, and I’m also troubled by individual council members attempting to negotiate secret side agreements that pretend to bind the entire council,” Treece said. “These types of extractions in exchange for public action taint the integrity of our democracy, and it denies the public the benefit of a fair and open hearing on the same set of facts.”

In one of the emails about the negotiated agreement, Gebhardt worried that Treece would reject the developers' plans once he learned of the deal.

"I am concerned from past experience with Brian Treece that he will think the developer is buying votes," Gebhardt wrote. "I can imagine him turning this contribution into a reason to turn down the entire request."

Treece said he didn't know what encounter Gebhardt was referring to, but he said he is pleased to have that reputation "of fighting for open, honest and transparent government."

"If I'm the barrier to a developer buying votes, I'm very proud of that," Treece said.

Such contributions are allowable in some cities as an element of inclusionary zoning policies, but only if authorized by city code. No such ordinance exists in Columbia. Thomas, however, is pushing for inclusionary zoning as part of his unopposed campaign for re-election.

Thomas says in his platform that under inclusionary zoning "a private developer who requests a building permit for a subdivision or apartment project involving multiple dwelling units is required to make a certain percentage of units (usually 10 percent) permanently affordable." Such policies can also offer incentives, including "increased density allowance and reduced parking requirements" to developers who build affordable homes.

Thomas said he hopes inclusionary zoning would alleviate the scarcity of affordable housing and integrate different income levels into neighborhoods, which he said has "tremendous social benefits."

Supervising editors are Scott Swafford and Daphne Psaledakis.

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