



City of Columbia, Missouri

Meeting Minutes

City Council

Monday, July 6, 2020
6:00 PM

Pre-Council

Council Chamber
Columbia City Hall
701 E. Broadway

I. CALL TO ORDER

The meeting was called to order at approximately 6:04 pm.

Present: 7 - Trapp, Thomas, Peters, Treece, Skala, Pitzer, and Fowler

Review of Council Rules, Ethics & Conflicts of Interest

Attachments: [Presentation](#)

City Manager John Glascock introduced City Counselor Nancy Thompson to present on ethics and conflicts of interest. Ms. Thompson reviewed the City of Columbia's form of government and stated that in general, the powers and duties are expressly granted to a municipality by the General Assembly of the State of Missouri. They must be consistent with the Constitution and we are a Charter City which derives power from a special charter written and adopted by the citizens of the municipality. She reviewed the preamble of our Charter which establishes the Council-Manager form of government. The city manager, city clerk, and municipal judge are appointed by the council on a non-partisan basis.

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. This was briefly discussed. 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. Section 156 states that City Council shall not have any interest in any contract or sale to the city of any land, materials, supplies or services where said interest is in violation of the Constitution of the State of Missouri or ordinance of the City. The penalty for Charter violations is forfeiture of office. Section 164 states that City Council must comply with state and local laws related to campaign practices and the financing and conduct of campaigns for elective office. Council may order the office of any candidate who was elected to be forfeited.

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. Ms. Thompson discussed decision making noting that 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. There are also discretionary and ministerial acts as well as quasi-judicial acts. Quasi-Judicial acts are statutorily mandated and decisions affect property rights. These instances invoke procedural and substantive due process. No ex parte communications are allowed. If ex

parte occurs, these discussions must be disclosed on record before a vote occurs. This was briefly discussed.

Ms. Thompson reviewed the ethics relating to the use of public funds. She explained that incidental private benefit is allowed, but no charitable contributions are allowed. Public funds may not be used to advocate, support or oppose any ballot measure or candidate for public office. This includes the use of staff time and public resources.

The Council has three employees and may not interfere in the appointment or removal of any employee or give direction to any city employee other than the following: City Manager, City Clerk, and the Municipal Judge. The sole exception is the City Counselor, which is appointed by the City Manager with consent of Council and also removed by the City Manager with advice and consent of Council, per Charter Section 65.

Ms. Thompson discussed ethics and land use noting that legislative land use decisions include annexation, zoning and the adoption of new or amended development code provisions. Administrative land use decisions include platting and the application of existing development code provisions. Ms. Thompson noted things to consider on annexation land use decisions such as: whether the area to be annexed must be "contiguous and compact"; whether the annexation 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 to be annexed within a reasonable time. Ms. Thompson stated that 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. The purpose is to protect the health, safety and morals as well as historical, cultural and architectural areas. She noted that zoning regulates the use, lot size setbacks and heights of subdivisions and plats regulate street and lot layout, infrastructure, etc. Council may consider the following in zoning decisions: character of the neighborhood; the zoning and uses of surrounding/nearby property; detrimental effect that any change in zoning would have on other property in the area; the adaptability of the property for the current permitted use; traffic congestion; public safety; density; preservation of features of historical significance; existence of adequate infrastructure; consistency with Comprehensive Plan adopted by the city; and reasonable use of the property. Site plan review considerations may include: building placement, architectural standards, building appearance, landscaping buffer, vehicle and pedestrian circulation, parking location, signage and refuse location/access. Subdivision regulations govern the division of land into two or more parts. These are governed by criteria set forth in development code and may only consider those requirements. 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. Ms. Thompson added that greater latitude exists with regard to a "planned development" because there is give and take in the strict adherence to the subdivision regulations in order to create the development plan.

Ms. Thompson stated that the 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 a vote takes place at a meeting open to the public. Ms. Thompson briefly reviewed Sunshine Law requirements including proper notice requirements.

Ms. Thompson stated that the role of ethics laws are to provide accountability, protect the public, and punish wrongdoers. Guiding principles are that elected officials are in positions to serve the public and not for personal benefit. Additionally, public resources available to elected officials to assist in serving the public and not for personal benefit.

Ms. Thompson reviewed statutory requirements noting that the Council is subject to particular laws related to their duties of office included in Chapter 576 RSMo. These 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. 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 them self 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 them self, 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 reviewed campaign finance disclosures noting that a candidate may not take office or file for subsequent elections until disclosure reports have been filed.

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.

II. ALL OTHER ITEMS THE COUNCIL MAY WISH TO DISCUSS

No other items were discussed.

III. ADJOURNMENT

The meeting adjourned at approximately 6:58 pm.