



City of Columbia, Missouri

Meeting Minutes

City Council

Monday, May 3, 2021

5:00 PM

Pre-Council

Council Chamber
Columbia City Hall
701 E. Broadway

I. CALL TO ORDER

The City Council met on May 3, 2021 at approximately 5:00 p.m. in the Council Chamber of City Hall, 701 E. Broadway, Columbia, Missouri.

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

This item is open to the public: Review of Council Rules, Ethics & Conflicts of Interest

Attachments: [Ethics Presentation](#)

Mayor Treece introduced City Counselor, Nancy Thompson.

Ms. Thompson introduced the topic of process and procedures for local government. The City of Columbia has some unique features due to being a charter city. She reviewed the City of Columbia's form of government. The city has broad powers since it is a charter city. It is important to understand the framers of our charter since it sets the backdrop of the form of government. As a council/manager form of government, there is a strong political leadership of elected officials with strong managerial experience of a professional manager. The City Manager can engage in debate, but not vote. The Mayor is one of the elected officials, but is elected at large. The Mayor presides over the meetings and is the head of ceremonial meetings. The guiding principles of ethics is that elected officials are to serve the public, and not for personal benefit. The public resources are entrusted to the elected officials to serve the public. Ethics laws apply to more than just the elected officials.

Mayor Treece asked if CRPB is a quasi-judicial board. Nancy said that CPRB makes recommendations, so they are not quasi judicials. Mr. Skala commented that planning and zoning has some type of authority. Ms. Thompson mentioned the needed see and be seen technology necessary for certain boards and commissions. The boards with the elevated authority are generally those that have rule-making authority. There are lots of places where you can find ethics laws.

Ms. Thompson reviewed the various sources of Missouri law and Columbia's Charter and City Code. There are some nuances in our City Charter. First, there is a non-interference clause. Council members cannot interfere or remove officers or employees. She noted that it is how it is perceived from staff. Requests should filter through the City Manager's Office through the City Management Fellows.

Council Member Skala said that a past City Manager asked his opinion on the hiring of an employee. When you are asked a question by a City Manager is it not fair game, or should you defer to answer the question? Ms. Thompson responded if asked that

question, should be fair game. However, you need to be sure that you don't insert yourself into the situation.

The nuisances are important because they result in a forfeiture of the office. This would require an investigation, most likely done by the Missouri Ethics Commission based upon a potential charter violation.

The three employees that Council has directives over is the City Manager, City Clerk, and Municipal Judge. The Municipal Judge is appointed to a specific term. The sole exception is the City Counselor, appointments and removal has to have approval by the City Council. This allows the City Counselor to provide unbiased legal advice to the City Council when needed.

Conflict of interest can also result in forfeiture of the office.

A provision regarding campaign financing, you are required to comply with state and local laws related to campaign practices and financing. This is not an automatic forfeiture, but the Council itself can order the office of the candidate to be forfeited.

The City Council can only act in an official meeting. As a governing body, you are made up as 7. Need to reach a consensus as a governing body to provide direction to city staff. Individual acts do not bind the city, it is only when it is the whole City Council. In the charter, no action of a City Council does not have a legal effect unless the vote happens in a public session. Can reach a consensus in a closed meeting, but no legal effect.

Ms. Thompson believed that the Council was familiar with Sunshine Law. She reviewed the sunshine law provisions about quorum and public meeting requirements. Sunshine law also pertains to public records. Text messages and personal email accounts are subject to sunshine requests if discussing official city businesses. There are 22 exceptions to the sunshine law for meetings and records. Ms. Thompson reviewed the procedures for the Council to go into a Closed Session. She emphasized that you cannot discuss things not pertaining to the reason for going into the closed session. The sunshine law violations were reviewed, and the factors for determining the size of the penalty.

Mr. Skala had a question about when you can talk about something under the closed session. He asked if real estate was the reason, could any real estate related topic be discussed? Ms. Thompson answered that any real estate pertaining to purchase, sale, or leasing where public knowledge of the sale could be a detriment.

Ms. Thompson introduced the types of decisions that are made by the City Council. There are legislative decisions when the City makes the rules. The administrative decisions are when the City applies the rules. A legislative decision would be adopting zoning codes based on the Unified Development Code. Legislative decisions have broad discretion. Administrative has more limited discretion, since they are applying the rules of previous legislative acts. Council acts in a variety of ways. Ms. Thompson reviewed the official acts for making decisions. The City of Columbia requires two readings for resolutions, both may occur at the same council meeting. Policy resolutions and ordinances require three readings, at two separate meetings at least a week apart before enactment. City Charter requires that there must be 4 affirmative votes to pass a motion, resolution, or ordinance.

Council Member Fowler asked for clarification on the three readings for an ordinance. Ms. Thompson answered that there's potential public comment, if it is on the consent agenda those are read once and then a second time before it is adopted. The bill number is what

is required for reading. For decision making, a quasi-judicial act mandates public hearings. Our City Charter requires an opportunity for public comment on bills and ordinances. An example of statutory rules for a public hearing is a possible annexation. Public hearings have procedural due process as well as substantive due process. Council cannot make up their mind before the opportunity for a public hearing. It is important to not form an opinion until after the public hearing. Any information gained outside of the public hearing should be disclosed, so it can be on the record for an item that you might based your decision on. Land use decisions are some of the most controversial items that come before Council. Ms. Thompson overviewed some of those items. She presented some possible considerations for different types of land use requests. This deals with people's property rights, so it can be very controversial.

Mr. Skala mentioned that there has been a controversy for separating planning and zoning cases. Ms. Thompson responded that sometimes they are contingent on each other. A property owner is not entitled to the highest and best use of their property, that phrase is thrown around a lot during zoning decisions. It is based on reasonable use of the property. The appropriateness of the plan has to do with the zoning. Once you've landed on the appropriate zoning, then the subdivision determines the platting piece. There are caveats to the general rules. Mr. Skala said the caveats cause the controversy.

Council Member Pitzer asked if it would be appropriate for a council member to negotiate any terms of that planned development. Ms. Thompson replied that it is important to maintain an open mind before the item comes before the council as a whole. Council members may express what they like about a plan. They cannot say if you do X, I will vote yes. Mr. Pitzer asked about the possibility to help find common ground. Ms. Thompson reminded the Council to preface every conversation that we haven't been through the public hearing part of the process. The Council should maintain an open mind until public hearing. You can express yourself, but can't make up your mind until you've heard all sides of a public hearing. Mr. Skala believed this was an important point of how you deal with people who come to you before they come to the city council. He asked if they could give advice on strong and weak points in a planned development. He understood that it is important to not get to that point where you are concluded on how you would vote. Especially since there could be new information at the public hearing that may change your mind. Ms. Thompson said absolutely, the Council can provide feedback, but should never commit to support a project before it has been through a public hearing process and you have cast your vote.

Ms. Thompson explained that planned developments are a hybrid between subdivision of property through a site plan and zoning. Site plan review has a lot more give and take, since normally the applicant is looking for some type of concession to the normal standards. Subdivision plans are governed by the criteria in the City Code. She explained the different considerations are in the City Code. Council has the greatest discretionary authority at rezoning, the least is at the final plat stage.

Mr. Skala asked if the the only exception to that is public safety? Ms. Thompson responded that perhaps if something new arose between the original preliminary plat and final plat. Public health safety and welfare is always a consideration. Ms. Thompson explained that staff needs the enabling legislation in the City ordinances and code. Staff looks at the relationship of what the Council is requesting and what the land owner is requesting for the property.

Ms. Thompson overviewed the use of public resources for Council Members. As a municipality, you don't get to decide which charitable organizations to give money to since they are private entities. You cannot use your city email account to solicit funds for

your campaign. Otherwise, you are using your public resource for a campaign issue. You also cannot use city resources to vote "yes" on a ballot measure. Council members can push out factual information about a ballot issue.

Ms. Fowler stated that she anticipates two ballot measures coming up in the near future. Should roll carts make the ballot, what should we do about that? Ms. Thompson said that they can explain the process it comes through City Council. You can't encourage people to vote a certain way using city resources. She advised against using a yes-no campaign, and only sticking to the facts. The City usually provides an informational brochure that Council would be able to distribute. Mr. Thomas asked about if encouraging people to sign a petition to get a measure on the ballot was allowed. Ms. Thompson said she was not sure, and didn't think that had been addressed at this point. She advised not using city resources for anything ballot related.

Ms. Thompson overviewed the conflicts of interest. Council members are required to report any type of financial transaction that they have had, or if you need to abstain from a certain item. She explained nepotism to the 4th degree. Affinity are those of your blood relatives, consanguinity is relatives of your spouse. The penalty for nepotism is automatic forfeiture. You need to make sure you abstain from any of those decision makings. She advised looking at the family tree. Mr. Skala mentioned that doesn't mean they cannot be elected to the position, just means that you cannot vote on that item. All violations are brought to the Missouri Ethics Commission, and there are protections for the complainant.

Council Member Waner asked about the ballot initiatives. She notarized some of the petitions, and asked at what point that would be an issue. Ms. Thompson responded that it is fine, since she notarized prior to becoming a City Council Member. She suggested not notarizing petitions in the future to avoid confusion. Mr. Skala thanked Ms. Thompson for her help and contribution to the City Counselor's Office.

This item is open to the public: Motion for the City Council to go into closed session in Conference Room 1A/1B to discuss:

- Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups pursuant to Section 610.021(9) RSMo.
- Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded pursuant to Section 610.021(3) RSMo.
- Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment pursuant to Section 610.021(13) RSMo.

At approximately 6:07 p.m., Treece made a motion for the City Council of the City of Columbia, Missouri, to immediately go into a closed meeting in Conference Room 1A/1B of City Hall, 701 E. Broadway, Columbia, Missouri, to discuss the preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups pursuant to Section 610.02 (9) of the Revised Statutes of Missouri, the hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded pursuant to Section 610.021(3) of the Revised Statutes of Missouri,

and individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment pursuant to Section 610.021(13) of the Revised Statutes of Missouri. The motion was seconded by Mr. Skala.

Yes: 7 - Thomas, Peters, Treece, Skala, Pltzer, Fowler, and Waner

This item is closed to the public: Closed Meeting in Conference Room
1A/1B

II. ALL OTHER ITEMS COUNCIL MAY WISH TO DISCUSS

None.

III. ADJOURNMENT

The closed meeting adjourned at approximately 7:05 p.m.