



Municipal Officials Ethics Commission

Minutes

Monday, November 8, 2021

6:00 PM

Board Room, City Hall

1. Call to Order

The meeting was called to order at 6:00 p.m. Roll was called by Bonnie Buckmaster, Public Works Assistant.

Members Present

Bryan Dehner, Chair
Gil Scott
Jerry Felker

A quorum of the Board was present

Bonnie Buckmaster, Public Works Assistant; Melissa McChesney, City Clerk; and Chris Williams, City Attorney were present on behalf of the City.

2. Oath of Office

City Clerk Melissa McChesney, administered the Oaths of Office to the Commissioners.

3. Overview of Chapter 107 Code of Ethics and Ethics Commission Role.

Chris Williams, City Attorney, gave an overview of Chapter 107 Code of Ethics, attached as Exhibit A and the Missouri Sunshine Law.

4. Vacancies on Commission and Appointment Issues

The Ethics Commission is made up of a five-member board. There are vacancies that the commission would like to fill. The Mayor appoints the Chair and the Board of Aldermen appoint the members. The Commission will request the Board of Aldermen to move forward with filling the Ward 1 and Ward 4 vacancies with the request added to the November 16th Board of Aldermen meeting agenda.

BRYAN DEHNER MOVED TO RECOMMEND THAT THE BOARD OF ALDERMEN MOVE TOWARD FILLING THE VACANCIES IN WARD 1 AND WARD 4; GIL SCOTT SECONDED. MOTION PASSED 3-0.

5. Complaint Regarding Mayor Nan Johnston

A. Acknowledge Receipt of Complaint

Chair Bryan Dehner, acknowledged the receipt of the complaint against Mayor Nan Johnston.

B. Establish Timeframe for Mayor's Response

Per Section 107.100 Municipal Officials Ethics Commission Code, Mayor Johnston shall be given at least 10 days to provide the Commission with such information as she deems appropriate to explain or justify the circumstances. Mayor Johnston was emailed the complaint on October 20, 2021. The Commission will request that the Mayor respond by Monday, November 22, 2021.

JERRY FELKER MOTIONED TO REQUEST THAT MAYOR NAN JOHNSTON RESPOND TO THE COMPLAINT BY THE END OF BUSINESS ON MONDAY, NOVEMBER 22, 2021; GIL SCOTT SECONDED. MOTION PASSED 3-0.

C. Request for Outside Counsel to Advise Commission

It was requested that due to the conflict of interest of the City attorney, the Commission was advised to seek outside counsel. The Board of Aldermen will be directed to obtain and provide the Commission with counsel.

GIL SCOTT MOTIONED TO REQUEST THAT THE BOARD OF ALDERMEN PROVIDE OUTSIDE COUNSEL TO THE ETHICS COMMISSION; JERRY FELKER SECONDED. MOTION PASSED 3-0.

6. Other Business

A. Timing for Next Meeting

The above requests to the Board of Aldermen will be added to the November 16th meeting agenda. Once the complaint response is received, vacancies have been filled, and counsel has been secured, the Commission will schedule the next meeting.

Meeting agendas are posted on the City website and are posted on the 2nd floor front window of City Hall at least 24 hours prior to meetings.

Any progress updates can be included during the Board of Aldermen meetings during the miscellaneous items from the board.

There were several citizens in the audience that had raised hands. Chair Dehner asked City Attorney Chris Williams, if the public could speak. Williams advised that due to not having outside legal counsel to advise it and the potential for questions regarding the pending complaint, it would be best to not allow public comment at this time.

7. Adjourn

JERRY FELKER MOVED TO ADJOURN AT 7:10 P.M.; GIL SCOTT SECONDED. MOTION PASSED 3-0.

The minutes for November 8, 2021, having been read and considered by the Municipal Officials Ethics Commission, were approved on this the 15th day of December 2021.


Bonnie Buckmaster, Public Works Assistant

12/15/2021
Approval date

Exhibit A
Ethics Commission Orientation
11/8/21

Chapter 107. Code of Ethics.

- City's Board of Aldermen adopted the City's Code of Ethics about 15 years ago.
- Found in Chapter 107 of the City's Code of Ordinances.
 - Copy of this chapter is in front of you.
- Section 107.030 provides that you are to receive orientation training. That is what we are doing tonight.
 - Overview of Chapter 107
 - Sunshine Law (Missouri Open Meetings and Records Act)

Section 107.010. Purpose and Applicability of Chapter; Declaration of Policy.

- Goals:
 - Officials and employees be independent, impartial and responsible to the people
 - Government decisions and policy be made in proper channels of governmental structure
 - Public office not be used for personal gain
 - Public have confidence in integrity of its government
- Applicability:
 - Code of Ethics established and applies to all officials and employees of the City, whether elected or appointed, paid or unpaid (includes Ethics Commissioners)
 - Code and Commission established in recognition of the goals
- Purpose:
 - Establish ethical standards of conduct for all official and employees by:
 - Setting forth acts or actions incompatible with best interests of City
 - Directing disclosure of private financial or other interests in matters affecting City

Section 107.020. Responsibilities of Public Office.

- Officials and employee's agents of public purpose and hold office for benefit of the public
- Bound to uphold Constitution of US and Missouri
 - Carry out impartially laws of the Nation, State, and City to foster respect for government
- Bound to observe in their **official** acts highest standards of morality, discharge faithfully duties of office regardless of personal considerations, recognizing the public interest must be primary concern
- Conduct in both official and private affairs **should** be above reproach

Section 107.040. Fair and Equal Treatment of Citizens; Use of City-owned Property.

- Canvassing of members of Board of Aldermen in order to obtain preferential consideration for employment by City disqualifies person for employment
- Officials and employees shall not request or permit use of City-owned vehicles, equipment, materials or property for personal convenience or profit except when:
 - Services are available to the public generally or
 - Provided as municipal policy for the use of official or employee in conduct of official business

Section 107.050. Conflicts of Interest.

- Must comply with state statutes on conflicts of interest; generally found in Chapter 105 RSMo.
 - Generally deals with matters involving direct financial benefit or gain to official, spouse or dependent children or entity he/she owns or controls
 - Official doing business with the City
- If have a "substantial or private interest" in any measure, bill, order or ordinance proposed or pending before the Board of Aldermen, must disclose it to the City Clerk to be recorded in minutes.
- "Substantial or private interest" is ownership by individual, spouse or dependent children of (same definition as in state statute):

- 10% or more of any business entity involved;
 - Interest with value of \$10,000 or more in the matter; or
 - Receipt of salary, gratuity, or other compensation of \$5,000 or more from any individual, partnership, organization or associate within any calendar year.
- Elected and appointed officials **should** avoid the appearance of impropriety by not engaging in conduct that appears to make their decisions influenced by other City officials rather than independently. As example, official **should**:
 - Avoid hiring another member of same board, commission, or committee as employee
 - Avoid being hired or retained as an employee by another City official
 - Rendering financial assistance to another City official
 - Providing another City official a gift or engaging any activity where the general public would believe the relationship would have the effect of influencing any decisions being made
 - If unsure whether situation results in conflict of interest, officials and employees encouraged to seek counsel from City Attorney prior to acting
 - Appearance of fairness and impartiality is as important as actual fairness and impartiality
 - When conflict **does** occur, following steps should be taken:
 - Must declare existence of conflict on the record and that will not participate in any discussion or action
 - Shall explain on the record what constitutes the specific conflict
 - Must step down from regular seat and leave the room
 - Should not speak with any other members during or prior to discussion of the issue at hand
 - Should not represent or speak on behalf of any interested party but may use a representative to convey position as a private citizen during discussion of issue
 - Must not discuss the issue privately with any other member voting on the matter

Section 107.060. Penalty and Other Sanctions.

- Violation of Code of Ordinances – fine of \$1 to \$100, imprisonment for up to 90 days, restitution, or any or all of these pursuant to Municipal court proceeding/action; penalty consistent with general penalty provisions for violating City Code.
- Administrative sanction – suspension, removal from office or employment or other disciplinary action by Board of Aldermen pursuant to City ordinances and State Statutes

- Elected official – removal from office by the Board of Aldermen pursuant to impeachment process in Section 79.240 RSMo.
- Ethics Commission determination – any complaint alleging violation of Code of Ethics shall first be submitted to Ethics Commission for a hearing and advisory determination before any court action by City prosecutor or disciplinary proceedings by Board of Aldermen

Section 107.070. Prohibited Activities After Leaving Municipal Service.

- Prohibition on certain elected and appointed officials and employees performing any service for compensation for 1 year after termination of office or employment by which attempting to influence a decision of the City
- Doesn't apply to compensation for performance of service in adversary proceeding of record or submitting any bid and participating in contract with the City for any goods or services which will be awarded to the lowest and best bidder

Section 107.080. Official Actions and Position.

- No member of a board, commission or committee either alone or with other members should engage in any act which could be viewed by general public as an official action unless the action was taken by motion or resolution
- No oral or written communications identifying conduct as the conduct of the board, commission or committee unless action taken by motion or resolution

Section 107.090. Preclusion of Use of Municipal Board, Commission or Committee Membership for a Political Purpose.

- If member of board, commission or committee participates in any activity on behalf of any candidate for public office in any municipal election where member identifies self as a member of that board, commission or committee as a part of the activity on behalf of such candidate, must affirmatively state that member's activities are in no way sanctioned or connected to the board, commission or committee on which member serves.

Section 107.100 Municipal Officials Ethics Commission.

- Ethics Commission created with power and duty to:
 - Render advisory opinions to Board of Aldermen in all ethics complaints

- Investigate and report on allegations of violations of the Code of Ethics and ordinance provisions regarding conflicts of interest and financial disclosure by officials and employees
- Commission may call upon City Attorney, City Administrator or other appropriate public official to assist in an investigation or may utilize outside counsel or staff if it is reasonable and necessary to properly complete its work
- Commission with concurrence of at least 3 members **may** issue advisory opinions upon written request by any member of Board of Aldermen, Mayor, or City Administrator.
- Commission with affirmative vote of at least 3 members, upon sworn complaint of any resident of the City or upon its own initiative, **may** investigate an alleged violation and issue an advisory opinion
 - Commission **shall** have the power to examine witnesses under oath or affirmation and can request persons necessary for its investigation to appear before it and produce any records or documents it believes relevant
- Commission **shall**, upon receiving sworn complaint or following its own affirmative vote to consider an investigation, notify the municipal official, in writing, of the nature of the complaint
- Municipal official shall be given at least 10 days to provide the Commission with such information as he/she deems appropriate to explain or justify the circumstances
- At request of municipal official or on its own initiative, Commission **shall** hold a hearing where municipal official can provide evidence and testimony and examine any other witness that testifies
- Thereafter, the Commission shall issue its advisory opinion, which can include the Commission's recommendations
- Municipal official has 5 business days to respond to the advisory opinion and recommendations; thereafter it is forwarded to Board of Aldermen

Section 107.110. Members; How Appointed; Qualifications and Removal.

- Commission consists of 5 members with 5 year terms
 - Mayor appoints chairperson
 - Board of Aldermen appoints 4 members, 1 from each Ward
- Commission members serve until successors are appointed

- If vacancy due to resignation or otherwise, successor serves for remainder of term
- Must be residents of City and serve without compensation; cannot hold any other public office or be candidate for office in the City
- May be removed from office by Board of Aldermen for cause, for violating the requirements just noted, refusal to serve or malfeasance in office

Section 107.130. Disclosure Reports.

Section 107.140. Filing of Reports.

- Deals with disclosure requirements for disclosing and filing reports if doing business with the City, ownership of businesses, etc., and filing of personal financial disclosure reports with City and Missouri Ethics Commission