



CURTIS, HEINZ,
GARRETT & O'KEEFE P.C.

OVERVIEW OF CITY STRUCTURE AND AUTHORITY

Stephanie Karr

not all cities are alike

- Towns and Villages
- Fourth Class Cities
- Third Class Cities
- Charter Cities



Statutory Cities - Authority

Authority is that which is granted by the State – as set forth in the Constitution or statutes.

Statutory cities – towns, villages and third and fourth class cities - are organized under the statutes of this state and, therefore, are creatures of the legislature.

A statutory city's power to enact ordinances is derived from the state and must be exercised under that authority granted by the legislature's enactment of laws.

Statutory Cities - Authority



Statutory Cities - Authority

Any reasonable doubt as to whether a power has been delegated to a municipality by the Missouri legislature is resolved in favor of NONDELEGATION.

Charter Cities - Authority

Constitutional charter cities derive powers from Article VI, Section 19(a) of the Missouri Constitution – this provision grants such cities all the power the Missouri legislature could grant.

“Any city which adopts or has adopted a charter for its own government, shall have all powers which the general assembly of the state of Missouri has authority to confer upon any city, provided such powers are consistent with the constitution of this state and are not limited or denied either by the charter so adopted or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law.”

A charter city does not require specific legislative authority to adopt an ordinance – as long as the ordinance is consistent with state law and its own charter.

Consistency with State Law

Statutory and Charter cities may not enact ordinances that conflict with state law.

An ordinance conflicts with state law if it permits something state law prohibits, or prohibits something state law permits.



Government = Collaborative Effort



Government = Collaborative Effort



Every form of local government in Missouri requires a collaborative process.

Authority is dispersed among multiple officials and divided among separate branches.

When authority is vested in a body, no single member of that body can act unilaterally.

Executive and Legislative Branches

Mayor

- Administers the laws enacted by the legislature
- May or may not have veto power
- Appoints administrative officers with approval of legislature

Legislature

- Retains ultimate authority to direct policy and actions of the City
- Enacts ordinances and may override veto
- May remove officials in accordance with established procedures; approves appointments

Requisite Majority to Act

- Many times, a majority of those voting will be sufficient to act.
- However, a majority of the entire membership of the governing body (including those who are absent) is required for certain actions (Example: passage of an ordinance)
- “Majority of the *members*” is **NOT** the same thing as “majority of the *votes*”
- In those cases, vacancies on a board and members who are absent or abstaining still count in determining whether the necessary votes have been obtained when a majority of the entire membership is required

Counting Votes - Example

Eight member Board:

- Five members = a majority of members and a quorum to do business
- A vote of 4 – 1 is not sufficient to pass an ordinance
BECAUSE, it is not a “majority of the members”



Actions – Administrative v. Legislative

- City Councils and Boards of Aldermen commonly deal with two different types of matters: legislative and administrative.
- It is important to know in which capacity you are acting, and to understand how your decisions may be reviewed by a court in the future.



Nature of Action

- In general, if you are making the rules you are acting in a legislative capacity.
- However, if you are applying the rules you are acting in an administrative capacity.
- Legislative: Establishing personnel rules, requiring conditional use permits for fast food restaurants in a zoning district, enacting a building code.
- Administrative: Determining whether an employee has violated personnel rules, granting or denying a conditional use permit for a particular fast food restaurant, determining whether to issue or deny a building permit.

Nature of Action

- Legislative actions are entitled to a presumption that they are correct and are reviewed by a court primarily to determine if they are unreasonable or outside the scope of authority. The record of the proceedings at the City/Village level are rarely an issue in reviewing such matters.
- Administrative actions are not entitled to a similar presumption of validity. They are reviewed based upon the record made at the City/Village level and are upheld only if they are supported by competent and substantial evidence, included in the record.

Conducting Business



Conducting Business

- City's charter or ordinances may have rules of procedure governing certain actions.
- City's ordinances may also reference Robert's Rules of Order.
- Rules of Procedure cover various actions including:
 - Bringing a matter before the body
 - Handling motions
 - Debate

Boards and Commissions

- Most cities have one or more advisory bodies to assist the executive and legislative authorities in performing their duties.
- Certain boards and commissions are required by statute (Planning and Zoning Commission, Board of Adjustment)
- Others may be established upon decision by the governing body (Traffic Commission, Public Works Board, and any other group formed to focus on particular matters)

Advisory Bodies

- Unless there is a statute to the contrary, the opinions and actions of these bodies are advisory only.
- They cannot enact laws.
- They cannot compel the governing body to act one way or the other.
- The Board of Adjustment is not an advisory body – it has authority to grant or deny variances and hear certain appeals – neither the Mayor nor the Council/Board can overrule or change the decision of the Board of Adjustment.



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QUESTIONS ?



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**YOUR MUNICIPAL COURT
AND THE
OFFICE OF THE PROSECUTING
ATTORNEY**

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Separation of powers

- Functions of Municipal Court/Municipal Judge and Prosecuting Attorney have always been distinct roles
- Lines between these roles became blurred
- Current direction of Missouri Supreme Court is to functionally and visually restore clear, sharp lines to portray to public the separation of those powers

Legislative – Executive

- City Council or Board, through elected officials, enact legislation (“ordinances”).
- The Mayor/City Administrator and staff represent the executive branch. The Prosecuting Attorney is part of the executive branch and is responsible for implementing policy and enforcing ordinances.
 - Offenses are detected and charged by Police Department/Code Enforcement and presented to the Prosecuting Attorney.
 - Prosecuting Attorney reviews; if approves, charges by “Information.”
 - Prosecuting Attorney and his staff report to the Mayor/City Manager.
 - Prosecuting Attorney is chief law enforcement officer and gatekeeper.

Judicial

- Municipal courts, through Article V of the Missouri Constitution, are divisions of the circuit court. Municipal courts are presided over by a municipal judge, who is either appointed or elected, and is assisted by the Court Clerk/Administrator and their staff.
 - A municipal judge's "boss" is the presiding judge of the circuit in which the city is located.
 - A municipal court administrator's "boss" is the municipal judge **
- Municipal court has limited jurisdiction and can only adjudicate municipal ordinance violations.
- Municipal courts are NOT courts of record, but are subject to the Missouri Rules of Procedures as promulgated by the Missouri Supreme Court.
- Municipal judges serve for a term (typically one or two years)
- Minimum Operating Standards/Statutory restrictions
- Supreme Court monitor

Judicial

- A municipal court's subject jurisdiction is limited to adjudication of ordinance violations only. A municipal judge cannot hear "State" cases.**
- The municipal court acquires jurisdiction over a case only upon the filing of an Information signed by the prosecuting attorney.
- Municipal judges are limited by law as to the fines, court costs and jail sentences they may impose. Judges are required to inquire as to indigency and provide alternatives to paying fines.
- Uniform Fine Schedule
- Municipal judges may order completion of driving school, alcohol and drug programs, community service and restitution.
- Municipal judges are subject to the Canons of Judicial Conduct and should avoid participating in political activities.
- Municipal judges cannot discuss a pending case with anyone other than the prosecutor, court administrator or defendant/defense counsel in accordance with ethics rules.
 - City staff and elected officials may not discuss cases with the judge
 - The judge may discuss general matters with the legislative body/executive branch
- Municipal judges may perform weddings (at no charge).

Judicial

- Municipal court's cannot hold jury trials. However, in most instances, citizens are entitled to jury trials. A citizen may "certify" his case to the Circuit Court for a jury trial.
- A defendant who is found guilty after a trial in municipal court has a right to a "trial de novo," which in essence is an appeal to the circuit court. The City generally has no right to an appeal.
- The City's Prosecuting Attorney remains the prosecutor .
- Court administrators/clerks have a tremendous amount of responsibility.
 - Day to day operation of the municipal court
 - Regular reporting requirements to the City, Department of Revenue, Office of State Court Administrators (OSCA), the Highway Patrol (criminal records repository) and the State Auditor's Office.
 - Must reconcile court's bank accounts
 - Reports only to the Municipal Judge with respect to judicial functions (MOS #7)
 - Generally may NOT perform other functions for the City
- Provisional judge should be appointed

Appearances are Important to the public's perception of municipal government and municipal courts

- The “Old Way” often had the Prosecuting Attorney sitting behind the same “bench” as the Municipal Judge.
- The “Old Way” had the Court Clerk carrying on functions of the Municipal Court, the Prosecuting Attorney and the Police Department.
- The “Old Way” often had the Municipal Judge implementing policy and the Prosecuting Attorney “working” for the municipal judge.
- The “Old Way” gave appearance that revenue was the primary motivation behind having a municipal court and often destroyed any confidence or trust in the judicial system.
- Directive now is to eliminate the “Old Way” and to restore and instill integrity, confidence and trust in the municipal criminal justice process.
- **STAY IN YOUR LANE**

Prosecuting Attorney's Office is NOT a branch of the Municipal Court

- Municipal court is run by the municipal judge and his/her staff.
- The prosecuting attorney's office is run by the prosecuting attorney and his/her staff.
- The municipal court maintains its own files, which in most instances are public records.
- The prosecuting attorney's office maintains its own files, which in most instances are NOT public records.
- Rules and laws regarding what court files may contain.
- While anyone can look at a court file, only the Prosecuting Attorney and his staff have access to the prosecutor's files.
- The Court Administrator/Clerk may NOT perform work for the Prosecuting Attorney.
- The Prosecuting Attorney cannot share office space with the Court.
- The municipal court's budget is separate and distinct from the prosecuting attorney's budget.
- The Office of the Prosecuting Attorney is a separate department from the Municipal Court

Prosecuting Attorney's Assistant ("PAA")

- There must be a separate assistant for the Prosecuting Attorney
 - Obtains police reports for PA review; maintains "PA files"
 - Prepares docket for PA's recommendations
 - Drafts and mails recommendations, discovery to defense attorneys
 - The PAA cannot perform Court Clerk functions, but may be able to serve in other city staff capacities
- The PAA can be from administrative staff from other departments or provided by the Prosecuting Attorney
 - Less expensive and far more expedient than having the Prosecuting Attorney perform the functions
 - Day-to-day supervision should be City official not Police Department

Questions and Answers



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THE SUNSHINE LAW

April 29, 2024

Edward J. Sluys

Newly Elected Officials Training esluys@chgolaw.com

Public Records (1)

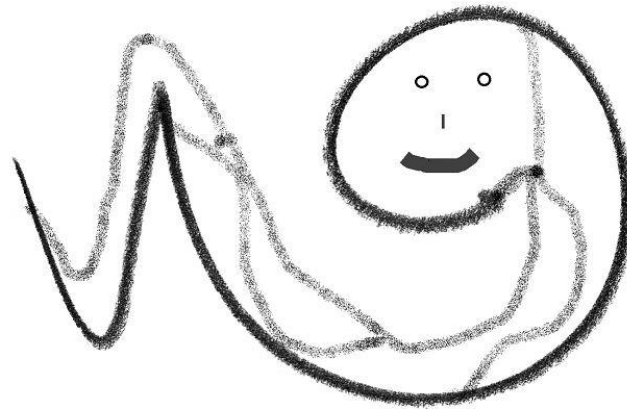
- Section 610.011 RSMo: “It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law.”
- Also Section 610.011 RSMo further provides “Sections 610.010 to 610.200 RSMo shall be liberally construed and their exceptions strictly construed to promote this public policy.”

Public Records (2)

A "public record" generally encompasses any written or electronic record held by a governmental body, including information contained in computer files, recording discs, audio and video tapes, films, photographs, slides, graphics "or similar audio or visual items or devices."

Note: the definition excludes the "work product" of an individual member of the body, provided that the product has not been retained by the body itself or otherwise disseminated to the public.

Try not to doodle!



Public Governmental Body

- Section 610.010 RSMo defines a “Public governmental body” as including: Any body, agency, board bureau, council, commission, committee, board of regents or board of curators or any other governing body of any institution of higher education, including a community college, which is supported in whole or in part from state funds. . .
- Thus the definition, limits a “Public governmental body” to legislative or administrative entities, and “judicial” entities when operating in an administrative capacity. This definition essentially includes all state and local government entities, which in turn would include city councils, boards of aldermen, and all committees, commissions, boards, agencies and officers that are part of a covered entity.

Development of a Public Records Policy

- §610.023 RSMo requires municipalities to designate a custodian of records who shall be responsible for the maintenance of records. At the very least, a policy must designate a custodian of records, and mirror the meetings and records provisions contained in the State statutes.
- Provide method of responding to requests.
- Provide for records management and retention.



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MEETINGS

Open Meetings (1)

- City meetings are to be open to the public.
- Covers all “meetings” at which “public business is discussed, decided or public policy formulated,” including meetings conducted by electronic means. §610.010(5).
- “Public business” is defined as “all matters that relate in any way to the performance of the public governmental body’s functions or the conduct of its business.” §610.010(1).

Open Meetings (2)

- To be subject to the sunshine law, “meeting” requires a quorum of the body’s members. E.g. *Colombo v. Buford*, 935 S.W.2d 490 (Mo. App. 1996).
- So . . . one-on-one telephone conversations to gather information, rather than conduct a poll or vote are not “meetings” under the sunshine law.
- But . . . tactics designed to circumvent the Sunshine Law are problematic.
- Social meetings are exempt from open meetings requirements. §610.010(5).
- Can the public record a meeting? – *Progress Missouri, Inc. v. Missouri Senate*.

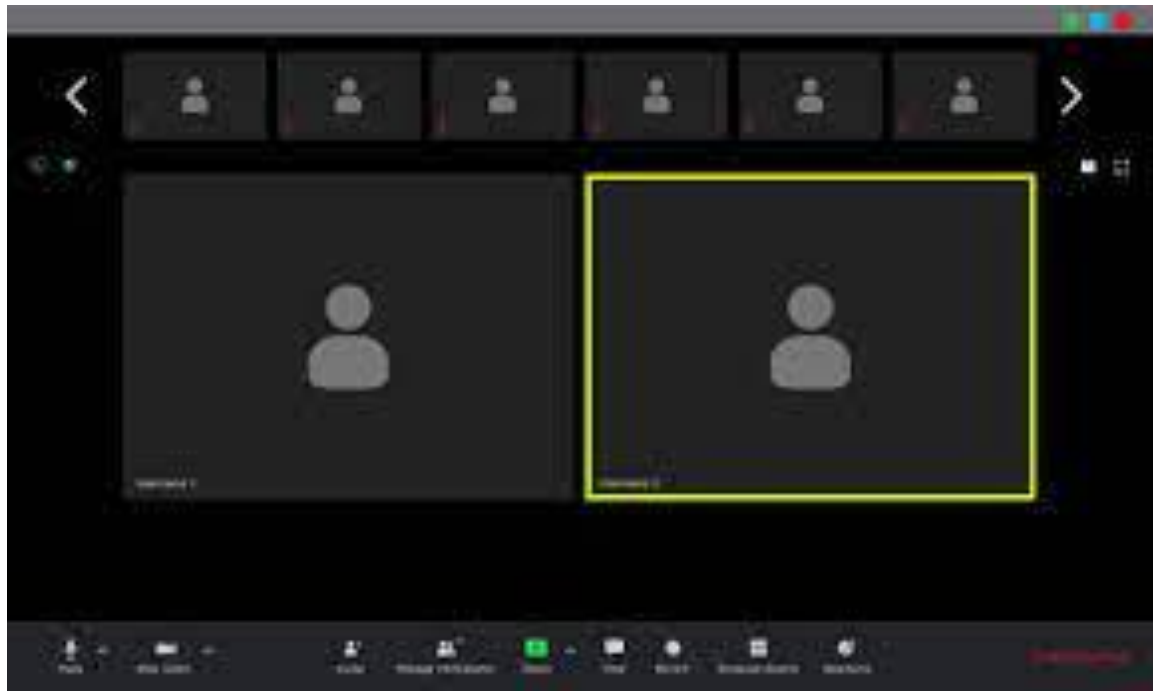
Meeting Notices – Open Meeting

- Must give at least 24 hours notice of meeting. §610.020.
(Certain issues, including implementation of a tax increase or creation of a special district for a retail project, require additional notice – Section 67.2725).
- In case of emergencies, shorter notice may be given, but must be as much notice as reasonably possible. Reason for emergency must be stated in minutes.
- Notice must provide time, date and place of each meeting, along with a tentative agenda.
- If meeting is to be held by electronic means, notice must provide method for how public may attend or observe the meeting.

Physical Presence and Voting

- Section 610.015: “All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected...shall be cast by members of the public governmental body who are physically present and in attendance at the meeting or who are participating via videoconferencing.”
- In emergency situations and where a quorum is physically present, those members participating by phone, internet or other electronic means, may vote as if the members were present.

We need to see your face!



Meeting Notices – Closed Meeting

- Should specify provision pursuant to which meeting is closed, i.e. which subsection of Section 610.021 RSMo, pursuant to which the meeting is closed..
- Should state date, time and location of meeting.

Note: A single notice can provide notice of both an open and a closed meeting.

Accommodation of Large Crowds

- Section 610.020.2:

“Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public...unless for good cause such a place or time is impossible or impractical. “



REQUESTS FOR RECORDS

Responding to Requests

- “Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body.” Section 610.023.3 RSMo
- City can take longer than 3 days to provide responsive documents, but provide “detailed explanation” as to why additional time is necessary
- City can require a deposit to cover costs before responding
- City has to provide documents, not create them or answer questions



EXCEPTIONS / CLOSED RECORDS AND MEETINGS

Exceptions to open meetings and records

- Section 610.021 RSMo enumerates exceptions to the open meeting and record requirements.
- Subsection 1 – Legal matters
- Subsection 2 – Real estate matters
- Subsection 12 – Negotiated Contracts
- Subsections 3 and 13 – Personnel matters

Exceptions

- Subsection 14 – “Records which are protected from disclosure by law” are closed records and not subject to disclosure under the Sunshine Law.
- These records can include materials protected by copyright, documents involving children, medical records (HIPAA), etc.

Email Communications

An email is just like any other public record if it retained by the public governmental body.

What should be retained:

- Emails on entity's public computers that are included in a category on the records retention schedule; and
- Emails under Section 610.025 RSMo. that may originate from the private computer of a member of the public governmental body.
- Text messages count as well!



Email Communications

Section 610.025:

“Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member’s public office computer or the custodian of records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body’s members are copied. Any such message received by the custodian or at the member’s office computer shall be a public record subject to the exceptions of section 610.021.”

Penalties for violating the Sunshine Law

- In cases involving “knowing” violations, civil penalty of up to \$1,000.00, costs and attorneys’ fees in connection with bringing a suit for judicial enforcement of sunshine law. §610.027 RSMo
- For purposeful violations - \$5,000.00 civil penalty, plus court shall order attorney’s fees and costs. §610.027
- If public interest in enforcing sunshine law outweighs public interest in sustaining validity of action taken – Court shall void any action taken in violation of Sunshine Law. §610.027 RSMo
- Can use injunctive relief to enforce sunshine law, which must be brought within one year from the date the violation is ascertainable, but in no event later than 2 years after the violation. §610.030 RSMo; §610.027 RSMo

Destruction of Records

- Can only destroy original records in accordance with law. Should approve the destruction of originals by ordinance or resolution.
- §109.241(4) RSMo provides the statutory authority for destroying original records in favor of electronic storage.
- Evidentiary concerns



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THANK YOU!

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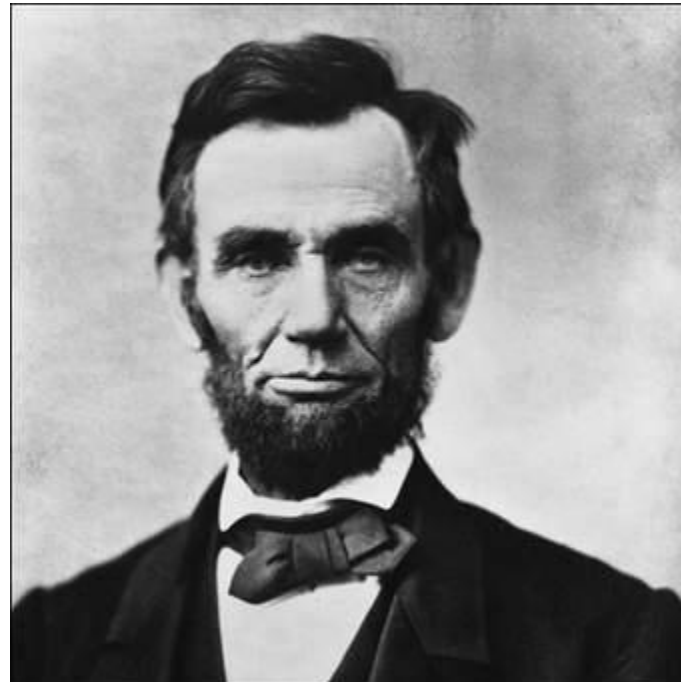
ETHICS TRAINING FOR NEWLY ELECTED MUNICIPAL OFFICIALS

THE BASICS AND DOS AND DON'TS

April 29, 2024

Kyle E. Cronin

Do:



Don't:



Questions?

Why Ethics Are Important

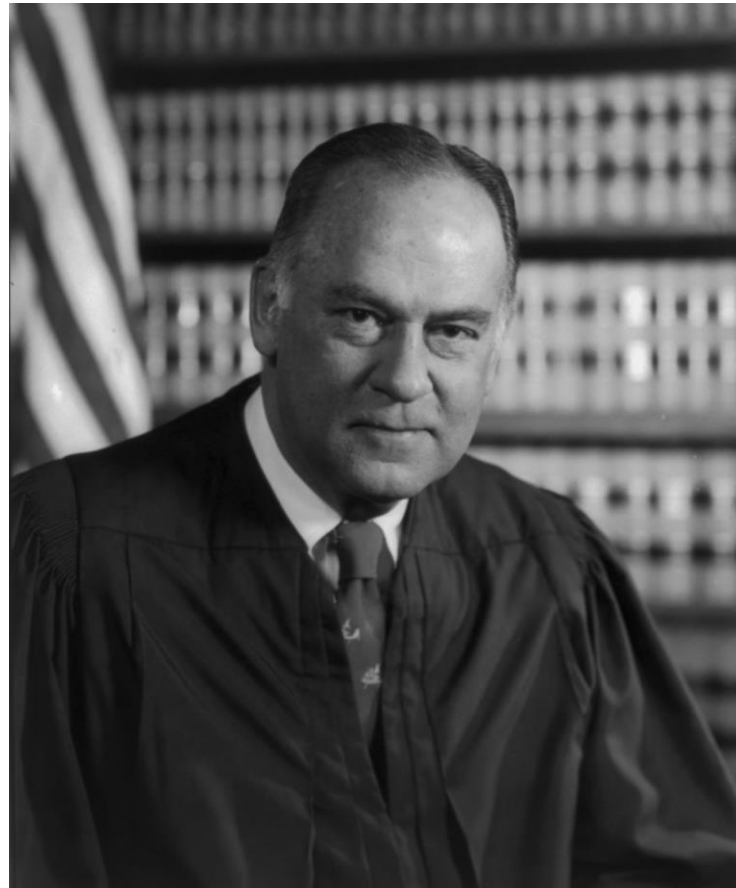
- Ethics topics are ones that you need to consider and have an understanding of from the moment that you take office.
- This is because these law applies to you **RIGHT AWAY** – no grace period, don't get to ease in
- Ethical questions are nuanced – difference between right and wrong not always obvious

Main Goals for this Presentation

1. Make you aware that YOU HAVE OBLIGATIONS under the law in regard to your new role and conflicts of interest and ethics and give you an overview
2. Get you thinking about your own process for assessing what you should do if/when these questions arise for you
3. Give you strategies to avoid common issues and pitfalls you may encounter

Ethics is knowing the difference between what you have a right to do and what is right to do.

[Potter Stewart](#) - Associate Justice of the U.S. Supreme Court



Basics of Conflicts of Interest Laws

- Sections 105.450 – 105.467 RSMo. generally prohibit financial gain obtained through the holding of an office for any public or elected officials along with their spouses and dependent children, or doing business with your municipality or providing a service for consideration (\$\$\$ or anything else).
- Specifically restricts:
 - Influencing or participating in decisions (i.e. votes) which may result in personal financial gain
 - Receipt of additional compensation via employment/contract work with your municipality (above a certain amount)
 - Providing services or conducting business with your municipality (above a certain amount)

Conflict of Interest Laws Regulate:

- Employment and compensation in other capacities
- Hiring or voting to hire individuals related by blood or marriage (nepotism)
- Performing a service or conducting a business transaction with the political subdivision
- Influencing decisions for own financial gain
- Decision-making for purposes of own financial gain
- Quid Pro Quo
- Disclosure or use of confidential information for own financial gain

Other relevant ethics laws:

- **Section 105.667, RSMo. (regarding pension rules)**
- **Nepotism - Missouri Constitution, Article 7, Section 6:**
 - **“Any public officer or employee in this state who by virtue of his office or employment names or appoints to public office or employment any relative within the fourth degree, by consanguinity or affinity, shall thereby forfeit his office or employment.”**

Who Enforces?

- Regulated by the Missouri Ethics Commission, which receives and investigates complaints about possible conflicts of interest and can levy fines or seek judicial action
- Judicial order for removal from office (as with nepotism violations)
- Internal means for removal from office – impeachment
- Law enforcement investigation and criminal prosecution

Who Do These Laws Apply To?

- Generally, any elected or appointed official or employee of the state or any political subdivision thereof
- YOU

Do: know who “you” are, how many hats you are wearing



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When determining whether a potential conflict of interest may arise, know that “You” includes:

- Yourself
- Your spouse
- If parent of dependents, those dependents
- A private business enterprise or trust, if you are a substantial participant or investor in it with 10% or \$10,000.00+ interest, or if you receive \$5,000.00+ per year in compensation, or serve as officer, director.
- To avoid bad “appearances” use a broader sphere than that which is defined and prohibited by the law

Do: RECUSE, RECUSE, RECUSE

- When in doubt, always okay to recuse (and it shows integrity too)
- Simple process – just briefly explain reason why and step down from dais “to avoid any potential conflict of interest”
- After debate and vote – return to dais

“Why should I recuse? This isn’t technically a conflict of interest!”

Before considering the technicalities, ask yourself...

- How it might look to your constituents
- How it might look in the media
- What’s best for the integrity of and public trust in the municipality/body?

Do: Avoid any action that would create the appearance of impropriety.

Los Angeles City Council member Mitchell Englander plead guilty to bribery after accepting all expense paid trip to Las Vegas provided by a businessman seeking to increase his business opportunities in the City.

- Looks bad!!!



Do: Think about the front page of the newspaper.

- Many of the statutory provisions refer to intentions, but do you want to give the media, opponents, or court opportunity to interpret your intentions?
- Remember, the appearance of evil is often worse than the evil itself.

St. Louis Post-Dispatch – 4-22-14

(front page, above the fold)

FIRM THAT WON SCIENCE CENTER BID HAS BOARD TIES

member has “no intention of stepping down”

St. Louis Post-Dispatch – 4-23-14

(front page, above the fold)

MEMBER LEAVES MUSEUM BOARD

“in resignation letter defends bid”

St. Louis Post-Dispatch – 4-30-14

(front page, above the fold)

MUSEUM CONFLICT RESURFACES

“records differ from member’s account”

“chairman says problem with optics, not reality”

Timeline

December – retires after successful career, remains chairperson of firm and 37% owner

January – appointed to public board, without disclosing firm's pending bid to sub-agency for project with projected fees of \$45,000 - \$100,000

April – votes on tax measure for the sub-agency, after seeking advice of legal counsel, and still with no public disclosure

- firm selected by sub-agency
- disclosure of “new” conflict, upon legal advice
- resignation after uproar

Consequences

- Damage to public trust in the integrity of the Board.
- Does it matter now whether there was “technically” a conflict of interest?
- Excuses don’t help repair the damage:
 - “I got legal advice”
 - “It’s not a big dollar deal”
 - “This was not the reason for approving award”

Obvious (and Completely Illegal) Don'ts:

- **Accept a bribe.**
- **Use or disclose confidential information for private gain.**
- **Act to obtain special monetary benefit.**
- **Coerce or extort others.**
- **Sell political appointments.**



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PRESS RELEASE

Three Former St. Louis Aldermen Sentenced to Prison for Corruption

Tuesday, December 6, 2022

Share >

For Immediate Release

U.S. Attorney's Office, Eastern District of Missouri

NEWS

Stenger sentenced to nearly 4-years in prison and \$250,000 fine for pay-to-play scheme

by: [Kevin S. Held](#), [Joe Millitzer](#), [Andy Banker](#)
Posted: Aug 9, 2019 / 02:44 PM CDT
Updated: Aug 9, 2019 / 05:12 PM CDT



Don't: Be confused by Section 105.461, RSMo.

- “[A]ny member of the governing body of a political subdivision who has a substantial personal or private interest in any measure, bill, order or ordinance proposed or pending before...such governing body, shall, before such official passes on the measure, bill, order or ordinance, file a written report of the nature of the interest with the...clerk of such governing body and such statement shall be recorded in the appropriate journal or other record of proceedings of the governing body.”
- The safer choice is to recuse yourself!

Don't:

- Engage in transactions with the State or City over \$500.00 per transaction or \$5,000.00 per year, unless lowest bid per public bidding process.
- Worth potential appearance of impropriety???

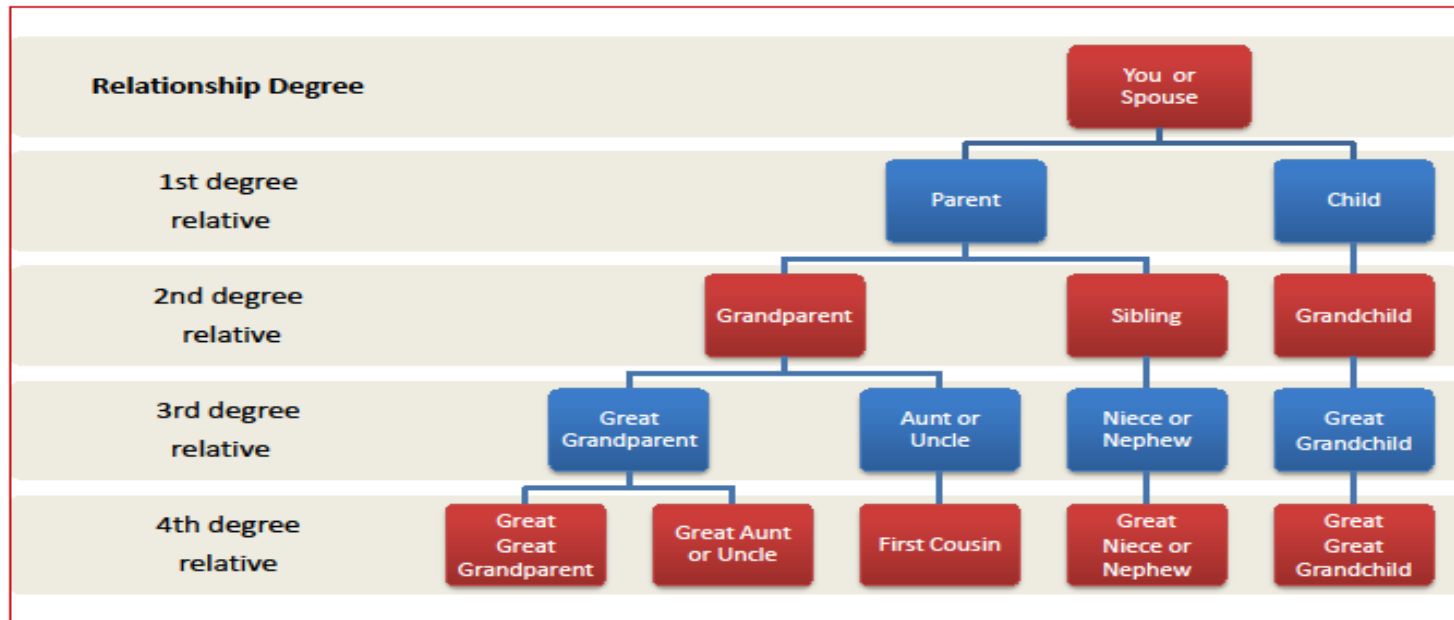
Don't:

- Perform services for City for compensation beyond pay for official position.
- Engage in paid lobbying of State or City (including one year after term of office, except for public proceedings).
- Engage in paid work after term of office on specific matters you were involved in (continues until matter wrapped up).

Don't:

- Act in judicial or quasi-judicial capacity if your family member is a party to the proceedings. This includes administrative hearings held by your Council/Board.
- Expanded definition includes: YOU and/or your “great-grandparent, grandparent, parent, stepparent, guardian, foster parent, spouse, former spouse, child, stepchild, foster child, ward, niece, nephew, brother, sister, uncle, aunt, or cousin.”
- Liquor license, conditional use permit, etc.

Relationship Chart
Missouri Ethics Commission
Rev 09/2011



Consanguinity relationships are relatives by blood. Affinity relationships are relatives by marriage or adoption.

This document is intended only as a guide to aid in understanding the duties and responsibilities of the Missouri Ethics Commission. For the Law's complete requirements, consult the law itself, codified at Chapter 103 and 130 of the Revised Statutes of Missouri.

Don't:

- Use City property other than for City business.
- Obtain unapproved special benefits from the City.



Do: Comply with the Missouri Sunshine Law.

- **Meetings should generally be open to the public.**
- **Closed session to REMAIN closed.**
- **Be sure the notice regarding the meeting complies with the notice requirements.**
- **Accessibility of public records.**
- **Retaining emails and text messages.**

Don't: Interfere with your municipal court!

- Don't violate new detailed Missouri Supreme Court rules of conduct for municipal court personnel.
- Court personnel must report ANY attempt to influence the handling of cases.

Do: File the required disclosure reports

- Required disclosures should be filed with City Clerk and Missouri Ethics Commission.
- Generally due by May 1, but when newly appointed to office must be file within 30 days.
- Required even a year after you leave office.
- Ask your City Clerk for the required form(s).
- Check your city code for specifics.

Don't: Spend city funds to advocate for votes

- Cities cannot spend public monies to support or oppose candidates or ballot measures. Even if the existence of the city threatened (e.g., Better Together).
- Informational materials supporting or opposing a candidate or ballot measure must include disclaimer identifying “paid for by” with name and address (See Section 130.031, RSMo.)
- **Inform, but don't advocate!**

Don't: Pressure city employees regarding elections.

- **It is a felony to pressure or retaliate against city employees regarding election matters. (See Section 130.028, RSMo.)**

Do:

- Discuss issues with your elected peers
- Get outside perspective from trusted confidant
- If in doubt, seek formal advice from city attorney or private legal counsel
- Provide complete information when seeking advice
- Ask the right question – What do you think I **SHOULD** do?
 - NOT “what do I **HAVE** to do?”

Final Thoughts:

- Don't need to memorize state statutes or ethics codes, BUT be generally aware and sensitive to the many rules that apply to you now.
- Set up a routine for yourself to assess ethical questions that you will face.
- Seek outside perspective or advice.
- Even if no technical conflict, how will it look? Appearances and optics matter, and once the story is out there, others can interpret it however they wish.

Do: PUT PUBLIC INTEREST ABOVE PERSONAL INTEREST



Always remember – you were elected to use the powers of your office to represent your constituents and community, not to benefit yourself!



CURTIS, HEINZ,
GARRETT & O'KEEFE P.C.

INTRODUCTION TO ZONING FOR NEWLY ELECTED MUNICIPAL OFFICIALS

April 2024

Carl Lumley

Statutorily Authorized

CHAPTER 89 RSMO

Based on Planning (Not by Elected Officials)

COMPREHENSIVE PLAN

CHAPTER 89 RSMO

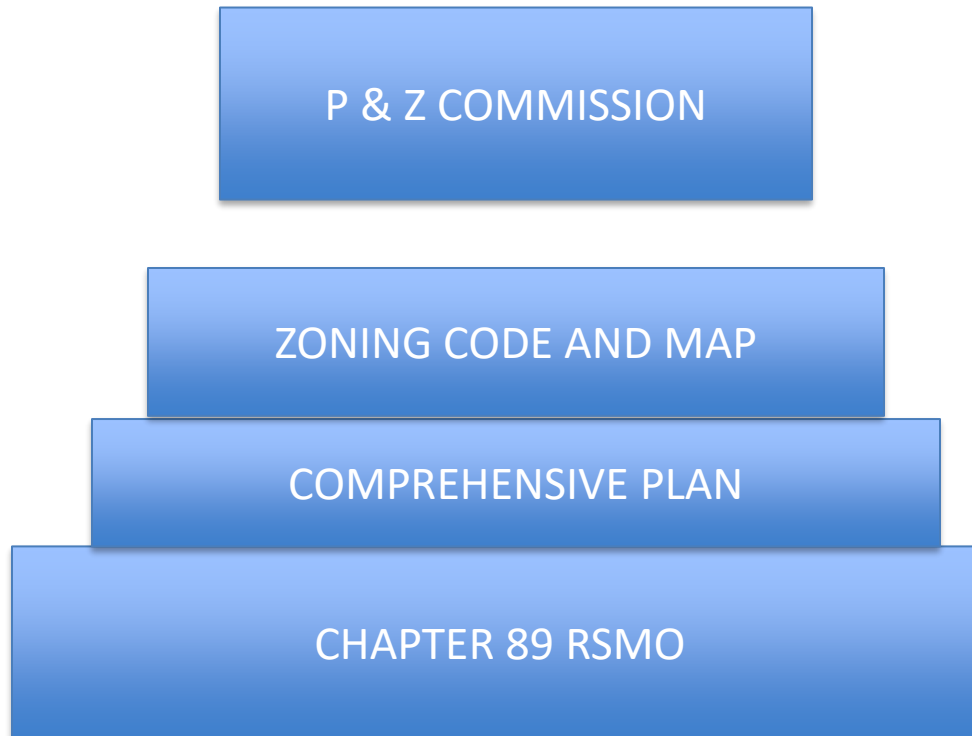
Regulated by Ordinance

ZONING CODE AND MAP

COMPREHENSIVE PLAN

CHAPTER 89 RSMO

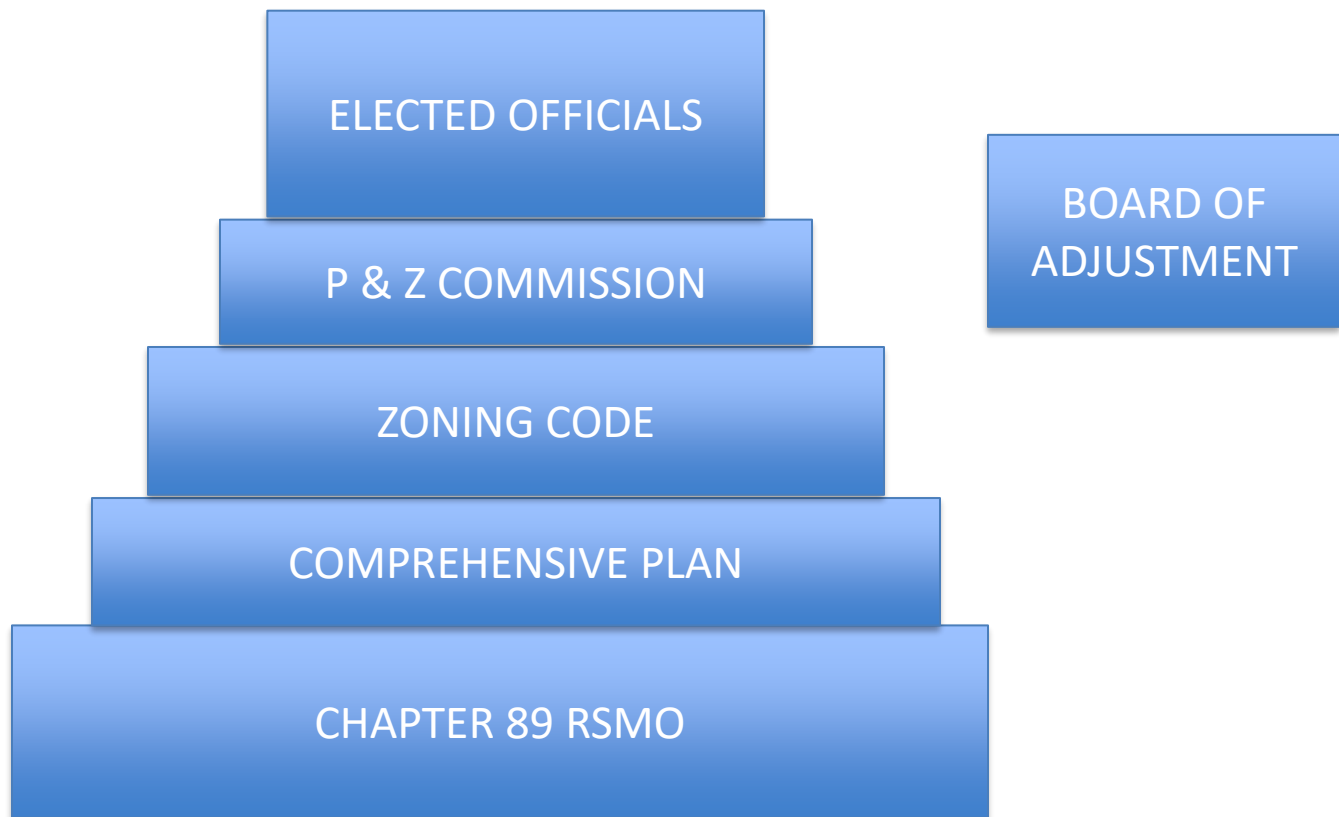
Action based on PZ Recommendations



Action by Legislative Body



BOA Safety Valve - Variances



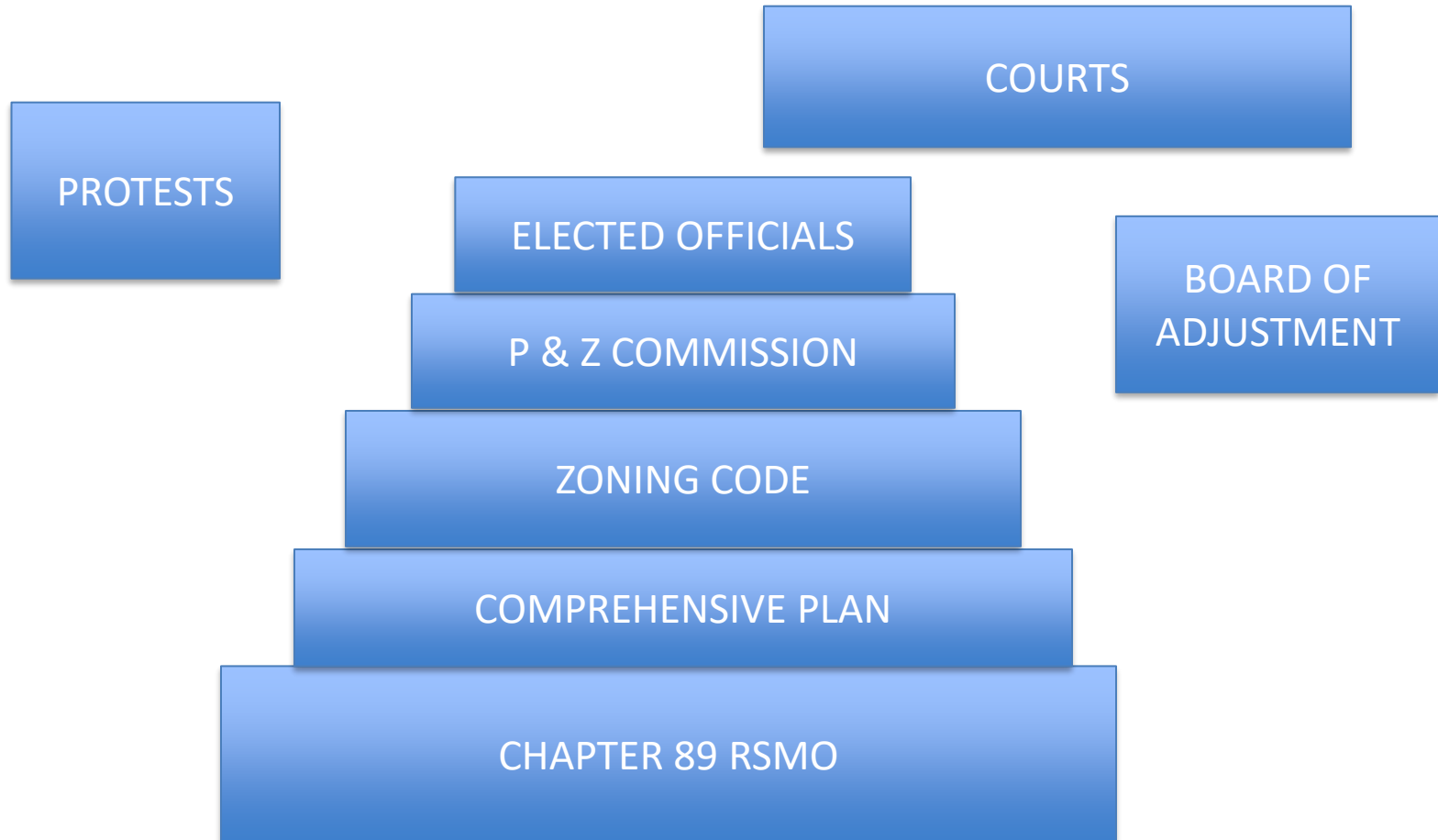
Potential Check - Property Owner Protest Petitions



Types of Applications

- **Zoning Changes – uses, rules**
- **Conditional or Special Use Permits**
- **Site Plans**
- **Subdivisions**

Court Oversight



Legislative Discretion

Other than subdivisions, the elected body has significant discretion in zoning matters.

But discretion must be reasonably exercised.

Courts not supposed to act as if they were the elected officials

Court Review of Variances

Board of Adjustment holds a hearing on the record, with witnesses and evidence.

Court reviews decision based on the record. No new hearing.

Questions

?????????

Thanks!!

THANK YOU