

FINANCE AND ADMINISTRATION COMMITTEE

February 8, 2023

2:00 p.m.

Councilman Denny Whayne Conference Room (Busch Building, 4th Floor)

MEMBERS

PRESENT: Andrew Lear, Chair; Matthew Simpson; Heather Hardinger; and Mike Schilling.

MEMBERS

ABSENT: None.

STAFF

PRESENT: Jason Gage, City Manager; Maurice Jones, Deputy City Manager; Collin Quigley, Deputy City Manager; Rhonda Lewsader, City Attorney; Anita Cotter, City Clerk; Lauren Fischer, City Clerk Administrative Specialist.

GUESTS: Linda Simkins, citizen; and Andrew Sullender, *News-Leader*.

Councilman Lear, Chair, called the meeting to order at approximately 2:01 p.m., and roll call was conducted. Present: Heather Hardinger, Mike Schilling, Matthew Simpson, and Andrew Lear. Absent: None.

Mayor Pro Tem Simpson moved to approve the minutes from the January 18, 2023 meeting as presented. Councilwoman Hardinger seconded the motion, and it was approved by the following vote: Ayes: Schilling, Simpson, Hardinger, and Lear. Nays: None. Absent: None. Abstain: None.

Councilman Lear, Chair, noted the reason for today's meeting was to discuss proposed changes to Charter Section 19.16. (Exhibit A.) He noted the history of Charter section 19.16 has been provided. (Exhibit B.) He noted this item was referred to the Committee during a City Council Lunch for possible recommendations and revisions. He mentioned the proposed changes include eliminating the current 19.16 Charter section and following provisions put into place by State law. He further expressed a concern with connecting Springfield's Code of Ethics to State law citing loss of local control of provisions to this section.

Councilman Lear explained in Charter Section 19.16, a Councilmember or employee cannot have any direct or indirect financial interest in any contract with the City. He noted under the State law, a Councilmember cannot complete a personal service for the City but an entity the Councilmember owns a stake in could under certain provisions.

Jason Gage, City Manager, explained the way Section 19.16 is written, there is a lack of clarity when defining direct and indirect issues tied to finances. He further noted the lack of definition could lead to potential conflict of interest issues with City employees or Councilmembers.

Councilman Lear noted possible areas to think about while discussing changes to the Charter and the Charter language. He noted the proposed changes need to define what is considered a direct or indirect financial interest. He expressed his thoughts that rank-and-file employee issues should be addressed by Human Resource practices, and department head and Councilmembers should be held to a higher standard. He noted the proposed needs to address what to do with unintentional or small violations and in what manner an alleged violation should be addressed.

Mr. Gage expressed needing to make sure any changes suggested or made by the Committee are done in a manner citizens can vote on. Councilwoman Hardinger agreed and suggested information regarding these changes be sent to the people to ensure there is public input.

Councilman Schilling recommended reaching out to other entities who have experience with different types of municipalities for direction and guidance on the proposed changes before putting it to a vote.

Councilwoman Hardinger asked what the process is to make the proposed changes. Mr. Gage explained this Committee would have until the end of March to have recommendations completed for it to be placed on an agenda for the current City Council to vote on.

Mayor Pro Tem Simpson expressed his concerns on two policy challenges in Section 19.16. He noted one cause for concern relates to City Council and Boards and Commissions. He expressed his opinion that these positions should be held to a higher standard than a regular employee. He noted the bigger issue is how this policy affects all employees and can be costly to taxpayers. Mr. Gage explained with the current policy, if a direct or indirect conflict of interest is determined, there is no choice but to terminate the employee. He further noted the State law language in the proposed provides the flexibility on the definition for financial interest.

Councilman Lear asked how the Committee would like to proceed with processing the proposed changes in the Charter. Mr. Gage reminded the Committee members of the upcoming election in April. He explained this election would result in a change of City Council members and Committee member assignments.

Councilman Lear asked for information on other cities that have codes of ethics similar to Springfield. Rhonda Lewsader, City Attorney, noted she could compile the provisions used by other cities in Missouri. Councilman Lear suggested once the information is received from the attorney, the Committee can further discuss how to proceed or if this is a matter that will proceed to the new Committee members. Mayor Pro Tem Simpson expressed his opinion that the members should continue to work on the proposed for the sake of the employees. Councilwoman Hardinger agreed and noted even with the change of Committee members, this work would still need to be done. Councilman Lear noted whatever information is taken to the voters will need to be concrete.

Councilman Schilling asked if this must be included in the Charter or if it could be an ordinance. Ms. Lewsader noted this matter does not have to be in the Charter. She expressed that the original drafters of the Charter probably included the provision so that it would be voted on by

the public. Mr. Gage asked if this policy would default to State law if it was not included in the Charter or adopted by ordinance. Ms. Lewsader noted this was correct.

Councilman Lear asked about adding the language from the State law into the City Charter section. He noted that State law does not have any prohibition on a Councilmember having a business interest bidding on a project. Ms. Lewsader noted that the company would have to be the lowest responsive bidder. Mr. Gage asked how the State policy applies to a non-contractual transaction and if it creates a conflict of interest. Ms. Lewsader expressed this policy covers goods and contracts. Mr. Gage noted there are different types of transactions to consider with these policies.

Mayor Pro Tem Simpson expressed his opinion that continuing to prohibit Councilmembers from entering in contracts with the City makes sense. Councilwoman Hardinger agreed and expressed her opinion it is a conflict of interest. She expressed the punitive repercussions for an employee making a mistake are extreme in the current language. She noted if there are some punitive things that happen and there is an appeals process, it should be outlined with the proposed changes.

Councilman Schilling asked if candidates for City Council are provided education about the ethics code and Section 19.16. Ms. Lewsader noted information is provided by the City Clerk's Office. Anita Cotter, City Clerk, noted she talks with all candidates and informs them of Section 19.16. She further noted if there are issues that arise, she connects the candidate to the Law Department.

Councilman Lear asked what other things the Committee would like to see in a policy. He expressed his opinion that Councilmembers, board and commission members, and leadership levels need to be delineated in a policy. He suggested having a comprehensive list of what departments are part of the City organization. Mr. Gage explained a large organization can have thousands of transactions a year which can make it hard to ensure that an employee or a family member does not accidentally violate the Charter. Mayor Pro Tem Simpson noted there is no amount of education or training to understand all the different forms of conflict of interest in an organization and suggested this could be a policy issue.

Mr. Gage noted the current policy does not allow for the City Manager's discretion when addressing disciplinary action towards an employee who directly or indirectly violates the Charter code. He noted the last conflict of interest within the City of Springfield organization was used as a learning opportunity for management to emphasize the strictness of Charter Section 19.16. He further noted management also changed the process of working with different vendors. Ms. Lewsader noted vendors are now required to complete a certification form relating to Charter Section 19.16. She further noted if the form indicates the possibility of a conflict of interest, it is reviewed by the Law Department to determine if there is a conflict of interest.

Councilman Lear expressed interest in learning how other governmental entities handle unintentional violations and adjudications. Mr. Gage noted three levels of adjudication could include censuring, suspension, or possible termination of the position.

The Committee discussed how adjudication towards a Councilmember who violates Charter Section 19.16 should be handled. They mentioned that conflict of interest should not be an ongoing issue that will require constant disciplinary action. They discussed what would be considered a minor dollar amount and if adding a third-party commission to determine disciplinary action should be considered.

Councilman Lear suggested removing words from the proposed such as direct and indirect. He noted adding definitions for financial interest in terms of ownership levels and relatives. Mr. Gage noted for a board member, a transaction from person to person is considered direct. He noted a transaction from a person using a third party could be seen as an indirect transaction. Ms. Lewsader clarified the Charter section applies to administrative boards and if the board member is doing business with the department they oversee.

Councilman Lear asked what the administrative process would be for the Charter section changes and City Code changes. Mr. Gage noted there could be a couple of different ways to address the Code change and the Charter change. Ms. Lewsader explained one process could include bringing forward a Charter change and the matching Code section at the same time for a vote. She further noted the other option would include bringing the forward the Charter change first and then revising the Code to match.

Councilman Lear asked how long after today's meeting would staff need to provide the Committee information about Charter provisions from other municipalities and information about penalizing councilmembers who violate the Charter Section 19.16. Ms. Lewsader noted it would take about a week to have this information.

The Committee members discussed the next meeting date which was set for February 17, 2023 at 10:30 a.m.

Councilman Lear thanked everyone for today's attendance and discussion.

There being no further business to come before this Committee, Councilwoman Hardinger moved to adjourn. Mayor Pro Tem Simpson seconded the motion, and it was approved by the following vote: Ayes: Schilling, Simpson, Hardinger, and Lear. Nays: None. Absent: None. Abstain: None.

The meeting adjourned at approximately 3:05 p.m.

Completed by Lauren Fischer