

COMMITTEE OF THE WHOLE

December 4, 2023

12:00 p.m.

**Councilman Denny Whayne Conference Room (Busch Building, 4th Floor)
840 Boonville Avenue**

MEMBERS

PRESENT: Ken McClure, Abe McGull, Monica Horton, Callie Carroll, Matthew Simpson, Craig Hosmer, Derek Lee, Brandon Jenson*, and Heather Hardinger*.

MEMBERS

ABSENT: None.

**COUNCIL/
STAFF**

PRESENT: Jason Gage, City Manager; Collin Quigley, Deputy City Manager; Maurice S. Jones, Deputy City Manager; Cora Scott, Director of Public Information and Civic Engagement; Melissa Haase, Assistant Director of Public Information and Civic Engagement; Jan Millington, Interim City Attorney; Anita Cotter, City Clerk; Julie Greer, Deputy City Clerk; and Lauren Fischer, City Clerk Administrative Specialist.

GUESTS: Linda Simkins, citizen; Michele Skalicky, KSMU; Marta Mieze, *Springfield News-Leader*; and Jack McGee, *Springfield Daily Citizen*.

* Councilmembers Jenson and Hardinger attended via Zoom.

Mayor McClure called the meeting to order at approximately 12:05 p.m., and roll call was conducted. Present: Craig Hosmer, Heather Hardinger, Matthew Simpson, Callie Carroll, Derek Lee, Brandon Jenson, Monica Horton, Abe McGull, and Ken McClure. Absent: None.

Mayor Pro Tem Simpson moved to approve the minutes of the November 3, 2023, meeting as presented. Councilman McGull seconded the motion, and it was approved by the following vote: Ayes: Hardinger, Carroll, Lee, Jenson, Horton, McGull, Simpson, Hosmer, and McClure. Nays: None. Absent: None. Abstain: None.

Mayor McClure noted the next item of discussion would be the review of the draft Charter Section 19.16. He explained the topic was originally discussed by the previous City Council, who voted to refer the matter to the Finance and Administration Committee. He noted the topic was then referred to the Committee of Whole by the Finance and Administration Committee.

Jason Gage, City Manager, provided an overview of the concerns prior Councilmembers had regarding Charter Section 19.16. He noted the original Charter Section 19.16 stated, "No member of City Council, no salaried officer, or no employee of the City shall have a financial

interest, directly or indirectly, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee” (Exhibit A). He discussed the concerns regarding the original Charter Section 19.16, including whether an employee or Councilmember would have to forfeit their office or be terminated from their position if they knowingly or unknowingly violated the terms listed in the Section. He further noted the prior City Councilmembers wanted to evaluate other terminology and methods which could be included in Charter Section 19.16 when addressing Councilmembers and employees who may be at risk for unknowingly violating this Section.

Mr. Gage provided an overview of the draft Charter Section 19.16. He noted the proposed change to Subsection 1 would require City Council to maintain and review Charter Section 19.16 no less than every other year. He discussed the proposed modified language in Subsection 2, which would include adding the term “councilmember” and deleting the phrase “direct or indirect” when referring to substantial financial interest. He noted Subsection 2 would also clarify the term “substantial interest,” which was defined as “ownership by the individual, the individual’s spouse, or the individual’s dependent children, whether singularly or collectively, directly or indirectly, of ten percent or more of any business entity, or an interest having a value of \$10,000 or more...” (Exhibit A). He further noted the proposed definition of “substantial interest” would state any individual, partnership, organization, or association could not receive any collected compensation of \$5,000 or more within any calendar year. He noted Subsection 2 would address City officers or employees who willfully concealed their financial interest or were in violation of Charter Section 19.16.

Mr. Gage reviewed the proposed changes in draft Charter Section 19.16, Subsection 3. He noted this section would add “purchasing agent” to the list of those who should not have a financial interest, directly or indirectly, in any contract with the City, or be financially interested in the sale to the City of any land. He explained the striking of the term “administrative” would be to eliminate the repeated use of the term through the subsection. He noted any violation by any Councilmember “who knew or should have known of such a violation” would result in forfeiture of office. He noted there was not a process outlined in Subsection 3 to address Councilmembers or employees who unknowingly violated this section. He further noted there were no proposed changes to Charter Section 19.16, Subsection 4.

Mayor Pro Tem Simpson provided an overview of the discussion the Finance and Administration Committee had regarding Charter Section 19.16. He explained the original Charter Section 19.16 contained language which would affect different administrative tiers throughout the City, including employees who were not in leadership roles. He noted the Committee members wanted the Charter to provide clarification regarding the standards and expectations for those in management positions and leaderships roles, such as City Council. He further noted the Committee members discussed whether Charter Section 19.16 should reference the State statue when defining certain terms such as “substantial interest.”

Councilman Lee asked why the City Charter should not reference State statue. Mayor Pro Tem Simpson responded if the regulations outlined by State statue were written into the City Charter,

and the State regulations became more lenient, the City would have to abide by the stricter regulations in the manner it was written into the Charter.

Mayor Pro Tem Simson explained the Finance and Administration Committee discussed using the phrase “willfully violates” when referring to board members and employees and using “who knew or should have known” when referring to Councilmembers who violated Charter Section 19.16. He noted it was discussed that Councilmembers should be held to a higher standard than City employees because they are elected officials who should be held accountable for their actions.

Councilman McGull agreed Councilmembers should be held to a higher standard than City employees. He discussed draft Charter Section 19.16, Subsection 3, Paragraph 3 (Exhibit B). He suggested adding a provision to this section regarding a Councilmember who relied upon the erroneous legal opinion of the City Attorney when referring to Councilmembers “who knew or should have known of such violation.” He expressed his opinion a Councilmember should not be penalized if they tried to seek legal advice regarding possible conflicts of interest.

Councilwoman Horton discussed why draft Charter Section 19.16 was not finalized in time to be considered for the April 2023 election. She noted the Finance and Administration Committee discussed the differences between the City Charter and the State statute regarding financial interest and conflict of interest. She explained the State statute provided provisions regarding the amount of money a contract or sale could not exceed before it would be considered a conflict of interest, but the City Charter stated any financial interest in a contract or sale would be seen as a conflict of interest. Mayor Pro Tem Simpson noted the definition of “substantial financial interest” in draft Charter Section 19.16, Subsection 2, was derived from the State statute and referred to disclosure and voting for Councilmembers.

Councilman McGull discussed whether a Councilmember must forfeit their position if they received erroneous information when consulting with the Law Department. He expressed his opinion there should be more provisions to protect Councilmembers who received erroneous information when seeking a legal opinion which could subsequently cause the Councilmember to forfeit their position. Councilman Hosmer agreed. He noted requiring the Law Department to provide written documentation would be helpful if a Councilmember needed to prove they were following the information provided by the Law Department.

Councilman Hosmer discussed draft Charter 19.16, Subsection 2 (Exhibit B), which stated a Councilmember or employee would only be required to disclose their financial interest if they owned ten percent or more of any business. He expressed his opinion a Councilmember or an employee should be required to disclose any financial interest they could have with the City.

Councilman McGull expressed his opinion ten percent of a company would be considered a large financial interest for an employee or Councilmember to have in a business.

Councilman Hosmer expressed his concern regarding the dollar amount and percentage listed in draft Charter Section 19.16 when referring to a substantial interest in a company. Mayor Pro

Tem Simpson explained draft Charter Section 19.16 had a dollar amount listed as a provision to address Councilmembers who had failed to disclose their financial interest in a company.

Councilman Jenson asked whether the City receiving a grant or other forms of compensation was considered during the drafting of Charter Section 19.16. Mayor Pro Tem Simpson responded the Committee did not discuss issues regarding the City receiving compensation because the priority of the Committee was to address the ethical spending of City funding.

Councilman Jenson asked if a cool-down period regarding financial transactions for City employees had been discussed. Mayor Pro Tem Simpson responded the Committee did not discuss adding a cool-down period while drafting Charter Section 19.16 because there was a cool-down period addressed in a different section of the Charter, which stated a person could not work for the City for a certain amount of time after serving in an elected position.

Councilman Jenson asked if it was considered a violation of Charter Section 19.16. for a Councilmember, City Manager, or Deputy City Manager who had served on a third-party board and received compensation. Mayor Pro Tem Simpson replied, to his understanding, serving on a board which had received financial compensation would qualify as having a financial interest in that business, but he would need to consult with the Law Department.

Mayor McClure asked the Committee members for comments regarding the proposed changes to Charter Section 19.16.

Councilman Lee discussed his concern the City could create more legal issues by rewriting the Charter Section instead of following State statute. Jan Millington, Interim City Attorney, noted the City had received different legal opinions regarding draft Charter Section 19.16. She explained altering any type of language in the Charter would be subjected to different legal interpretations but could be clarified if the Charter Section were to be challenged. Councilman Hosmer commented the ethical provisions outlined in the Charter do not apply to State statute. Mr. Gage explained if there were a complaint regarding an ethical situation involving a Councilmember, the City could seek a third-party legal opinion or utilize the process outlined in the City Code.

Councilman McGull reiterated his suggestion to add the provision regarding a Councilmember who had received an erroneous opinion from the Law Department. He expressed his opinion a Councilmember should not be subjected to automatic forfeiture of office if they followed the advice given by the Law Department.

Councilwoman Horton expressed her opinion a Councilmember should not have any financial interest in a business or contract with the City.

Mayor McClure noted draft Charter Section 19.16 could be interpreted as addressing two separate entities, one referring to City employees and one referring to Councilmembers. He asked the Committee members if Charter Section 19.16 should be amended to only address the issues regarding the City employees.

The Committee members discussed amending only the employee issues addressed in Charter Section 19.16. Councilman Hosmer expressed his opinion it would be easier to address the issues regarding City employees. Mr. Gage noted certain language, such as the term “forfeiture,” in the original Charter Section 19.16 could be removed to address City employee violations.

Mayor Pro Tem Simpson expressed his concern amending Charter Section 19.16 to only address City employee issues would inadvertently cause other provisions, such as requiring City Council to create and review a Code of Ethics, to be overlooked.

Councilman Jenson noted the citizens would have to vote on any changes to Charter Section 19.16. He expressed his opinion Charter Section 19.16 should be remanded to the Finance and Administration Committee for further reviewed to address the disclosure requirement outlined in draft Charter Section 19.16, Subsection 3, Paragraph 1 (Exhibit B).

Councilman Lee expressed his opinion the language in draft Charter Section 19.16 was fine as written, and the topic should not be remanded to the Finance and Administration Committee.

Mr. Gage explained if this topic were remanded to the Finance and Administration Committee for further review, it may not be finalized in time to be considered for the April 2024 election ballot.

Councilman Jenson asked if there were other items anticipated to be submitted for consideration on the April 2024 ballot. Mayor McClure responded not at this time. Councilman Jenson expressed his support to remand draft Charter Section 19.16 to the Finance and Administration Committee for further discussion and to ensure all concerns regarding the disclosure requirement would be addressed.

Councilwoman Horton expressed her concern citizens would be overwhelmed by the proposed question to be submitted for consideration on the April 2024 ballot. She expressed her support regarding Councilman McGull’s suggestion to add the provision into draft Charter Section 19.16, which referred to a Councilmember who had received an erroneous opinion from the Law Department.

Mayor McClure asked Mr. Gage if there was enough information to proceed with the revisions for draft Charter Section 19.16. Mr. Gage replied affirmatively. Mayor McClure agreed to proceed with the recommended revisions for draft Charter Section 19.16.

Mr. Gage asked for input from the Law Department to help clarify the language in draft Charter 19.16, Subsection 2, Paragraph 1 (Exhibit A), which referred to the “substantial financial interest” of “an individual, the individual’s spouse, or the individual’s dependent children.” Ms. Millington referenced the minutes from a Finance and Administration Committee meeting. She explained the definition of “substantial financial interest” listed in draft Charter Section 19.16 followed the definition outlined by the State statute. She discussed the different interpretations of the definition regarding “substantial financial interest” in draft Charter Section 19.16 based on suggested punctuation placement.

The Committee members discussed the additional proposed changes to draft Charter Section 19.16. It was suggested to leave the original language of Charter Section 19.16 to address City employees but add the first subsection of draft Charter Section 19.16, which referred to City Council maintaining and reviewing a Code of Ethics. The Committee members came to a consensus on the proposed changes to Charter Section 19.16. Mayor McClure asked for the proposed changes to be added to draft Charter Section 19.16, and once done, the updated draft come before the Committee. Mr. Gage responded affirmatively.

Mayor McClure left the meeting at 1:13 p.m.

Mr. Gage provided an overview of the draft Charter revisions regarding mayoral term. He noted the proposed change, which would increase the mayoral term from a two-year term to a four-year term, would not affect Mayor McClure's term.

Mayor Pro Tem Simpson asked if the Committee members had any comments.

Councilwoman Horton asked if the proposed change from a two-year term to a four-year term was systematically needed or was preferential. She asked if there were any disadvantages to increasing the mayoral term from a two-year term to a four-year term. Mr. Gage responded the amount of time a person would spend campaigning for the mayoral position could be seen as a disadvantage. Mayor Pro Tem Simpson expressed his opinion the two-year term could prevent the mayor from addressing long-term issues within the city. He noted constituents had expressed concerns regarding the shortened term for mayor because it could cause a frequent shift in the City Council majority.

Councilman Jenson expressed his agreement with Mayor Pro Tem Simpson. He noted the mayor's leadership role as the ceremonial head of City Council held an abundance of responsibility. He further noted the mayor's attendance at public events showed support for various causes represented by the community. He expressed his opinion it is important to allow the residents of the city to show their support for the mayor by using the election process.

Councilman Jenson asked when constituents first voiced concerns regarding the mayoral term. Mr. Gage responded he was unsure. Mayor Pro Tem Simpson explained the topic had been discussed during Leadership Springfield events.

Mayor Pro Tem Simpson noted the mayoral position was an unpaid full-time job. He expressed his concern the amount of time it would take a person to run a campaign in addition to the mayoral responsibilities could restrict those interested in the position.

Councilwoman Hardinger noted the mayoral position in municipalities the size of Springfield or larger have four-year terms, with a limit on the number of terms a person could serve. She noted as Springfield continues to grow, having the mayor run every two years could be disruptive to the progress made in the community. She expressed her opinion, as more issues arise, a four-year term would be more beneficial to help provide effective leadership and continued progress in the city.

Councilman Hosmer noted a two-year term shortens the mayor's ability to follow through on their vision for the city. He expressed his support to increase the mayoral term to four years.

Councilman McGull expressed his opinion Springfield should be consistent with other municipalities in the State by increasing the mayoral term to four years.

Councilman Lee moved to send the draft Charter revisions for mayoral term to City Council for consideration. Councilman Hosmer seconded the motion, and it was approved by the following vote: Ayes: Lee, Jenson, Horton, McGull, Simpson, Hosmer, Hardinger, and Carroll. Nays: None. Absent: McClure. Abstain: None.

Councilman Lee moved to adjourn. Councilwoman Horton seconded the motion, and it was approved by the following vote: Ayes: Jenson, Horton, McGull, Simpson, Hosmer, Hardinger, Carroll, and Lee. Nays: None. Absent: McClure. Abstain: None.

With no further business to come before the Committee, the meeting adjourned at 1:35 p.m.

Approved by the Committee of the Whole on 1-03-2024.

Prepared by Lauren Fischer