

INTER-DEPARTMENTAL MEMO

TO: City Council
City Boards, Commissions, Committees and Task Forces

FROM: Fred Boeckmann, City Counselor

DATE: July 14, 2010

RE: Sunshine Law

This memo will review Sunshine Law requirements pertaining to meetings.

APPLICABILITY

The City Council and all City boards, commissions, committees, task forces and similar groups are “public governmental bodies” subject to the Sunshine Law and corresponding City ordinances. So are subcommittees of these groups.

NOTICE OF MEETINGS

Notice of the time, date, place and tentative agenda of each meeting must be given in a manner reasonably calculated to advise the public of the matters to be considered. Notice of a meeting must be posted at least 24 hours, exclusive of weekends and holidays, before the meeting. The notice must be posted on the bulletin board in the first floor hallway of the City Hall Building and, if the meeting is not held in the City Hall Building, on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose in the building in which the meeting is to be held.

The definition of “public meeting” specifically includes meetings conducted by conference call, video conferences, internet chat and internet message board. The notice of meeting provisions of the Sunshine Law provide that a meeting conducted by telephone or other electronic means must identify the mode by which the meeting will be conducted and designate a location where the public may observe and attend the meeting. If a public body plans to meet by internet chat, internet message board or other computer link, it must post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access the meeting.

MEETINGS

Public governmental bodies must allow open meetings to be recorded by audio tape, video tape or other electronic means. Public bodies may establish guidelines regarding the manner in which recordings are conducted to minimize disruptions.

Minutes of all meetings must be taken and retained. “Meetings” includes work sessions as well as regular meetings. Minutes must include the date, time, place, members present, members absent, and a record of any votes taken. When a roll call vote is taken, the minutes

must attribute each affirmative vote, negative vote or abstention to the individual member of the group. The Sunshine Law does not require a summary of discussions.

Minutes should either be given to the City Clerk for retention or kept at some other location in a City building where they are available to the public. The City Clerk should be informed of the location of minutes not kept in the Clerk's office.

E-MAIL AND LIST SERVERS

The Sunshine Law addresses the use of e-mail. Some e-mails are specifically designated as public records. Discussions carried on in group e-mails by members of a public governmental body are meetings.

The Sunshine Law provides that if a member of a public governmental body e-mails two or more members of the body so that a majority of the body, counting the sender, are copied, the member must also copy the custodian of records or the member's public office computer. The message becomes a public record subject to the Sunshine Law.

The definition of "public meeting" is "any meeting of a public governmental body...at which any public business is discussed, decided or public policy formulated, whether such meeting is conducted in person or by means of communications equipment, including, but not limited to, conference call, video conference, internet chat, or internet message board..." A discussion of public business by a majority of a public governmental body by means of group e-mail or a list server falls within this definition.

The notice provisions of the Sunshine Law provide that if a public governmental body plans to meet by internet message board "or other computer link," it must post a notice of the meeting on its website and notify the public how to access the meeting.

The City currently has no practical way to provide the public with reasonable access to messages sent using group e-mail or list servers. Accordingly, the City Council and City boards and commissions should not use group e-mail or list servers to carry on discussions of City business.

PENALTIES

A person who "knowingly" violates the law is subject to a fine of up to \$1,000. A person who "purposely" violates the law is subject to a fine of up to \$5,000.

MORE INFORMATION

Questions regarding the Sunshine Law may be directed to the City's Law Department at 874-7223. The Sunshine Law is contained in Chapter 610 of the Revised Statutes of Missouri (Secs. 610.010 through 610.035). The Sunshine Law and information on the law can be found on the Missouri Attorney General's website www.moago.org. The City's policies complying with the Sunshine Law are contained in Chapter 2 of the City Code (Secs. 2-23 through 2-25.6). The ordinances are on the City's website www.GoColumbiaMo.com.