

2012 MISSOURI CCFOA SPRING INSTITUTE
AN OLYMPIC (MARATHON) DAY IN THE LIFE OF A CITY CLERK

QUESTIONS AND ANSWERS

I. THE SUNSHINE LAW: Record Request Requirements (and other topics)

Question 1: As the Olympic City Clerk, you are the Custodian of Records. Which, if any, of the information requested by Reporter Russia should be provided to him?

- A. All of the information requested by Reporter Russia should be provided to him within 72 hours in order to comply with Missouri's Sunshine Law.
- B. Only a copy of the minutes and the information that the Board considered prior to their vote should be provided to Reporter Russia.
- C. Only a copy of the severance agreement and a copy of the roll call vote on Chief Poland's resignation should be provided to Reporter Russia.
- D. Tell Robbie Russia to go do some "wind sprints" because all of this information is properly maintained as closed records.

Question 2: Attorney Abe Austria wants "proof of ownership of property that is leased by Mr. Italy within the Olympic City limits." What should you do?

- A. Be honest with Abe – tell him as an attorney he really ought to be able to write better.
- B. Search through records to see what you can find with regard to Mr. Italy.
- C. Demand that Abe clarify his request because no reasonable person could understand it.
- D. Wait 3 days and hope he goes away.

Question 3: Is Spain's late-night email regarding possible real estate purchases to 2 other Board Members (6 Member Board) a "public record" under the Sunshine Law?

- A. What Spain does on his own time is his own business.
- B. Yes, it was public business.
- C. No. It was an internal memorandum or letter received or prepared by a member of a public governmental body consisting of advice, opinions and recommendations.
- D. Maybe and you better get a copy from Spain.

Question 4: When he sent out his late-night email, what should Spain have done to comply with Missouri's Sunshine Law?

- A. Deleted all copies.
- B. Sent a copy to the Custodian of Records.
- C. Trick question – elected officials should not use email.
- D. Sunshine Law does not apply.

Question 5: Regarding Reporter Russia's new request for Spain's late-night email, as the Custodian of Records you should ...?

- A. Deny Russia's request because you do not have any emails from last night in your inbox.
- B. Grant Russia's request because the email is a public record and his request is in line with Missouri's Sunshine Law.
- C. Deny Russia's request pursuant to 610.021(2) R.S.Mo. because the email involved the potential sale of real estate by the city where public knowledge of the transaction might adversely affect whatever deal the City decides to make.
- D. Grant Russia's request in the hope that he doesn't challenge you to a race.

II. CONTRACT REQUIREMENTS – 432.070 R.S.Mo.

Question 6: Were you correct that the Mayor does not have authority to sign the contract making this an enforceable contract?

- A. Yes, authority must be in writing.
- B. No, he was given authority to investigate and solve the solution.
- C. Authorized under the emergency exception based on need for the Diving Center due to Olympics.
- D. No, because the City has contracted with Diving Dan before, this is just a continuation of a contract and the mayor could sign.

Question 7: Could Diving Dan have started work immediately and just wait until the next Board meeting to get a valid contract signed?

- A. No, no work on a contract may be performed until the contract has been executed by both parties with authority.
- B. Yes, as long as the contract is executed before he finishes the job.
- C. Sure, it's not likely he would have substantially started before the next meeting anyway, so just let him.
- D. As long as the City has an oral agreement and authority to enter into the agreement, he can start before the contract is actually executed at the next meeting.

III. COLLECTIVE BARGAINING AND LABOR ISSUES

Question 8 (Public Sector Labor Law): In Missouri, do public employees have the constitutional right to collectively bargain with their employers?

YES or NO

Question 9: You find out later that Olympic City currently does not have a collective bargaining framework established for public sector employees, and the current state of Missouri law is in flux. As such, what should you do with Mr. Kenya's letter?

- A. Let the letter sit on your desk for a few weeks so it can "soak in" its environment.
- B. Pass the letter along to the City Attorney.
- C. Give the letter to the Mayor to present to the Board, and recommend that the City establish some "meet and confer" procedures.
- D. Write Ken Kenya a quick note saying he might be big, bad and tough, but you're not scared.

IV. UNEMPLOYMENT BENEFITS FOR RETIREES

Question 10: Ten months after Mrs. Romania retired, you now receive a Notice of a Claim filed for Unemployment Benefits from the Division of Employment Security. How, if at all, should you respond?

- A. Don't do anything because retirees are not allowed to receive unemployment benefits.
- B. File a protest simply stating, retirees are not allowed to receive unemployment benefits.
- C. File a protest detailing the amount of weekly retirement benefit received by Mrs. Romania, and the percentage of her weekly benefit that is paid for by the City.
- D. Join the Occupy movement and take your protest to another level.

Question 11: Mr. Slovenia walked off the job after receiving a total of four (4) disciplinary write-ups. When filing its protest, should Olympic City include any of the factual details surrounding Mr. Slovenia's discharge?

YES or NO or MAYBE SO

Question 12: Regarding the seasonal employee, Eric Egypt, how, if at all, should the City respond?

- A. Don't do anything because you should not protest a claim based on a separation for lack of work.
- B. File a protest noting that seasonal employees may not qualify for unemployment benefits.
- C. File a protest outlining Mr. Egypt's wages for the summer.
- D. Write Mr. Egypt a letter admonishing him to stop trying to game the system.

V. ELECTION ISSUES

Question 13: Assuming that the rest of his application is in order, were you correct when you certified Mr. Horsey—a convicted Illinois felon—as a candidate?

YEA or NEIGH

Question 14: Would it make any difference if Mr. Horsey's felony conviction was in Missouri instead?

YEA or NEIGH or MAYBE SO

VI. INCOMPATIBLE OFFICES

Question 15: May Bela run for Board of Aldermen while serving on the Olympic City Artistic Committee?

- A. Of course he can run for office – why wouldn't he be able to?
- B. No, he already holds a position for Olympic City and no person can hold two positions.
- C. No, those offices are incompatible.

Question 16: If Bela wins, may he serve in both positions?

- A. Of course, you just said he could run.
- B. No, no person can hold two positions.
- C. No, because the offices are incompatible, he would remain on the Artistic Gymnastic Committee and could not take the oath for the Board of Aldermen seat.
- D. No, because the offices are incompatible, when he takes the oath for Board of Aldermen, he resigns from the Artistic Gymnastic Committee.

Question 17: Real life examples – Are these incompatible?

- Alderman and Special Police Officer?
Most Likely or Probably Not
- Alderman and City Collector?
Most Likely or Probably Not
- City Council and County Auditor?
Most Likely or Probably Not

VII. 105 CONFLICT OF INTEREST

Question 18: Robert's company places its bid and is the second lowest bid but unlike the lowest bidder is known for its quality of work and ability to always finish on time. May the City award the bid contract to Robert Cycling's company?

- A. Yes, but only if the bid was publically advertised.
- B. Yes, but only if the bid was publically advertised and because essentially they are the lowest bidder since the quality they offer makes their bid the best lowest bid.
- C. No, only if it was the lowest bid received after a publically advertised bid.
- D. Yes, but Robert cannot vote.

Question 19: Pretend instead, it was Robert's step-son's company. Could the City award the bid to Robert's step-son's company?

- A. Maybe - depends.
- B. No.
- C. Yes.

Question 20: Could Robert Cycling vote on the issue of awarding the bid to his step-son?

- A. Maybe - depends.
- B. No.
- C. Yes.

Question 21: Is there a conflict of interest prohibiting a husband and wife from serving on the Board of Aldermen together?

- A. Regardless of the law, it's a bad idea and should be prevented.
- B. No, there is nothing legally preventing a husband and wife from serving on the same board.
- C. Yes, they cannot serve together as such is surely a conflict of interest – they will always vote the same way.

Question 22: But what about nepotism - does it apply to this situation?

YES or NO or MAYBE

VIII. UTILITY SHUT-OFF

Question 23: Can the City immediately shut off Susan Volleyball's water for delinquent bills?

- A. Depends.
- B. Depends on the status of the person.
- C. No, before shutting off water, the City must provide notice and an opportunity to rebut the delinquent bill.
- D. Yes.

Question 24: Can the City demand Susan Volleyball pay the entire 4-month delinquent bill when Tenant is the one living at the property?

- A. Yes – Missouri law provides that water and sewer services are provided to both the owner and current occupant.
- B. No - Only the tenant is responsible.
- C. Maybe – depends.
- D. No – Although A is correct, the owner can only be held liable for no more than 90 days of service and not the entire 4 month delinquent period.