



Office of the City Attorney

28th Floor, City Hall
414 East 12th Street
Kansas City, Missouri 64106

(816) 513-3142
Fax: (816) 513-3133

MEMORANDUM

To: Mayor pro tem Cindy Circo
From: William D. Geary, City Attorney
Subject: Ethical restrictions raised by employment by KCPL
Date: March 20, 2014

Following the announcement that you would soon assume responsibilities as a manager of public affairs for Kansas City Power & Light Company, some of the media have questioned how you may work for the utility and serve on the City Council. You asked those questions of me in January before assuming your new position. At that time I explained there is no ethical prohibition on a member of the City Council working at KCP & L.

If wish to respond to people questioning your new job, I am summarizing in this memorandum the issues we discussed in January.

CONCURRENT EMPLOYMENT AND COUNCIL SERVICE

Conflicts of Interest

There are, of course, restrictions that apply when you are a KCP & L employee and still serving as a member of the City Council. You must be careful of conflicts of interest. The direct restriction found in the code of ethics is broad:

An official or employee may not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows, or has reason to believe, may result in a personal or financial benefit, not shared with a substantial segment of the city's population.¹

Taking part in votes or discussions that might improve your standing within the company can be improper because you could receive a personal benefit. The conclusion may change depending upon the position someone holds in the company. For example, a person working as a lineman

¹ §2-2020(a), Code of Ordinances.

may not have the same concerns that a member of the management team may need to consider. You are assuming a position where you will represent the company in discussions with governmental bodies. That type of position is one for which you should be aware of potential conflicts of interest.

Sometimes people declare “a conflict of interest exists” and draw a conclusion that something is amiss. The fact that a conflict of interest may exist does not mean anything improper has occurred or will occur. It means that you must address the conflict of interest within the rules established by the code of ethics. Generally that means you will abstain from any participation in the matter, whether formal (Council meetings) or informal (discussion among Council colleagues outside of hearings).²

Confidential Information

You may become privy to information that would be helpful to KCP & L in, for example, a rate case before the Missouri Public Service Commission in which the City is a party. I should note I cannot recall a time where confidential information on any rate case was disclosed to the City Council. But should that happen, you may not disclose confidential information to KCP & L.³ This, of course, applies after you leave the City Council as well.

RESTRICTIONS AFTER GOVERNMENT SERVICE

General 1-Year Restriction

After you leave the City Council the most direct restriction is a one-year hiatus on lobbying the City after your current term expires. The Code of Ethics provides:

No elected official . . . shall perform any service for any monetary or in-kind compensation during one year after termination of his or her office or employment by which performance he or she attempts to directly influence a decision of the city or any department or agency thereof.⁴

Exceptions

Adversary Proceedings

There are two exceptions. The first allows your participation “in an adversary proceeding having a record or right of appeal or in the preparation or filing of any public document.”⁵ For example, should KCP & L seek a building code modification for its Kansas City office spaces, you could

² §2-2021(a), Code of Ordinances.

³ §2-2050(b)(1), Code of Ordinances.

⁴ §2-2044(a), Code of Ordinances.

⁵ §2-2044(b)(1), Code of Ordinances.

participate in the strategy sessions or preparation of testimony of KCP & L employees for the Building and Fire Codes Board of Appeals. It may be that your assistance would be helpful to KCP & L attorneys preparing testimony before the Missouri Public Service Commission that involves Kansas City as a customer. You could participate in that activity, except for disclosing confidential information you learned as a member of the City Council.

Bids

A second exception involves bidding. You may work on the submission of any bid, and participate in the contract if KCP & L won the bid, if the bid was for “any goods or services which will be awarded to the lowest and best bidder.”⁶ If the City sought bids for solar panels that KCP & L wished to provide, you could help fashion the bid. If the City sought proposals for a solar heating arrangement for a building you could not participate in this project; it is a proposal and not a bid.

SUMMARY

Whether you work for KCP & L or any other Kansas City business, the ethical rules are the same. Working for KCP & L does not constitute an inherent conflict of interest. While still a member of the City Council, the obvious concern is a conflict of interest arising from specific circumstances. Having a conflict of interest is not illegal – if you take appropriate steps to remove yourself from all official and official considerations of the circumstances.

Confidential information you learn while a member of the City Council does not become public when you leave the City Council, so you may not disclose to KCP & L (or anyone else!) such information.⁷

For one year after leaving the City Council, you may not attempt to influence any decision by the City Council, or other part of the City, for KCP & L. There are two exceptions. You may assist with bid preparations or other work on a public bid for work from the City. You may work on adversarial proceedings before the City involving KCP & L. Adversarial proceedings do not include political or policy matters.



William Geary
City Attorney

⁶ §2-2044(b)(2), Code of Ordinances.

⁷ §2-2050, Code of Ordinances.