

BILL NO 15-140

RESOLUTION NO

2908

A RESOLUTION AMENDING AND ADOPTING THE  
CITY'S POLICY TO CONFORM WITH THE MISSOURI  
OPEN MEETINGS AND RECORDS LAW

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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE  
GIRARDEAU, MISSOURI, AS FOLLOWS

WHEREAS, the Missouri General Assembly enacted the Missouri  
Open Meetings and Records Law,

WHEREAS, Section 610 028(2) of the Open Meetings and  
Records law requires each political subdivision to provide a  
reasonable written policy in compliance with Sections 610 010 to  
610 030 RSMo ,

NOW THEREFORE, BE IT RESOLVED THAT the city Council of the  
City of Cape Girardeau, Missouri, hereby supersedes Resolution  
No 1989 and adopts the following policy to apply to all  
governmental bodies and committees of this municipality

ARTICLE 1 All meetings, records and votes are open to the  
public, except the governmental body may close any meeting,  
record or vote relating to the following

1 Legal actions, causes of action or litigation  
involving a public governmental body and any confidential or  
privileged communications between a public governmental body or  
its representatives and its attorneys However, any minutes,  
vote or settlement agreement relating to legal actions, causes  
of action or litigation involving a public governmental body or  
any agent or entity representing its interest or acting on its  
behalf or with its authority, including any insurance company  
acting on behalf of a public government body as its insured,  
shall be made public upon final disposition of the matter voted  
upon or upon the signing by the parties of the settlement  
agreement, unless, prior to final disposition, the settlement  
agreement is ordered closed by a court after a written finding  
that the adverse impact to a plaintiff or plaintiffs to the  
action clearly outweighs the public policy considerations of  
section 610 11, however, the amount of an moneys paid by, or on  
behalf of, the public governmental body shall be disclosed,  
provided, however, in matters involving the exercise of the  
power of eminent domain, the vote shall be announced or become

public immediately following the action on the motion to authorize institution of such a legal action Legal work product shall be considered a closed record

2 Lease, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor However, any minutes, vote or public record approving a contract relating to the lease, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate

3 Hiring, firing, disciplining or promoting of particular employees of a public governmental body when personal information about the employee is discussed or recorded However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body must be made available with a record of how each member voted within seventy-two hours of the close of the meeting where such action occurs, provided, however, that any employee so affected shall be entitled to prompt notice before such decision is made available to the public

4 Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological or alcoholism or drug dependency diagnosis or treatment

5 Testing and examination materials, before the test or examination is given or if it is to be given again before so given again

6 Welfare cases of identifiable individuals

7 Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups

8 Software codes for electronic data processing and documentation thereof

9 Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid

10 Sealed bids and related documents, until the bids are opened, and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected

11 Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such

12 Records that are protected from disclosure by law

13 Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest

14 Records relating to municipal hotlines established for the reporting of abuse and wrongdoing

15 Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product, however, all final audit reports issued by the auditor are to be considered open records pursuant to State law

16 Operational guidelines, policies and specific response plans developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health Financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records

17 Existing or proposed security systems and structural plan of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans

for protection of that infrastructure, the public disclosure of which would threaten public safety

a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open

b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records

c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed within ninety days of submission to determine if retention of the document is necessary in furtherance of a security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed

18 The portion of a record that identifies security systems or access codes or authorization codes for security systems of real property

19 Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open

20 Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a

person or entity doing business with a public governmental body Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body

ARTICLE 2 All records that may be closed hereby are deemed closed records unless the governmental body votes to make them public Before closing a meeting to the public, a majority of a quorum of the governmental body must vote to do so in a public vote The vote of each member of the governmental body on the question of closing the meeting or vote and the reason for closing the meeting by reference to a specific exception shall be announced at a public meeting and entered into the minutes

ARTLICE 3 The governmental body shall give notice of the time, date, and place of a closed meeting and the reason for holding it by reference to a specific exception The notice shall be the same as in ARTICLES 4 and 5 below No other business may be discussed in a closed meeting that does not directly relate to the specific reason announced to close the meeting to the public Public governmental bodies holding a closed meeting must close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session

ARTICLE 4 The governmental body shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated 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 shall post a notice of the meeting on its website in addition to on the appropriate bulletin board at City Hall, and shall notify the public how to access that meeting Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on the appropriate bulletin board at City Hall which is easily

accessible to the public and clearly designated for that purpose

ARTICLE 5 Notice conforming with all of the requirements of ARTICLE 4 above shall be given at least twenty-four hours, exclusive of weekends and holidays when the facility is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals

a) When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes

b) If another provision of law requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section

c) A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting The minutes shall 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 shall attribute each "yea" and "nay" vote or abstinence if not voting to the name of the individual member of the public governmental body

ARTICLE 6 A formally constituted subunit of a parent governmental body may conduct a meeting without notice during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the

subjects discussed or acted upon by the parent governmental body

ARTICLE 7 A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of ARTICLE 1 shall be permitted without permission of the public body, any person who violates this provision shall be guilty of a class C misdemeanor.

ARTICLE 8 Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exceptions above.

ARTICLE 9 Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. The City Clerk shall be the custodian of records and will be responsible for maintenance and control of all records. The custodian shall provide a response and/or public access to all public records as soon as possible but no later than the end of the third business day following the date the request is received by the custodian. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If additional delay is necessary, the custodian shall give an explanation for the delay and the date the record will be available for inspection. This period for document production may exceed three days for reasonable cause.

a) If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to

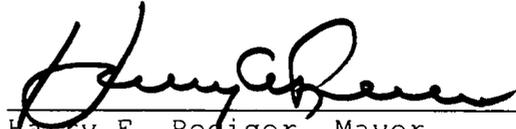
the requester no later than the end of the third business day following the date the request for the statement is received

b) The custodian shall charge duplication costs of ten cents (\$ 10) per page for up to 9 by 14 paper, an hourly fee for duplicating time not to exceed the average hourly rate for clerical staff, and the actual costs of research time. The custodian may require payment prior to duplicating copies. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or at a reduced charge when the City Manager determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the request. Payment of such copying fees may be requested prior to the making of copies.

c) Fees for providing access to public records maintained on computer facilities, recording, tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

d) The custodian may designate deputy custodians in the following departments: administrative services, development services, parks and recreation, public safety and public works.

PASSED AND ADOPTED THIS 3rd DAY OF August, 2015

  
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Harry E Rediger, Mayor

ATTEST

  
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Gayle L Conrad, City Clerk

