

***City Council  
Legal Review Committee  
Meeting Agenda***

**September 17, 2015  
City Hall – City Manager’s Office  
749 Main Street  
4:00 pm**

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Agenda**
- 4. Public Comments on Items Not on the Agenda**  
(Council requests that public comments be limited to 3 minutes.)
- 5. Approval of March 19, 2015 Minutes**
- 6. Presentation – Judge Joss, Minor in Possession Program**
- 7. Draft Policy for 501c3 Organizations Affiliated with the City**
- 8. Judicial Appointment Process & Judicial Salaries and Fees for 2016**
- 9. Lawsuit Settlements/Litigation Updates**
- 10. Potential Discussion Items for Next Meeting – December 17, 2015**
- 11. Adjourn**

***City Council  
Legal Review Committee  
Meeting Minutes***

**March 19, 2015  
City Hall  
749 Main Street  
4:00 PM**

**Call to Order** – Chairperson Sue Loo called the meeting to order at 4:05 PM.

**Roll Call:** The following members were present:

**Committee Members:** *Jeff Lipton, City Council  
Chris Leh, City Council (by phone)  
Sue Loo, City Council*

**Absent:** *None*

**Staff Present:** *Malcolm Fleming, City Manager  
Sam Light, City Attorney  
Meredyth Muth, Public Relations Manager*

**Others:** *None*

**APPROVAL OF AGENDA**

The agenda was approved as presented.

**PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

None

**APPROVAL OF MINUTES FROM JANUARY 15, 2015**

The minutes were approved by all members as presented.

**CITY COUNCIL EMAIL PROCEDURES**

City Attorney Light reviewed the packet materials and some examples of different policies from other cities.

Lipton stated he would like to see a short, concise list of do's and don'ts. He would also like a standard email footer he can add to this emails that explains the

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***City of Louisville***

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item is informational only and that recipients on Council should not “reply to all” on emails.

Leh added he would like something that is clear and that won’t muddy the waters or make it more confusing.

Light added that it needs to be clear that email is not to be used as a serial meeting.

Loo agreed a short do’s and don’ts list would be sufficient. She didn’t think a formal policy was needed.

Leh recommended the Council hold a study session on this to make sure all of the City Council understood the rules.

### **ROLE & LIABILITY OF 501C3 ORGANIZATIONS AFFILIATED WITH THE CITY**

Muth noted the City has five non-profit, 501c3 boards that are affiliated with the City which in one form or another raise funds for City programs or facilities. They are the Cultural Council, the History Foundation, the Friends of the Arboretum, the Seniors of Louisville, and the Library Foundation. Muth noted staff has some concerns about what liabilities the City may be exposed to related to the 501s. Specific concerns related to legal liability, staff time, meeting practices, and fund raising.

Lipton noted it appears the City is taking all the risk for the boards. He thought perhaps the 501s should be required to follow the City’s fiscal rules.

Loo added that the boards not carrying liability insurance makes her nervous.

Leh questioned if the boards might not already have some liability coverage based on state statute.

Lipton stated the worst case scenario could be a liquor violation and a law suit. If that were to happen no one hearing about the case would really distinguish between the City and the 501.

Loo asked if the City should consider asking the organizations to convert to become instruments of the City, rather than independent boards or should they remain separate which might have other implications.

Lipton stated he wasn’t sure the risk of liability issues is worth keeping the 501s associated with the City. He stated there should be a policy stating what is required for a 501 to be affiliated with the City, he specifically noted the boards

should maintain their own liability insurance and the City should do an annual review of the 501's financial statements and tax returns.

Loo stated there may be some concern with transparency if 501s are taking money for City projects not related to their specific mission. For example the Helburg Memorial funding is being held by the History Foundation and the Friends of the Arboretum are holding funds for the Sustainability Board's community garden.

Leh stated he is uncomfortable with any situation where the City is, or appears to be, delegating authority over City fund or projects to a private entity even if it is a non-profit.

Fleming suggested staff draft a policy on how a 501 can be affiliated with the City for the Committee to review at its next meeting.

Loo asked that following Legal Committee review of such a policy it should go to a Council Study Session and be discussed directly with each of the non-profits it would affect.

#### **DOOR-TO-DOOR SALES REGULATIONS**

Light stated he was looking for initial thoughts on if the rules need to be updated as there is some question whether the existing law would hold up in court. He added the trend is moving away from outright door-to-door sales bans. There are no specific law suits or court rulings requiring us to change the City's existing rules, but the general implication is that a total ban would not stand if a law suit was brought against the City.

Lipton noted this is an emotional issue for residents and unless there is a compelling reason to change the policy now, he would suggest leaving it as is.

Loo stated she doesn't think most residents know there is a ban currently and she wouldn't be averse to updating the law with something more current.

Lipton stated this is a lifestyle issue for most residents and he doesn't want to change it until we are required to.

Leh stated that if there is no definitive ruling we should wait until we have one before making a change.

Members decided to take no action at this time.

#### **LAWSUIT SETTLEMENTS/LITIGATION UPDATES**

Light gave an update: the Harper Litigation was resolved at mediation and the City was named in the Takoda/Public Service Company condemnation proceedings.

**DATE OF NEXT MEETING**

The next meeting will be June 4 at 4 PM.

**POTENTIAL DISCUSSION ITEMS FOR NEXT MEETING**

Draft policy of 501c3 affiliation with the City.

**ADJOURN**

The meeting adjourned at 5:35 PM.

DRAFT

**SUBJECT: DRAFT POLICY REGARDING 501c3 ORGANIZATIONS  
AFFILIATED WITH THE CITY**

**DATE: SEPTEMBER 17, 2015**

**PRESENTED BY: MEREDYTH MUTH, PUBLIC RELATIONS MANAGER**

**SUMMARY:**

In March the Legal Review Committee discussed the role of and liability issues related to the five 501c3 nonprofit organizations affiliated with the City. All parties agree the different 501c3s do good work for the City and offer great support for City programs and facilities, however there is concern related to liability issues that may arise and how to differentiate between an outside fund raising group acting independently and the City itself. At that time the Committee directed staff to prepare a draft policy identifying rules a 501c3 would need to abide by to be affiliated with the City.

Currently there are five 501c3 non-profit entities are affiliated with the City, either through a board or commission or through a facility. These boards raise funds that are spent directly on City programs or facilities.

- Cultural Council
- History Foundation
- Friends of the Arboretum
- Seniors of Louisville
- Library Foundation

Of these five, three (Library, Seniors, History) are distinct boards that act separately from a City board, one (Arboretum) has a number of members who sit both on the 501c3 and the Horticulture & Forestry Advisory Board (HFAB), and one (LCC) for which all members appointed to the City board are then also directors of the 501c3.

Staff agrees with comments made at the March meeting that we want to make it easy for the 501s to do business. That said, the suggestions below are designed to protect both the City and the 501c3s.

Staff recommends the following policy:

Any nonprofit 501c3 organization formed specifically to raise funds for City facilities or programs, or created in association with an official City board, shall agree to the following rules:

1. The 501c3 shall carry, at its own cost, liability insurance covering the actions of its directors.
2. A clear scope of work identifying the duties of the directors of the 501c3 as separate from the duties of City board members shall be created.
3. The 501c3 shall provide the City with an annual financial report and yearly tax returns.
4. No City funds shall be used by the 501c3 for advocacy purposes. If the 501c3 donates money for a political cause it shall clearly be from non-City funding.
5. City staff time, use of City facilities, and use of City resources by the 501c3 will be limited to what a department director approves.
6. The 501c3 shall have a nondiscrimination policy.

### **Background**

As discussed in March, these rules are trying to address the following issues.

#### *Liability:*

Currently all members appointed to a City board are listed as “public officials” on the City’s liability insurance. They are covered as long as they are acting within their “scope of work” for the board but in some cases there is no distinction between when members are acting for the City board or for the 501c3.

#### *Staff time:*

Departments already give the 501s a certain amount of staff time and a meeting place at no charge. It varies, but some departments do not want to offer additional staff time to the 501s and would actually like to lessen the amount of work they do on their behalf. What is the expectation for staff time and the use of City facilities?

Bylaws for some of the groups include specific references where City staff time is required: filing paperwork, reviewing financials, publishing meeting announcements, etc. Should this be a board or City function?

#### *Money/purchasing policies/fund raising:*

Are those 501s comprised of City-appointed members required to adhere to the City’s policies when spending the 501’s money?

### **FISCAL IMPACT:**

None.

**SUBJECT: 501c3 ORGANIZATIONS AFFILIATED WITH THE CITY**

**DATE: SEPTEMBER 17, 2015**

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**RECOMMENDATION:**

Discussion. If the Committee agrees to the draft policy staff will send the draft to the various boards for their input and take this item to the full City Council for approval.

**ATTACHMENT(S):**

None.

**SUBJECT: JUDICIAL APPOINTMENT PROCESS & JUDICIAL SALARIES  
AND FEES FOR 2016**

**DATE: SEPTEMBER 17, 2015**

**PRESENTED BY: MEREDYTH MUTH, PUBLIC RELATIONS MANAGER**

**SUMMARY:**

In January of even numbered years, following the regular City Council election, the Council appoints the Municipal Judge, Deputy Municipal Judge, and Prosecuting Attorney for two-year terms. Currently Bruce Joss (appointed 2002), Jeffery Cahn (appointed 2012), and Collette Cribari (appointed 2010) serve in those respective positions. In previous years the City Council has reappointed each position without interviews or considering alternative candidates. Staff would like a recommendation from the Committee regarding this process and if you would recommend any changes for 2016.

The Judge and Prosecuting Attorney have not had their rates increased since 2011 and the Deputy Judge's rates have not changed since his appointment in 2012. Judge Joss has requested the City Council consider raising his salary for 2016. Market salary information for each position is included in this packet. Staff would like a recommendation from the Committee on any salary changes. Any recommendation would be reflected in the proposed 2016 Budget for full Council consideration.

**FISCAL IMPACT:**

Any recommended increases in salary will be reflected in the proposed 2016 Budget.

**RECOMMENDATION:**

Discussion

**ATTACHMENT(S):**

1. Market salary information

**City Classification Title:** Municipal Judge

**CML Title:** Municipal Judge

**CML Job ID:**
**Position Narrative:**

The Municipal Judge is two-year City Council appointment. The process is governed by C.R.S. 13-10-105 and the Section 2..32.010 of the Louisville Municipal Code. The Louisville Municipal Court is a qualified court of record as defined under C.R.S. 13-10-102. Cases heard in the Municipal Court are traffic and municipal code violations. The Judge presides at two 4-hour sessions Monday sessions of arraignments Tuesdays are schedule for trials Thursdays a month are tentatively scheduled as overflow days, but are not generally used. Total hours in Court range from 8-12 per month. The Judge is on call for arraignments of prisoners on bond hearings. Court Staff may contact the Judge during business hours for direction on non-routine Court matters.

| Jurisdiction                                      | Title           | Monthly salary | Avg. cost per hour | Estimated hours per month | Avg. cost per session | Sessions per month | Comments   |
|---|-----------------|----------------|--------------------|---------------------------|-----------------------|--------------------|--|
| Dacono  | Municipal Judge | \$ 500         | \$ 125             | 4                         | \$500                 | 1                  | One - Four Hour Session per month but paid the same flat fee regardless of time session takes  |
| Erie  | Municipal Judge | \$ 1,600       | \$ 200             | 8                         | \$800                 | 2                  | Two - Four Hour Sessions per month   |
| Firestone   | Municipal Judge | \$ 1,300       | \$ 163             | 8                         | \$650                 | 2                  | Two - Four Hour Sessions per month   |
| Frederick   | Municipal Judge | \$ 1,200       | \$ 150             | 8                         | \$1,200               | 1                  | One- Eight Hour Session per month  |
| Golden  | Municipal Judge |                |                    |                           |                       |                    | Did not feel comfortable providing data since this is a contract position                      |
| Lafayette   | Municipal Judge | \$ 2,711       | \$ 339             | 8                         | \$1,356               | 2                  | Two - Four Hour Sessions per month   |
| Superior  | Municipal Judge | \$ 1,250       | \$ 208             | 6                         | \$625                 | 2                  | One - Six Hour Session per month   |
|   | <b>Median</b>   | \$ 1,275       | \$ 181             | 8                         | \$725                 | 2                  |  |
|   | <b>Average</b>  | \$ 1,427       | \$ 197             | 7                         | \$855                 | 2                  |  |
| Louisville  | Municipal Judge | \$ 2,000       | \$ 250             | 8                         | \$1,000               | 2                  | Two arraignments per month approximately 4 hours each + may add additional sessions if needed. |
| <b>Pay Increase of our rate at market:</b>        |                 | \$ (573)       | \$ (53)            | (1)                       | (\$145)               | (0)                |  |
| <b>Percentage Increase of our rate at market:</b> |                 | -28.66%        | -21.02%            | -12.50%                   | -14.49%               | -16.67%            |  |

**2016 Recommendation:** Current monthly salary (and average cost per session) is above market average so maintain current salary. **No Change is recommended**

**City Classification Title** Deputy Judge

**CML Title:** Associate Judge

**CML Job ID:**

**Position Narrative:**

The Deputy Municipal Judge is a two-year City Council appointment. The process is governed by C.R.S. 13-10-105 and the Section 2.32.010 of the Louisville Municipal code. The Louisville Municipal Court is a qualified court of record as defined under C.R.S. 13-10-102. Cases heard in the Municipal court are traffic and municipal code violations. The Deputy Judge serves in the absence of the Presiding Judge, in the event of a conflict of interest.

| Jurisdiction | Title          | Cost per session | Sessions per month | Average Cost per session | Comments  |
|--------------|----------------|------------------|--------------------|--------------------------|---|
| Dacono       |                |                  |                    |                          | NO Alternate Judge  |
| Erie         |                |                  |                    |                          | NO Alternate Judge  |
| Firestone    | Deputy Judge   | \$200.00         | 2                  | \$ 100.00                | An additional \$50 an hour after a 4-hour session   |
| Frederick    |                |                  |                    |                          | NO Alternate Judge  |
| Golden       |                |                  |                    |                          | NO Alternate Judge  |
| Lafayette    |                |                  |                    |                          | NO Alternate Judge  |
| Superior     | Deputy Judge   | \$565.00         | 1                  | \$ 565.00                | The Associate Judge is rarely used in Superior but this would be a flat amount when used. |
|              | <b>Median</b>  | \$382.50         | 1.50               | \$332.50                 |   |
|              | <b>Average</b> | \$382.50         | 1.50               | \$332.50                 |   |
| Louisville   | Deputy Judge   | \$325.00         | 1.00               | \$325.00                 | \$325 per 4 hour session  |

**Pay Increase of our rate at market:** \$57.50 1 \$7.50

**Percentage Increase of our rate at market:** 17.69% 2%

**Increase the Deputy Judge salary per session to 2016 Recommendation the average of \$382.50.**



City Classification Title: Municipal Prosecuting Attorney

CML Title: Municipal Prosecuting Attorney

CML Job ID: 1072

Position Narrative:

The Municipal Prosecutor is a two-year City Council appointment. Cases heard in the Municipal Court are traffic and municipal Code violations. The Prosecuting Attorney is present at two 4-hour arraignments per month and two 4-hour trial session per month. Two overflow days a scheduled each month, but are not generally used. The total hours for the Court range from 8-12 hours per month. The Prosecutor is on call for arraignments of prisoners on bond hearings.

| Jurisdiction                | Title   | Hrly Rate | Comments  |
|-----------------------------|---|-----------|---|
| Dacono                      | Prosecuting Attorney                              | \$125.00  | Typically, one-four hour session per month and \$500 per session flat fee regardless of time. |
| Erie                        | Prosecuting Attorney                              | \$110.00  | Per Hour  |
| Firestone                   | Prosecuting Attorney                              | \$150.00  | \$600 Per Session/ Two 4-hour sessions  |
| Frederick                   | Prosecuting Attorney                              | \$120.00  | Contract position   |
| Golden                      | Prosecuting Attorney                              |           | Did not feel comfortable providing data since it is a contract position                       |
| Lafayette                   | Prosecuting Attorney                              | \$312.50  | Averages \$2500 per month/ Two 4-hour sessions per month                                      |
| Superior                    | Prosecuting Attorney                              | \$175.00  | Per Hour  |
|                             | <b>Median</b>                                     | \$137.50  | Per Hour  |
|                             | <b>Average</b>                                    | \$165.42  | Per Hour  |
| Louisville                  | Prosecuting Attorney                              | \$105.00  | Per Hour  |
|                             | <b>Pay Increase of our rate at market:</b>        | \$60.42   | Per hour  |
|                             | <b>Percentage Increase of our rate at market:</b> | 58%       |   |
| <b>2016 Recommendation:</b> | <b>Increase pay per hour to average of market</b> | \$165.00  |   |