



MISSOURI ETHICS COMMISSION

P.O. Box 1370
Jefferson City, MO 65102
www.mec.mo.gov
(573) 751-2020 / (800) 392-8660

James Klahr
Executive Director

March 30, 2016

Kenneth Blankenship
Councilman Ward 4 and Director of Public Works
9623 St. Charles Rock Road
Breckenridge Hills MO 63119

RE: 15-0043-I

Dear Mr. Blankenship:

A Letter of No Further Action is issued to you pursuant to the authority granted to the Missouri Ethics Commission in Section 105.961.4(5).

The Commission has accepted the submission of the Joint Stipulation of Facts, Waiver of Hearings Before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law in this matter, a copy of which is marked as Exhibit A and incorporated herein by reference.

The Commission has found probable cause to believe that you violated Section 105.458, RSMo by performing services for compensation for the City of Breckenridge Hills, Missouri without going through the formal bidding process set forth at Section 104.458.2, RSMo.

The Commission hereby issues this letter that it will take no further action for violation of Section 105.458, RSMo.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Hagan".

Nancy Hagan, Chair
Missouri Ethics Commission

Cc: Paul Martin

**BEFORE THE
MISSOURI ETHICS COMMISSION**

Filed
MAR 30 2016
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
)	Case No. 15-0043-I
v.)	
)	
KENNETH BLANKENSHIP,)	
)	
Respondent.)	

CONSENT ORDER

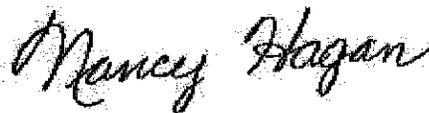
The parties have filed a Joint Stipulation of Facts, Waiver of Hearing, and Proposed Consent Order with the Missouri Ethics Commission. Accordingly, the Missouri Ethics Commission accepts as true the facts stipulated and finds that Respondent Blankenship violated Section 105.458.1, RSMo.

The Commission directs that the Joint Stipulation be adopted.

1. Respondent shall comply with all relevant sections of Chapter 105, RSMo.
2. It is the order of the Missouri Ethics Commission that the City of Breckenridge Hills, Missouri adopt an ordinance addressing the pay issue of City Council members.

SO ORDERED this 30th day of March, 2016

By:



Nancy Hagan, Chair
Missouri Ethics Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

Filed
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Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
)	Case No. 15-0043-I
v.)	
)	
Kenneth Blankenship,)	
)	
Respondent.)	

**JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE MISSOURI ETHICS COMMISSION, AND
CONSENT ORDER WITH JOINT PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The undersigned parties jointly stipulate to the facts and consent to the action set forth below.

The undersigned Respondent, Blankenship, acknowledges that he has received and reviewed a copy of the complaint filed by the Petitioner in this case, and the parties submit to the jurisdiction of the Missouri Ethics Commission.

The undersigned Respondent further acknowledges that he is aware of the various rights and privileges afforded by law, including but not limited to: the right to appear and be represented by counsel; the right to have all allegations against Respondent be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondent; the right to present evidence on Respondent's behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to Respondent by operation of law, the undersigned Respondent knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of Hearing before the Missouri Ethics Commission, and Consent

Order with Joint Proposed Findings of Fact and Conclusions of Law, and agrees to abide by the terms of this document.

I.

Based upon the foregoing, the Petitioner and the undersigned Respondent jointly stipulate to the following and request that the Missouri Ethics Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law, as follows:

JOINT PROPOSED FINDINGS OF FACT

1. The Missouri Ethics Commission is an agency of the State of Missouri established pursuant to Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 105, RSMo.
2. Respondent Blankenship is an elected member of the city council, Ward 4, for Breckenridge Hills, Missouri, and was first elected in April 2008.
3. As a member of the city council, Respondent Blankenship was paid \$200 per month.
4. Breckenridge Hills, Missouri, is a third class city, under Chapter 77, RSMo, and a political subdivision of the State of Missouri.
5. In May 2013, and again in May 2015, the mayor of the City of Breckenridge Hills, with the approval of the City Council, named Respondent Blankenship as Director of Public Works.
6. As Director of Public Works, Respondent Blankenship received \$100 per month in addition to the \$200 per month he received as a member of the city council.
7. The minutes of the City of Breckenridge Hills do not reflect a specific vote authorizing an additional \$100 per month for Respondent Blankenship as Director of Public

Works. The City of Breckenridge Hills does not have an existing ordinance specifically authorizing an additional \$100 per month for a member of the city council who also serves as Director of Public Works, as some of the city's ordinances were lost in a flood.

8. Pursuant to Sections 105.957 and 105.961; RSMo, the Commission's staff investigated a complaint filed with the Commission and reported the investigation findings to the Commission.

9. Based on the report of the Commission's staff, the Commission determined that there were reasonable grounds to believe that violations of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

10. On January 25, 2016, the City of Breckenridge Hills enacted Ordinance No. 1241, a copy of which is attached as Exhibit A. Ordinance No. 1241 amended the city's Municipal Code Sections 110.030 and 110.040, permitting the appointment and the additional compensation of a council member as Director of Public Works, among other offices, provided such action is in compliance with state law, and specifically Section 115.458.2 R.S.Mo.

JOINT PROPOSED CONCLUSIONS OF LAW

11. "No member of any legislative or governing body of any political subdivision of the state shall ... [p]erform any service for such political subdivision or any agency of the political subdivision for any consideration other than the compensation provided for the performance of his or her official duties, except as otherwise provided in this section."

§ 105.458.1(1), RSMo.

12. "No sole proprietorship ... in which any member of any legislative body of any political subdivision is the sole proprietor ... shall:

(1) Perform any service for the political subdivision or any agency of the political subdivision for any consideration in excess of five hundred dollars per transaction or five thousand dollars per annum ... unless the transaction is made pursuant to an award on a contract let after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received;

§ 105.458.2, RSMo.

13. The City of Breckenridge Hills is a third class city under Chapter 77, RSMo, and a political subdivision of the State of Missouri.

14. In a third class city, the Mayor and City Council have the “care, management, and control” of the city. § 77.260, RSMo.

15. The City Council is the legislative branch of the city. Breckenridge Hills Municipal Code § 110.030.

16. The City Council receives compensation set by ordinance from time to time. Breckenridge Hills Municipal Code § 110.040.

17. “The compensation received by any Council person for performance of their duties as a department head shall be contingent upon their attendance at Council meetings.” Breckenridge Hills Municipal Code § 110.040.B.

18. For purposes of the Breckenridge Hills Municipal Code, the term department head means “The employee or elected official designated by the city to administer a department of the City.” Breckenridge Hills Municipal Code § 120.020.

19. The Breckenridge Hills Mayor is authorized, with the consent and approval of a majority of the members elected to the City Council, to appoint a Public Works Director. § 77.330, RSMo; Breckenridge Hills Municipal Code §§ 110.090; 115.060.

20. There is probable cause to believe that Respondent Blankenship violated Section 105.458, RSMo, by performing services for compensation for the City of Breckenridge Hills, without going through the formal bidding process set forth at Section 105.458.2, RSMo.

II.

Based on the foregoing, the parties hereto mutually agree and stipulate that the following shall constitute the order entered by the Missouri Ethics Commission in this matter. This order will be effective immediately upon the issuance of the Consent Order of the Missouri Ethics Commission without further action by any party:

1. The parties understand that the Petitioner will maintain this Joint Stipulation as an open and public record of the Missouri Ethics Commission.
2. The Commission shall issue its Consent Order in the form attached hereto as Exhibit B.
 - a. Respondent shall comply with all relevant sections of Chapter 105, RSMo.
 - b. The Missouri Ethics Commission acknowledges that the City of Breckenridge Hills has enacted Ordinance No. 1241, attached as Exhibit A, amending Sections 110.030 and 110.040 of the Municipal Code of the City of Breckenridge Hills, Missouri, thus permitting the appointment and compensation of a council member as Director of Public Works, among other offices, provided such action is in compliance with state law, and specifically Section 115.458.2 R.S.Mo.
 - c. It is the Order of the Missouri Ethics Commission that a letter be issued stating that no further action shall be taken, pursuant to Section 105.961.4(5), RSMo.

3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.

4. Respondent, together with his heirs, successors, and assigns, does hereby waive, release, acquit, and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, a claim for attorney's fees whatsoever which Respondent or Respondent's attorney may now have or which they may hereafter have, which are based upon or arise out of the above cases.

RESPONDENT Kenneth Blankenship

By: Kenneth Blankenship 2-4-16
Kenneth Blankenship Date

By: Paul Martin 2/1
Paul Martin Date
Attorney for Respondent

PETITIONER MISSOURI ETHICS
COMMISSION

By: James Klahr 3/30/16
James Klahr Date
Executive Director

By: Curtis R. Stokes 3/30/16
Curtis R. Stokes Date
Attorney for Petitioner

STATE OF MISSOURI)
COUNTY OF ST LOUIS) S.S.
CITY OF BRECKENRIDGE HILLS)

I, Sheree M. Leamon, City Clerk of Breckenridge Hills, Missouri, do hereby certify that the

attached is a true and correct copy of Ordinance 1241

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City at my

office in the City Hall this 3rd day of February, 2016



City Clerk

SEAL

12-21-15
FIRST READING

1-25-16
SECOND READING

BILL NO. 1323

ORDINANCE NO. 1241

AN ORDINANCE AMENDING THE BRECKENRIDGE HILLS MUNICIPAL CODE RELATING TO THE PERFORMANCE OF COUNCIL MEMBERS OF ADMINISTRATIVE DUTIES AND COMPENSATION THEREOF AND DIRECTING THE SOLICITATION OF PROPOSALS FOR THE OFFICE OF DIRECTOR OF PUBLIC WORKS.

WHEREAS, Council Member Ken Blankenship was first elected to office in April 2008 and has been re-elected to the same office in April of 2010, 2012, and 2014; and

WHEREAS, like all other council members, Mr. Blankenship has received compensation for his legislative services, now consisting of \$200 per month;

WHEREAS, in May of 2013, and again in May of 2015, Council Member Blankenship was appointed by the Mayor to serve in the additional administrative capacity of the City's Director of Public Works, which requires him to direct, supervise, and perform various duties relating to the city's public works projects and to act as liaison between the City Council and the St. Louis Metropolitan Sewer District, the Missouri Department of Transportation, and the St. Louis County Highway and Park Commission;

WHEREAS, Mr. Blankenship's duties, which he has performed well and with extraordinary diligence, are in addition to those legislative duties as a City Council Member, and for those additional duties the Breckenridge Hills City Council authorized, in August of 2013, additional compensation in the sum of \$100 per month; and

WHEREAS, despite Mr. Blankenship's extraordinary service to the City and the minimal compensation he has received in return, a city resident filed a complaint with the Missouri Ethics Commission alleging that Mr. Blankenship's additional compensation violated Section 105.458.1(1) of the Revised Statutes of Missouri, which prohibits any member of a legislative body from performing "any service for [the City] for any consideration other than the compensation provided for the performance of his or her official duties, except as otherwise provided in this section . . ."; and

WHEREAS, Section 105.458.2(1) of the Revised Statutes of Missouri further states that a council member, acting as a sole proprietor, may perform compensated services to the City, provided that the compensation for such services not exceed five hundred dollars per transaction or five thousand dollars per year, and provided further that the work be awarded by contract "let after public notice and competitive bidding", so long as the bid is the lowest received; and

WHEREAS, the City Council desires to amend and clarify the germane provisions of the Breckenridge Hills City Code and to further provide for the public bidding and appointment of a Director of Public Works to comply with Section 105.458.2(1) of the Revised Statutes of Missouri;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BRECKENRIDGE HILLS, MISSOURI AS FOLLOWS:

Section One.

Sections 110.030 and 110.040 of the Municipal Code of the City of Breckenridge Hills, Missouri are hereby repealed, and two new Sections 110.030 and 110.040 are enacted in lieu thereof, to read as follows:

TITLE I

GOVERNMENT CODE

CHAPTER 110

CITY COUNCIL

ARTICLE I

CITY COUNCIL AND MAYOR

SECTION 110.030 CITY COUNCIL—COMPOSITION—DUTIES AND POWERS

- A. The City Council, consisting of eight members, shall be the legislative branch of the City Government and shall perform such duties and have such powers as provided by Missouri statute.
- B. Any member of the City Council may be appointed as City Treasurer, Purchasing Agent, Director of Public Works, Electrical Inspector, Building and Parks Director, or such other administrative officer; provided, however, that if the administrative appointment is a paid position, the appointment can only be made after compliance with Section 110.040 below.

SECTION 110.040

COMPENSATION

- A. The members of the City Council shall receive as compensation for their legislative services such monthly sum as may be set by ordinance from time to time, provided that any increase shall not become effective until the beginning of the next following term for each council office. Should any member resign or be removed from office during any month, such member shall be paid at the same rate per month on a prorated basis.

- B. Any member of the City Council appointed as an administrative officer of the City may receive as compensation for their administrative services if the services to be performed by such officer are in addition to those legislative services required by law of a council member.
- C. A council member may be compensated for administrative services only if the administrative appointment is made, consistent with Section 105.458.2, RSMo, by contract let after public notice and competitive bidding and only if the member's bid is the lowest and best responsive bid received. The compensation to be paid shall be set by ordinance from time to time but shall not exceed \$500.00 per transaction or \$5000.00 per year, or such other sum as may be provided by state law.

Section Two.

The City Clerk is authorized and directed to solicit requests for proposals for the position of Director of Public Works consistent with the requirements of the office as established by Section 115.060 of the Breckenridge Hills City Code. The City Clerk is further directed to cease paying additional compensation to Mr. Blankenship for his service as Director of Public Works immediately on the passage and approval of this Ordinance.

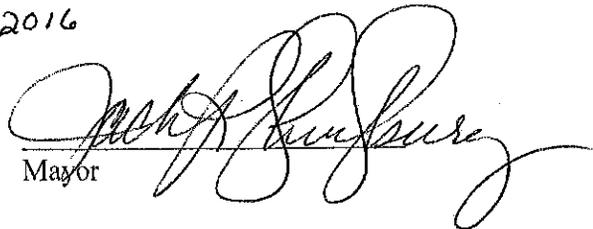
Section Three.

Effective with the appointment of a Public Works Director as provided in this Ordinance, the compensation for such administrative office shall be the amount bid pursuant to Section 110.040(C) of the Municipal Code.

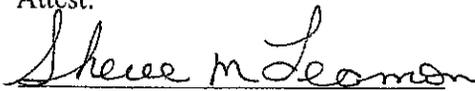
Section Four.

This Ordinance shall be in full force and effect from and after its passage and approval according to law.

PASSED THIS 25th DAY OF JANUARY, ~~2015~~, 2016


Mayor

Attest:


Sheree Leamon, City Clerk