

ORDINANCE NO. 48

AN ORDINANCE PROVIDING FOR THE REPEAL OF ORDINANCE NUMBER 40 AND ENACTING A NEW ORDINANCE IN ITS PLACE RELATING TO OPEN MEETINGS AND RECORDS AND APPOINTING THE BOARD SECRETARY AS CUSTODIAN OF THE PUBLIC RECORDS OF THE O'FALLON FIRE PROTECTION DISTRICT OF ST. CHARLES COUNTY, MISSOURI, IN COMPLIANCE WITH STATE AND FEDERAL LAWS ON THE SAME SUBJECT.

WHEREAS, Chapter 610 of the Revised Statutes of the State of Missouri (the "Sunshine Law") establishes standards and procedures to assure public access to public meetings and records; and

WHEREAS, other federal and state laws have been enacted to protect the confidentiality of personal information, including health and medical records, and certain law enforcement and judicial matters; and

WHEREAS, the O'Fallon Fire Protection District of St. Charles County, Missouri, wishes to update its open meetings and records policy and ordinances to reflect the requirements of these statutes and protect legitimate privacy interests implicated by disclosure of public records; and

WHEREAS, Section 610.023.1 RSMo, provides that a public governmental body is to appoint a custodian of records who is to be responsible for the maintenance of that body's records and the identity and location of the custodian of records is to be made available upon request; and

WHEREAS, Section 610.026 RSMo, provides that a public governmental body may provide access to and, furnish copies of public records, upon request; and

WHEREAS, Section 610.028 RSMo, provides that a public governmental body shall provide a reasonable written policy in compliance with all provisions and procedures of the Sunshine Law, regarding the release of information on any meeting, record or vote.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE O'FALLON FIRE PROTECTION DISTRICT OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section No. 1: Custodian of Records Designated. The Board Secretary is hereby appointed Custodian of Records of the O'Fallon Fire Protection District and that such Custodian of Records is located at the Administrative Offices, 119 East Elm Street, O'Fallon, Missouri. Such designation does not mean that the Board Secretary will necessarily have all the records in his or her possession, but simply is an indication to whom requests for copies of records and information regarding the District government shall be directed. All District personnel are directed to provide to the Custodian of Records access to all records maintained, for purposes of responding to any public record request.

a. Any member of the Board of Directors who transmits any message relating to public business by electronic means shall also concurrently

transmit that message to the Custodian of Records in the same format. This shall only apply to messages sent by a member of the Board of Directors to another member of the Board of Directors so that, when counting the sender, a majority of the Board of Directors is copied. Any such message received by the Custodian of Records shall be a public record, subject, however, to the exceptions for closed records as provided by law.

b. Except as otherwise provided by law, the District shall provide access to, and, upon request, furnish copies of the District's public records subject to the provisions of this ordinance relating to fees. No person shall remove original public records from the District or from the office of the Custodian of Records without written permission of the Custodian of Records. The Board of Directors shall not grant to any person or entity, whether by contract, license, or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.

Section No. 2: Request for Records: All requests for public records shall be made to the Custodian of Records. Nonetheless, any official, employee, or volunteer of the District, including and person or entity contracting with the District, who receives a public record request is directed to forward such public record request to the Custodian of Records in a timely fashion, so that the Custodian of Records may ensure that a timely response is made to the request and that adequate records are kept regarding the request.

a. Any request directed to anyone other than the Custodian of Records will be forwarded to the Custodian of Records, as provided above. In the temporary absence of the Custodian of Records, when the response time to a request would exceed three (3) business days, the Financial Director shall assume temporarily the responsibilities of the Custodian of Records, when the requesting party so demands.

Section No. 3: Response to Sunshine Requests. That said Custodian of Records shall act upon all requests for access to or copies of a public record as soon as possible but in no event later than the end of the third (3rd) business day following the date the request is received by the Custodian of Records of records of the District, except in those circumstances authorized by statute. If public records are requested in a certain format, the Custodian of Records shall provide the public records in the requested format, if such format is available. If access to the public record is not granted immediately, the Custodian of Records shall give a detailed explanation of the cause for further delay and the earliest time and date that the public record may be available. This period for document production may exceed three (3) days for reasonable cause.

a. If a request for access is denied, the Custodian of Records shall, upon request, provide a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied.

b. The Custodian of Records may require persons seeking access to public records to submit such request in writing and/or on a form designated by the Custodian of Records for such purpose. Such written request shall be sufficiently particular to reasonably apprise the Custodian of Records of the records sought. The requesting party shall indicate on the request the manner in which a response is desired. In the absence of instructions to the contrary, it will be assumed that the

requesting party wishes to receive a response in the same form as the original request. If the requesting party refuses to submit such request in writing and/or on a form designated by the Custodian of Records, the Custodian of Records will complete the form for the requestor with his/her understanding of the verbal request and shall initial the written request with the date and time the request was received by the Custodian of Records, and indicate the manner in which the response will be given.

c. The Custodian of Records shall document the response provided for each request by at a minimum, noting on the written request or request form the date of the response, and what documents were provided, or if the request is denied, cite the specific provision of law for denial.

Section No. 4: Closed Records and Votes. All records of the District which are permitted or required to be closed records by reason of the Sunshine Law or by any other statute of Missouri, or by any statute or regulation of the United States government shall be maintained as closed records. No such closed record shall be released to any person who is not a part of the District staff, except that the District's auditor may see such records as are reasonably necessary to prepare an audit report as requested by the District and the District's attorney may see such records as are reasonably necessary to represent the District. Requests that closed records be opened to public inspection will be considered by the Board of Directors on a case-by-case basis pursuant to current statutes of the State of Missouri; provided however, that the Board of Directors shall not open records for public inspection required to be closed by law.

Section No. 5: Fees Charged. That the fees to be charged for access to or furnishing copies of records shall be as hereinafter provided: Fees may not exceed 10 cents per page for paper copies 9 X 14 or smaller, plus an hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. 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 documents. If programming is required to comply with a request for records or information, the fees for compliance may include the actual costs of such programming. Prior to producing copies of the requested records, the person requesting the records may request the District to provide an estimate of the cost to the person requesting the records. The Custodian of Records shall receive or may require payment prior to duplicating, or prior to expending the necessary research time or actual costs allowed by statute to fulfill the request. The requestor will be notified in written form of the estimated costs and the deposit or payment required prior to fulfilling the request.

a. The Custodian of Records is empowered to waive the collection of any fees to any representative of the news media that routinely covers the business of the District by taking into consideration the scope of District resources required to fulfill said request and the number of requests received from a single person or organization in any one calendar year.

b. The Custodian of Records is empowered to waive the collection of any fees to any citizen of the District if fees total less than \$5.00, by taking into consideration the scope of District resources required to fulfill said request and

taking into consideration the number of requests received from the same person or organization in any one calendar year.

Section No. 6: Penalty for Disclosure of Closed Records. Any official, employee, or volunteer of the District, including any person or entity contracting with the District, who has been entrusted with a record that is "confidential" or a "closed record," or who has access to a record that is a closed record under this policy shall not disclose any record required to be closed by law and shall be subject to such penalty as provided by such law requiring the record to be closed.

Section No. 7: Public Meetings. It is the public policy of the O'Fallon Fire Protection District that meetings, records, votes, actions, and deliberations of this body shall be open to the public unless otherwise stated by law.

a. The Board Secretary 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. Notice shall be given at least twenty-four (24) hours, exclusive of weekends and holidays when the O'Fallon Fire Protection District Administrative Offices are closed, prior to the commencement of any meeting of the Board of Directors unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.

b. 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.

c. A formally constituted sub-unit of the Board of Directors may conduct a meeting without notice as required by this Section during a lawful meeting of the Board of Directors, a recess in that meeting, or immediately following that meeting, if the meeting of the sub-unit is publicly announced at the Board of Directors meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the Board of Directors.

d. A journal or minutes of open and closed meetings of the Board of Directors shall be taken and retained by the Board Secretary, 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 vote(s) taken.

e. From time to time, members of the Board of Directors may be invited to attend meetings held by others. At such meetings District business may be discussed. The Board Secretary shall give reasonable notice of such meeting, in accordance with the Sunshine Law, to the extent that the Board Secretary has such available information about such meeting and make such attempts to accommodate public participation, to the extent reasonably possible.

Section No. 8: Closed Meetings and Votes. The Board of Directors proposing to hold a closed meeting or vote may do so by either: (1) Giving notice of same along with reference to the specific exception allowing such a closed meeting

under State law; or (2) Upon an affirmative public vote of the majority of a quorum of the Board of Directors. The vote of each member of the Board of Directors on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to the specific exception allowing such a closed meeting under State law shall be announced publicly at an open meeting of the Board of Directors and entered into the minutes.

a. If a vote is taken at a closed meeting, minutes of the closed meeting sufficient to reflect the vote shall be recorded.

b. Any meeting or vote closed pursuant to Section 610.021, RSMo., shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. The Board of Directors holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the Board of Directors in the closed session, allowing members of the public to remain to attend any subsequent open session held by the Board of Directors following the closed session.

c. No audio recording of any meeting, record, or vote closed pursuant to the provisions of Section 610.021, RSMo., shall be allowed without the permission of the Board of Directors; any person who violates this provision shall be guilty of a class C misdemeanor.

Section No. 9: Public Notice. The Custodian of Records shall establish a fixed place where all public notices and agendas will be posted. This notice board should be in a place that is accessible to members of the public and available for public inspection after hours and when district offices are closed.

Section No. 10: That the O'Fallon Fire Protection District shall comply with the Sunshine Law, as now existing or hereafter amended.

Section No. 11: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section No. 12: This ordinance shall be in force and take effect from and after its final passage and approval by the Board of Directors of the O'Fallon Fire Protection District of St. Charles County.

First Reading: March 24, 2010

Second Reading: April 13, 2010

READ TWO TIMES AND PASSED BY THE BOARD OF DIRECTORS OF
THE O'FALLON FIRE PROTECTION DISTRICT OF ST. CHARLES COUNTY,
MISSOURI, THIS 13th DAY OF April, 2010.

O'FALLON FIRE PROTECTION DISTRICT
BOARD OF DIRECTORS

By: _____

Dennis S. Scherer
Dennis S. Scherer, Chairman of the
Board of Directors

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By:


Bill Helt, Vice Chairman of the
Board of Directors

By:


Dave Hinman, Treasurer of the
Board of Directors

Being all of the Directors of the O'Fallon
Fire Protection District of St. Charles
County

ATTEST:


Karen J. Lucido, Secretary of the
Board of Directors

APPROVED COPY