RESOLUTION NO. 915

A RESOLUTION AUTHORIZING PARTICIPATION IN THE OMAG RECOGNITION PROGRAM

WHEREAS, the City of Clinton believes the best run municipalities have fewer liability claims and the claims they have place fewer demands on municipal resources; and

WHEREAS, the City of Clinton participates in the Municipal Liability Protection Plan provided by the OMAG (Oklahoma Municipal Assurance Group); and

WHEREAS, OMAG is the City of Clinton's provider of insurance and risk management solutions; and

WHEREAS, OMAG has established a program to recognize member municipalities which have committed themselves to obtaining training above and beyond the legally required training and which have taken certain actions which show that the member is committed to operating under certain best practice recommendations; and

WHEREAS, during the current fiscal year:

- Each member of the governing body received, either in person or by distance learning, the training required for participation in the OMAG recognition program; and
- The governing body hereby adopts a governing body handbook as Attachment "A" to this Resolution to reflect the best practice recommendations from OMAG; and
- Each member of the governing body completed the OMAG recommended Stability Test and the results of the test were reviewed by the governing body to self-audit its performance; and
- The governing body reviewed the Declarations and Explanation of Coverage page for its liability policy with OMAG; and

WHEREAS, due to the above actions by the governing body and its members, the City of Clinton is now eligible to participate in the OMAG Recognition program.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT THE CITY OF CLINTON REQUESTS THAT IT BE CONSIDERED FOR PARTICIPATION IN THE OMAG RECOGNITION PROGRAM.

ADOPTED by the City Council of the City of Clinton on this 5th day of January 2021, after full compliance with the Oklahoma Open Meeting Act.

_____

DAVID D. BERRONG, MAYOR

ATTEST:

_____

AMY E. JONES, CITY CLERK

Clinton
Hub City of Western Oklahoma

Best Practices Handbook

Approved by

City Council of the City of Clinton, OK

January 5, 2021

ATTACHMENT "A" TO RESOLUTION NO. 915

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INTRODUCTION

Educating ourselves and creating a more stable local government should be the goal of all elected officials. With a more stable government, cities and towns can successfully meet the needs of the community. This handbook aims to help provide stability by compiling resources to assist in training your city council. By adopting a "best practices" resolution, your City can continue working toward stability.

BEST PRACTICES RESOLUTION

Many cities establish their own "best practices" policies, approved by resolution, to ensure their City sustains operational traditions that have worked. Many of those best practices deal with public transparency, council accountability and engagement in the operations of the City, and staff responsibility. The "best practices" of the City can consist of the following topics:

A. Elected Official Accountability: The council shall ensure council accountability by:

a. Attendance reporting to ensure other members and the public are aware of the attendance history of the elected officials.
b. An annual training event with staff to review ethics, finances, operations, and to address the expectations and goals of the city, including a self-assessment of the accomplishments and improvements needed by council and management to achieve the goals of the city.
c. The use of council committees dealing with topics as the council deems appropriate, including financial and project related oversight.
d. The use of well-defined purchasing policies of the city to ensure management and staff are clear concerning the purchasing policies and expectations of the city.

e. The implementation of the "transparency" policies adopted by council to make information about city government easily accessible to the public.
f. A "Code of Conduct" of council that is reviewed annually by council and readily available for council reference. (see section below concerning ethics)

B. Management and Staff Accountability: The council shall ensure management and staff accountability by:

a. An annual evaluation and review of the City Manager to include input from the directors of the City and copies of the City Manager's W2 and reimbursements log for the evaluation year.
b. An annual strategic planning session with management to evaluate the satisfaction of expectations and goals of the city for the immediately preceding year and to ensure that the expectations and goals of the city have been met and are clearly defined for both the council and management in the coming year and years.
c. Monthly financial and expenditure reports provided to council on a timely basis, including a proposed review and approval of a comprehensive fee schedule for all fees charged by the city.
d. Expenditure reporting by the City Manager to the board on an annual basis, as required by contract.
e. Implementation of the "transparency" policies adopted by the board to make information about city government easily accessible to the public.
f. Direction to all city employees that a "whistleblower" policy exists for the city.
g. Compliance with a well-defined purchasing policy of the city.
h. An annual report of the departments of the city that outlines the activities of each department, including the risks, liabilities and any litigation involving the city.

Setting these minimal standards will ensure stability and continuity in operations.

FORM OF GOVERNMENT: COUNCIL MANAGER

Understanding the role of the City Council with City employees begins with understanding the governmental role of the parties. The City Council serves as the legislative (and in some circumstances judicial) arm of the City, while the City Manager is the executive responsible for day-to-day operations. The Council is responsible for appointment of the City Manager, but the City Manager, and not the Council, is responsible for all other employees of the City.

Regardless of the above, in most cities remains one of the most difficult issues to deal with between the City, the City Manager, and the City employees is the question of involvement of the City Council in personnel matters. This specific issue has, for whatever reason, caused continuing problems through the years. State statute specifically and clearly deals with this issue by providing that Council Members may not:

A. direct or request the City Manager to appoint or remove officers or employees;

B. participate in any manner in the appointment or removal of officers and employees of the City, except as provided by law;

C. give orders on ordinary administrative matters to any subordinate of the City Manager either publicly or privately.

There are many examples in which direction given to employees by a Council Member can result in difficulties and a violation of the law by the City Council Member. The following specific examples are examples of conduct that should be avoided:

A. Council Members should not appear at City Hall or other department of the City and direct office personnel to perform any duties on behalf of the Council Member; if anything is needed from City employees, that request should be directed to the City Manager who can then communicate that request to the appropriate employee;

B. Council Members should not appear at emergency scenes and expect to have any input into the handling of the situation any different than any other citizen;

C. Council Members should not appear at public work sites and offer suggestions as to how the work can be better performed; again, any direction of that type should be directed to the City Manager who can then communicate that direction, if appropriate, to the employees involved.

Again, the best rule of thumb is to keep in mind that Council should consider themselves no more than ordinary citizens when it comes to City employees and public facilities. In this form of government, the council serves as a policy making, legislative body and does not manage day to day operations.

Also, Council should be aware that certain groups within the City may be represented by state sanctioned unions. As most of you are probably aware, the various Unions representing City employees at different times may attempt to place pressure on Council Members to side with them in their pending negotiations. It is important for Council Members to limit their participation in negotiations with the Unions to a "formal" participation wherein they would participate through the appropriate channels and not do so in private meetings or in informal circumstances. Informal meetings circumvent the goals set by the Council as a group and by the staff in its attempt to reach a conclusion. To allow one Council Member to be informally involved in negotiations, and to have private meetings with the various Unions without the knowledge or involvement of the staff or other Council Members, circumvents not only the staff attempts to resolve the dispute but also undermines the authority of the Council as a whole. The best approach in regard to these issues is to have a clear understanding by the Council as a whole and not have individual members handling it on their own.

The above restrictions on the conduct of the City Council are very clear; Council Members have no authority to direct any employee, request the hiring or firing of any specific employee, or participate in the discipline of any City employee. Those duties are left exclusively to the City Manager and any involvement by Council Members in those activities is a violation of state statute. Again, this is an issue that should not arise if all parties are well aware of their role.

SUCCEEDING AS AN ELECTED OFFICIAL

Policy-Making: Public policy determines what services will be provided to the residents and the level of those services, what kinds of development will occur in the community, and it determines what the community's future will be. Elected officials have public policy-making responsibilities. Because policies created affect everyone in the community in some way, the very best is demanded of public officials. Therefore, there are three major jobs elected officials have when creating policy:

1. **Set a Goal**

To create an effective policy, elected officials must set a strategic direction to go in to achieve a specific goal or vision. Goals should be realistic, achievable, and in the public's best interest. Without a goal, it can be easy to lose sight and direction of the policy's purpose and importance to the community.

2. **Achieve the goal**

Adopt policies that enable the organization to go in the direction and establish the policy set in the goal-setting stage. Policy making requires measurement of the consequences of policy decisions against the community's vision, values, and goals. It can be difficult to determine what a "good" policy is; the following qualities may assist in that determination:

- There is public support.
- The policy is fair and equitable and does not impose disproportional impacts on interest groups.
- Throughout the policy-making process, officials analyzed the impact a policy will have and measured the consequences of policy decisions against the community it affects.
- Officials maintained clear goals while considering a range of alternatives and assessed the impacts of alternatives.
- The policy is relevant and addresses an issue or problems that is generally perceived as significant to the community.
- The policy can be implemented, has a reasonable chance of working, and there are clear assignments for responsibilities for implementation.
- The results are monitored.

3. **Monitor results**

There is always a risk that policy decisions will not accomplish their intended goal or have an unintended negative impact. To gauge effectiveness, monitoring results is necessary. One way to monitor the results of a policy is to get reports and updates on the policy. Good monitoring systems may provide early warning of failure and the opportunity to alter or abandon a policy before the policy negatively affects the public.

Fiduciary Duties: The public delegates governing authority to public officials to exercise discretion over the public treasury and to create laws that will impact their lives. The public official, once elected, appointed, or hired, is in a superior position to that of the individual citizen due to specialized governmental knowledge and the ability to advise, deliberate, and participate in the representative process. And finally, the public trusts that the public official will act in the public's best interest. Fiduciaries are under rigorous obligations that ensure compliance with their role responsibilities. Those obligations are:

1. **The Duty of Obedience**

The duty of obedience requires that an elected official ensures compliance with applicable laws and regulations, acts in accordance with its own policies, and carries out its mission to serve its constituents appropriately. Public officials should ensure they carry out their intended purpose and do not engage in unauthorized activities.

2. **The Duty of Loyalty**

Public officials have an absolute obligation to put the public's interest before their own direct or indirect personal interests. The public official breaches this obligation when he or she benefits at the public expense. Prohibited benefits can be financial (such as engaging in pay to play politics- or participating in decisions that favorably impact an official's business, property, or investments), career related (such as using public office and/or public resources to obtain future employment or political position), or personal such as benefits to family members or close associates. Note that when general ethical duties to family or friends' conflict with duty to the public, the public duty must prevail.

3. **The Duty of Care**

The duty care requires that the public official competently and faithfully execute the duties of the office. Under duty of care fall such obligations as the duty to manage assets competently and be good stewards of the public treasury, to use due diligence in the selection and supervision of staff, to follow the rules and to uphold the constitution and laws of the jurisdiction. Examples of breach of this duty include failure to attend meetings, failure to investigate, failure to engage in the deliberative process, and failure to vote.

BOARD CONDUCT WITH THE PUBLIC: IN PUBLIC MEETINGS

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual council members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- **Be Welcoming to Speakers and Treat Them with Care and Gentleness:** The way that the board treats people during public hearings can do a lot to make them relax or push their emotions to a higher level of intensity."

- **Actively Listen:** It is disconcerting to speakers to have board members not look at them when they are speaking. It is fine to look down at documents or to make notes but reading for a long period of time gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom. If speakers become flustered or defensive by board questions, it is the responsibility of the chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by board members to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Board members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

- **No Personal Attacks of Any Kind, Under Any Circumstance:** Board members should be aware that their body language and tone of voice, as well as, the words they use, can appear to be intimidating or aggressive.

- **Follow Parliamentary Procedure in Conducting Public Meetings:** Final rulings on parliamentary procedure are made by the chair of the meeting.

OKLAHOMA OPEN MEETING ACT SUMMARY

Meetings of public bodies (such as city council) are governed by the Oklahoma Open Meeting Act. **A violation of the Open Meeting Act can result in criminal charges against the individual Council Member.** The Open Meeting Act has four areas that cause the most concern:

1. Defining Meeting: The Open Meeting Act defines a meeting as "the conducting of business of a public body by a majority of its members being personally together." As you can see by the definition, an informal get-together involving four Council Members can constitute a "meeting." Further, there is no requirement that there be a vote taken, but only discussion.

Meetings cannot be held unless an agenda is posted and the public is advised that the meeting is going to take place. Therefore, in order to avoid any type of problem with an illegal meeting, each of you should be especially careful to avoid any discussion of any City business, or any

matter indirectly related to City business, at any time in which four of you are present. It is the responsibility of the individual Council Members to avoid this problem. (At this time telephone or computer communication by a majority of members is also prohibited by statute.) **Further, extreme care should be taken in regard to discussions held either immediately before or immediately after council meetings.**

2. Notice and Agenda: State law requires that an agenda be posted for any meeting that is to be held. If an item is not posted on an agenda, with the exception of new business that is discussed later, it should not be discussed or acted upon at a meeting of the Council. (If four of you meet informally and discuss City business, a violation of the Act occurs by the failure to post an agenda.)

3. Consent Agenda: A consent agenda is used by cities to allow approval, by one motion and vote, of a number of items that are considered routine. Staff will recommend those items that are included; any council member who wants a vote on any individual item can remove the item from consent. Additionally, council can discuss any consent issue without removing it from the consent agenda.

4. New Business: New business for purposes of the Open Meeting Act is defined as "any matter not known about or which could not have been reasonably foreseen prior to posting of the agenda."

Based on the above definition, if an item arises, either from the Council or from the public, under the New Business portion of the council agenda, the first question by the Council should be whether that matter could have been placed on the agenda. If it could have, and was not, it should not be discussed and no action should be taken; the matter should be placed on the next agenda so the public, not just those present at the meeting, will be on notice that the City may take some action in regard to that item. The same is true in regard to items the Council wishes to discuss at the meeting; unless the item to be discussed is one that could not have been placed on the agenda, it should not be raised by Council under New Business. There is a mistaken assumption many times that New Business is a general catch-all that can be used to discuss any item.

There is no requirement under the Open Meeting Act that the Council allow the public to appear at a meeting and discuss any item they want under the "New Business" portion of the agenda. The only purpose of the New Business portion is to allow the Council to discuss those matters that are not on the agenda because they could not have been placed on the agenda because of the time in which they arose.

EXECUTIVE SESSIONS

Executive sessions can only be held for certain specific reasons, such as to discuss pending litigation or claims, the purchase of property, union negotiations and the employment, hiring, appointment, promotion, demotion, discipline or resignation of an individual, salaried, public

officer or employee.

Executive sessions cannot be used to discuss general personnel problems of the city or a department and cannot be held unless they are listed on the agenda. The Open Meeting Act also requires a specific listing of the type of matter being discussed in an executive session; therefore, executive sessions are limited to the specific item to be discussed and other general City business cannot be discussed at that time. Any action taken as a result of an executive session must be voted on in public. Executive sessions are intended as private, confidential meetings in which the private discussions cannot be disclosed by any of those present – the "city," and not the individuals present, own that right to confidentiality and only the "city" by a vote of the elected officials can agree to disclose the private discussion.

ATTENDANCE

Attendance at city council meetings by members is addressed by the City of Clinton Charter. Any council member who misses more than half of the regular and special meetings that occur within any four-month time period forfeits, as a matter of law, their office. There are no exceptions to the statutory requirement, no ability of the city to waive that requirement, and no action for removal that is required - the forfeiture occurs as a matter of law without any affirmative vote by the other members.

MEETING SIGN-IN SAMPLE

WELCOME:

Tonight's meeting of the City Council is a regular business meeting in which the Council will consider only the specific items listed on the agenda. The agenda items are proposed by Council and staff as pending issues necessary for the City. Citizen input is allowed regarding any agenda item. By council policy, comments are limited to three minutes, should be directed to the Mayor, and should be presented in a civil and business-like manner that shows respect to your fellow citizens.

This meeting, as are other meetings of the City, is governed by rules of conduct and a Code of Ethics approved by the City Council. That Code requires that the members of the City Council continue the long tradition in our City of civility during meetings, proper conduct toward each other, staff and the public, and open discussion of issues without personal attack or animosity. The Council expectations regarding civility apply to all employees of the City and to the public.

We look forward to your input and a productive meeting.

PLEASE SIGN-IN <u>ONLY</u>
IF YOU WISH TO SPEAK ON AN AGENDA ITEM

Name	Address	Phone

CONDUCT, ETHICS & CONFLICT OF INTEREST

One of the more dangerous and sensitive subjects involving council members is the question of conflict of interest. The topic is especially troublesome because the penalty involved, if there is a conflict with a council member and some action being taken by the city, is severe (primarily involving the council member).

SUMMARY OF CONFLICT OF INTEREST AND STATUTES

In general, the conflict of interest statutes fall into four categories, as follows:

A. A general prohibition that precludes any city officer, employee, or family member of any officer or employee from doing any business of any type with the city. The violation of the statute is a misdemeanor, the contract or agreement entered into is void as a matter of law, and any member voting to approve the contract is personally liable for the amount of the transaction.

B. There are a series of statutes dealing with public trust that preclude the public trust from contracting with trust members or their families; again, if that conduct occurs, the trustee is removed as a matter of law and the contract is void. Further, the public trust statutes preclude bidding in certain instances by family members and again results in any contract approved, even after the bid, being void and the member who has a conflict being guilty of a felony. Further, willful violations result in removal of the trustee.

C. There are public finance statutes that provide that no contract with a board member or in which a member "directly or indirectly is interested" will be valid. The contract is treated as void. The purpose of the statute is to provide an additional safeguard

concerning the expenditure of monies by public bodies in which individual board members are receiving some interest.

D. In addition to the above three conflict of interest statutes, there is also a criminal statute that provides that it is unlawful for any council member to sell materials, supplies or other goods to the city. Any such contract is also void. All members voting yes are personally liable for the amount of the purchase; fines and criminal penalties are provided for.

E. Lastly, if you serve on the board of directors of a company doing business with the city, a conflict exists that will require you to excuse yourself from the discussion and voting on those business dealings.

Per the above statutes, the best approach in dealing with possible conflicts is to act with caution. The very basic summary of the rule is that the city cannot contract with any council member or family of any council member; this rule applies even if the council member involved abstains and does not participate in the agreement.

The most likely situation is one in which there is not a direct conflict but some appearance of a conflict because of other business dealings or family members. In those instances, the potential conflict should be disclosed, the potential conflict investigated, and a decision made as to whether the potential conflict is a real conflict.

The statutes that regulate council members fall into the following categories:

1. COUNCIL MEMBERS PROHIBITION FROM DOING BUSINESS WITH THE CITY

The following statute prohibits council members from doing business with the city:

11 Okla.Stat. §8-113 - Prohibited Conduct

A. Except as otherwise provided by this section, no municipal officer or employee, or any business in which the officer, employee, or spouse of the officer or employee has a proprietary interest, shall engage in:

1. Selling, buying, or leasing property, real or personal, to or from the municipality;

2. Contracting with the municipality; or

3. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.

B. The provisions of this section shall not apply to any officer or employee of any municipality of this state with a population of not more than two thousand five hundred (2,500) according to the latest Federal Decennial Census, who has a proprietary interest in a business which is the only business of that type within five (5) miles of the corporate limits of the municipality. However, any activities permitted by this subsection shall not exceed Two Thousand Five Hundred Dollars ($2,500.00) for any single activity and shall not exceed Fifteen Thousand Dollars ($15,000.00) for all activities in any calendar year. Provided, however, such activity may exceed Fifteen Thousand Dollars ($15,000.00) per year if the municipality purchases items therefrom that are regularly sold to the general public in the normal course of business and the price charged to the municipality by the business does not exceed the price charged to the general public.

C. Provisions of this section shall not apply where competitive bids were obtained consistent with municipal ordinance or state law and two or more bids were submitted for the materials, supplies, or services to be procured by the municipality regardless of the population restrictions of subsection B of this section. Provided the notice of bids was made public and open to all potential bidders.

D. All bids, both successful and unsuccessful, and all contracts and required bonds shall be placed on file and maintained in the main office of the awarding municipality for a period of five (5) years from the date of opening of bids or for a period of three (3) years from the date of completion of the contract, whichever is longer, shall be open to public inspection and shall be matters of public record.

E. For purposes of this section, "employee" means any person who is employed by a municipality more than ten (10) hours in a week for more than thirteen (13) consecutive weeks and who enters into, recommends or participates in the decision to enter into any transaction described in subsection A of this section. Any person who receives wages, reimbursement for expenses, or emoluments of any kind from a municipality, any spouse of the person, or any business in which the person or spouse has a proprietary interest shall not buy or otherwise become interested in the transfer of any surplus property of a municipality or a public trust of which the municipality is beneficiary unless the surplus property is offered for sale to the public after notice of the sale is published.

F. For purposes of this section, "proprietary interest" means ownership of more than twenty-five percent (25%) of the business or of the stock therein or any percentage which constitutes a controlling interest but shall not include any interest held by a blind trust.

G. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. Any transaction entered into in violation of the provisions of this section is void. Any member of a governing body who approves any transaction in violation of the provisions of this section shall be held personally liable for the amount of the transaction.

H. Notwithstanding the provisions of this section, any officer, director or employee of a financial institution may serve on a board of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which they are associated and the public body in which they serve.

2. PUBLIC TRUST CONFLICTS STATUTE

The following statute applies to public trusts and limits the activity of trustees of those trusts:

60 Okla.Stat. §178.8 - Conflict of Interest - Transactions Exempt

A. Except with regard to residents of a facility for aged persons operated by a public trust, who are trustees of the public trust operating the facility and who comprise less than a majority of the trustees, a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust, or any for-profit firm or corporation in which such trustee or any member of his or her immediate family is an officer, partner, principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with such trust. Upon a showing thereof, such trustee shall be subject to removal and such contract shall be deemed unenforceable as against such trust unless the records of such trust shall reflect that such trustee fully and publicly disclosed all such interest or interests, and unless such contractual relationship shall have been secured by competitive bidding following a public invitation to bid.

The following types of transactions are exempt from the aforementioned provisions of this section:

1. The making of any loan or advance of any funds to, or the purchase of any obligations issued by such public trust, in connection with the performance of any of its authorized purposes;

2. Any legal advertising required by law or indenture or determined necessary by the trustees of such public trust;

3. The performance by any bank, trust company or similar entity or any services as a depository; or

4. The sale of any public utility services to such public trust, in which the price of said services is regulated by law.

It shall be the duty of each public trust to compile a list of all conflicts of interest for which its trustees have made disclosure. It shall also be the duty of each trust to compile a list of all dealings between its trustees and the trust which involve the exempted transactions listed above. Such lists shall be compiled semiannually for periods ending June 30 and December 31 of each year. Such lists shall be compiled on forms prescribed by the Oklahoma Tax Commission and shall be matters of public record. Copies of such lists shall be filed with the Secretary of State by September 1 and March 1 of each year.

B. The provisions of this section shall be inapplicable to any public trust created and existing prior to July 1, 1988, if all bonds issued by such public trust are required to be issued under and pursuant to a single bond indenture by amendment or supplement thereto and if the instrument or will creating such public trust and the bond indenture under which such trust must issue all bonds shall have been held to be valid and binding agreements in an opinion of the Supreme Court of the State of Oklahoma; and nothing in this section shall impair or be deemed to impair the trust indenture, the bond indenture, or existing or future obligations of such public trust.

3. PUBLIC COMPETITIVE BIDDING ACT PROHIBITION FOR BIDDING

The following statute applies to contracts entered into pursuant to the Oklahoma Public Competitive Bidding Act:

61 Okla.Stat. §114 - Conflict of Interest

The chief administrative officer and members of the governing body of the awarding public agency authorizing or awarding or supervising the execution of a public construction contract, and their relatives within the third degree of consanguinity or affinity, are forbidden to be interested directly or indirectly through stock ownership, partnership interest or otherwise in any such contract. Contracts entered into in violation of this section shall be void. Persons willfully violating this section shall be guilty of a felony and shall be subject to removal from office.

4. CRIMINAL STATUTES

The following criminal statutes may apply to council members in certain circumstances:

21 Okla.Stat. §355 - Furnishing Public Supplies for Consideration-Exceptions

A. It shall be unlawful for any member of any board of county commissioners, city council or other governing body of any city, board of trustees of any town, board of directors of any township, board of education of any city or school district, to furnish, for a consideration any material or supplies for the use of the county, city, town, township, or school district.
B. The provisions of this section shall not apply to those municipal officers who are subject to Section 8-113 of Title 11 of the Oklahoma Statutes or to a member of any board of education of a school district in this state which does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census when the board member is the only person who furnishes the material or supplies within ten (10) miles of the corporate limits of the municipality. However, any activities permitted by this subsection shall not exceed Five Hundred Dollars ($500.00) for any single activity and shall not exceed Two Thousand Five Hundred Dollars ($2,500.00) for all activities in any calendar year.
C. It shall not be unlawful for any member of any board of county commissioners, city council or other governing body of any city, board of trustees of any town, board of directors of any township, or board of education of any school district to vote to purchase materials or supplies from a business that employs a member of the governing body or

employs the spouse of a member if the member or the spouse of a member has an interest in the business of five percent (5%) or less.

21 Okla.Stat. §344 - Personal Interest of Official in Transaction-Penalty

A. Except as otherwise provided in this section, every public officer, being authorized to sell or lease any property, or make any contract in his or her official capacity, who voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, is guilty of a misdemeanor.
B. The provisions of this section shall not apply to:
    1. Municipal officers who are subject to the provisions of Section 8-113 of Title 11 of the Oklahoma Statutes; and
    2. Conservation district board members participating in programs authorized by Section 3-2-106 of Title 27A of the Oklahoma Statutes.

CODE OF ETHICS FOR ELECTED OFFICIALS

The following is a sample Code of Ethics for Elected Officials; many cities have adopted a Code of Ethics to ensure that, over time, consistent rules are applied to those who may be elected. The Code of Ethics is in place, and has as its foundation, the principle that the governing body should enact rules for its conduct, and should be responsible to ensure that those rules are enforced.

THE THREE R'S OF GOVERNMENT LEADERSHIP: ROLES, RESPONSIBILITIES AND RESPECT

Oklahoma State Statutes and City Ordinances provide detailed information on the roles and responsibilities of council members, the vice mayor and the mayor. This code is intended as a policy statement for the council to help ensure fair, ethical and accountable local government.

This Code of Ethics is designed to describe the manner in which council members should treat one another, city staff, constituents, and others that they may come into contact with while representing the city. The policy defines more clearly the behavior, manners and courtesies that are suitable for various occasions. The policy also considers a wide variety of policy changes and clarifications designed to make public meetings and the process of governance run more smoothly.

The constant and consistent theme through all of the conduct guidelines is "respect." Council members experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual, through words and actions, is the touchstone that can help guide Council Members to do the right thing in even the most difficult situations.

OVERVIEW OF ROLES & RESPONSIBILITIES

Other resources that are helpful in defining the roles and responsibilities of elected officials can be found in the Oklahoma State Statues, City Charter and Code of Ordinances and the Municipal Handbook from the Oklahoma Municipal League.

MAYOR

- Acts as the official head of the city for all ceremonial purposes and military law.
- Chairs council meetings.
- Calls for special meetings.
- Recognized as spokesperson for the city
- Selects substitute for city representation when mayor cannot attend
- Makes judgment calls on proclamations.
- Recommends subcommittees, as appropriate, for council approval.
- Leads the council into an effective, cohesive working team.
- Signs documents on behalf of the city.

VICE MAYOR

- Performs the duties of the mayor if the mayor is absent or disabled.
- Chairs board meetings at the request of the mayor.
- Represents the city at ceremonial functions at the request of the mayor.
- Moves or makes motions on agenda items at board meetings.

BOARD MEMBERS

- All members of the city council, including those serving as mayor and vice mayor, have equal votes. (may vary depending on charter or some forms of government)
- No board member has more power than any other board member, and all should be treated with equal respect.

RESPONSIBILITY OF ALL BOARD MEMBERS

- Fully participate in board meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others, including the public, other board members, and employees of the City.
- Prepare in advance of meetings and be familiar with issues on the agenda.
- Represent the city at ceremonial functions at the request of the mayor.
- Be respectful of other people's time.
- Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community.
- Inspire public confidence in our government.
- Provide contact information with the administration in case an emergency or urgent situation arises.
- Demonstrate honesty and integrity in every action and statement.
- Participate in scheduled activities to increase team effectiveness and review council procedures, such as this Code of Conduct.

MEETING CHAIR

The mayor will chair official meetings of the city council, unless the vice mayor or another council member is designated as chair of a specific meeting.

The Chair shall:

- Maintain order, decorum and the fair and equitable treatment of all speakers.
- Keep discussion and questions focused on specific agenda items under consideration. Make parliamentary rulings with advice, if requested, from the city manager, who shall act as an advisory parliamentarian.

POLICY ROLE OF THE CITY COUNCIL

Members shall respect and adhere to the structure of the city government as outlined by Oklahoma Statutes (and City Charter if applicable). The Board members shall be informed of their role in their form of government and shall not interfere in those areas of operation that are the responsibility of others in their form of government. Except as where specifically allowed by statute, Board members should not interfere with the administrative functions of the city or the professional duties of city staff, nor shall they impair the ability of staff to implement council policy decisions.

POLICIES & PROTOCOL RELATED TO CONDUCT

A. **Ceremonial Events:** Requests for a City representative at ceremonial events will be handled by city staff. The mayor will serve as the designated city representative. If the mayor is unavailable, then city staff will determine if event organizers would like another representative from the council. If yes, then the mayor will recommend which council member should be asked to serve as a substitute. Invitations received at city hall are presumed to be for official city representation. Invitations addressed to council members at their homes are presumed to be for unofficial, personal consideration.

B. **Correspondence Signatures:** City staff will assist, through the management of the City, in the preparation of any official correspondence needed by the Board. All board members should be aware that all correspondence generated by them in their official capacity will likely be subject to the Open Records Act and, therefore, will become a public record subject to inspection by any member of the public.

C. **Endorsement of Candidates:** Board members have the right to endorse candidates for all council seats or other elected offices. It is inappropriate to mention endorsements during council meetings or other official city meetings.

D. **Public Meeting Hearing Protocol:** The applicant or appellant shall have the right to speak first. The chair will determine the length of time allowed for this presentation. Speakers representing either pro or con points of view will be allowed to follow. The chair will determine how much time will be allowed for each speaker, with three to five minutes the standard time granted. The applicant or appellant will be allowed to make closing comments. The chair has the responsibility to run an efficient public meeting and has the discretion to modify the public hearing process in order to make the meeting run

smoothly. After the close of a public hearing, no more public testimony will be accepted unless the chair reopens the public hearing for a limited and specific purpose.

a. Board members should not express opinions during the public hearing portion of the meeting except to ask pertinent questions of the speaker or staff. "I think" and "I feel" comments by council members are not appropriate until after the close of the public hearing. Board members should refrain from arguing or debating with the public during a public hearing and shall always show respect for different points of view.

E. **Travel Expenses:** All council travel, in which the council member expects to officially represent the city and/or be reimbursed by the city for travel costs, must be approved in accordance with the city's travel and expense reimbursement policy.

BOARD MEMBER CONDUCT WITH ONE ANOTHER

Boards are composed of individuals with a wide variety of backgrounds, personalities, values, opinions and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of our community. In all cases, this common goal should be acknowledged even as the council may "agree to disagree" on contentious issues.

IN PUBLIC MEETINGS

A. **Practice Civility and Decorum in Discussions and Debate:** Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, council members to make belligerent, personal, impertinent, slanderous, threatening, abusive or disparaging comments. No shouting or physical actions will be tolerated.

B. **Honor the Role of the Chair in Maintaining Order:** It is the responsibility of the chair to keep the comments of council members on track during public meetings. Board members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

C. **Avoid Personal Comments That Could Offend Other Board Members:** If a board member is personally offended by the remarks of another board member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

D. **Demonstrate Effective Problem-Solving Approaches:** Board members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

IN PRIVATE ENCOUNTERS

A. **Continue Respectful Behavior in Private:** The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

B. **Be Aware of the Insecurity of Written Notes, Voicemail Messages, And Email:** Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voice mail message was played on a speaker phone in a full office? What would happen if this email message was forwarded to others? Written notes, voice mail messages and email should be treated as potentially "public" communication.

C. **Even Private Conversations Can Have a Public Presence:** Elected officials are always on display -- their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

BOARD CONDUCT WITH CITY STAFF

Governance of a city relies on the cooperative efforts of elected officials, who set policy, and city staff, who implement and administer the board's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

A. **Treat All Staff as Professionals:** Clear, honest communication that respects the abilities, experience and dignity of each individual is expected. Poor behavior toward staff is not acceptable.

B. **Limit Contact to Specific City Staff:** Questions of city staff and/or requests for additional background information should be directed through the appropriate channels and management. Requests for follow-up or directions to staff should be made only through the proper channels. When in doubt about what staff contact is appropriate, council members should confer with management for direction and be sure that the contact is appropriate in the form of government applicable. Materials supplied to a board member in response to a request will be made available to all members of the board so that all have equal access to information.

C. **Never Publicly Criticize an Individual Employee:** Board members should never express concerns about the performance of a city employee in public, to the employee directly, or to the employee's department head. Comments about staff performance should only be made through management through private correspondence or conversation.

a. Do not get involved in daily administrative functions, except those involving committees established by the board and those involving council agenda items in which management is presenting the item to the board for consideration.

b. Board members must not attempt to influence city staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of city licenses and permits, except to the extent those items involve board agenda items or items presented to board committees.

D. **Check with City Staff on Correspondence Before Taking Action:** Before sending correspondence, board members should check with city staff to see if an official city response has already been sent or is in progress.

E. **Limit Request for Staff Support:** Routine secretarial support will be provided to all council members. All mail for board members is opened by management, unless other arrangements are requested by a board member. Requests for additional staff support, even in high priority or emergency situations, should be made through management, who is responsible for allocating city resources in order to maintain a professional, well-run city government.

COUNCIL ACCESS AND USE OF PUBLIC FACILITIES AND EQUIPMENT

The board acknowledges that the powers bestowed on council by state law are granted to the board as a whole, and not to individual board members. As such, the powers granted to council are only exercised in public meetings in compliance with the Oklahoma Open Meeting Act.

Individual board members, (including the mayor in some forms of government), do not have any greater access to public facilities, work sites, or city owned property and equipment than the public at large. Neither the board nor mayor (depending on form of government) are provided offices at city hall or any other city facility, and should direct any request for assistance with official duties (clerical, mailing, travel arrangements, etc.) through management.

The use of any city equipment, even if authorized and provided through the proper channels, shall be in accordance with the policies of the city, and not for personal use.

If the board members are provided city email accounts for city business, in order to comply with legal requirements for the preservation of public records and to ensure that there is compliance with the city's computer usage policies, all council members should conduct city business through the city email account only, with the failure to do so subject not only to the sanctions outlined herein, but also the risk of other individual legal liability for violation of the Oklahoma Open Records Act.

COUNCIL CONDUCT WITH THE PUBLIC: IN UNOFFICIAL SETTINGS

A. **Make No Promises on Behalf of the Board:** Board members will frequently be asked to explain a council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of city policy and to refer to city staff for further information. It is inappropriate to overtly or implicitly promise council action, or to promise city staff will do something specific (repair a street, solve a drainage problem, install street signs, etc.).

B. **Make No Personal Comments About Other Board Members:** It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other council members, their opinions and actions.

C. **Remember That Despite Its Impressive Population Figures, This City Is a Small Town at Heart:** Board members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the city. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by council members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

BOARD MEMBER CONDUCT WITH OTHER PUBLIC AGENCIES

A. **Be Clear About Representing the City or Personal Interests:** If a board member appears before another governmental agency or organization to give a statement on an issue, the council member must clearly state:

   a. If his or her statement reflects personal opinion or is the official stance of the City;

   b. Whether this is the majority or minority opinion of the board. If the board member is representing the city, the member must support and advocate the official city position on an issue, not a personal viewpoint.

   c. If the board member is representing another organization whose position is different from the city, the member should withdraw from voting on the issue if it significantly impacts or is detrimental to the city's interest. Board members should be clear about which organizations they represent and inform the mayor and council of their involvement.

B. **Correspondence Also Should Be Equally Clear About Representation:** City letterhead may be used when the board member is representing the city and the city's official position. A copy of official correspondence should be given to the city manager for filing as part of the permanent public record.

BOARD MEMBER CONDUCT WITH BOARDS AND COMMISSIONS

The city has established several boards and commissions as a means of gathering more community input. Citizens who serve on boards and commissions become more involved in government and serve as advisors to the city council. They are a valuable resource to the city's leadership and should be treated with appreciation and respect.

A. **If Attending a Board or Commission Meeting, Be Careful to Only Express Personal Opinions:** Board members may attend any board or commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation -- especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. Any public comments by a board member at a board or commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire city council.

B. **Limit Contact with Board and Commission Members to Questions of Clarification:** It is inappropriate for a council member to contact a board or commission member to lobby on behalf of an individual, business, or developer. It is acceptable for council members to contact board or commission members in order to clarify a position taken by the board or commission.

C. **Remember That Boards and Commissions Serve the Community:** The city council appoints individuals to serve on boards and commissions, and it is the responsibility of boards and commissions to follow policy established by the council. But board and commission members do not report to individual council members, nor should council members feel they have the power or right to threaten board and commission members with removal if they disagree about an issue. Appointment and reappointment to a board or commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A board or commission appointment should not be used as a political "reward."

D. **Be Respectful of Diverse Opinions:** A primary role of boards and commissions is to represent many points of view in the community and to provide the council with advice based on a full spectrum of concerns and perspectives. Board members may have a closer working relationship with some individuals serving on boards and commissions, but must be fair and respectful of all citizens serving on boards and commissions.

E. **Keep Political Support Away from Public Forums:** Board and commission members may offer political support to a council member, but not in a public forum while conducting official duties. Conversely, council members may support board and commission members who are running for office, but not in an official forum in their capacity as a council member.

F. **Inappropriate Behavior Can Lead to Removal**: Inappropriate behavior by a board or commission member should be noted to the mayor, and the mayor should counsel the offending member. If inappropriate behavior continues, the mayor should bring the

situation to the attention of the council and the individual is subject to removal from the board or commission.

COUNCIL CONDUCT WITH THE MEDIA

Council members are frequently contacted by the media for background and quotes.

A. **The Best Advice for Dealing with The Media is to Never Go "Off the Record":** Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

B. **The Mayor Is the Official Spokesperson for the City's Position:** The Mayor is the designated representative of the Council to present and speak on the official city position. If an individual council member is contacted by the media, the council member should be clear about whether their comments represent the official city position or a personal viewpoint.

C. **Choose Words Carefully and Cautiously:** Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

SANCTIONS

A. **Public Disruption:** Members of the public who do not follow proper conduct after a warning in a public hearing maybe barred from further testimony at that meeting or removed from the council chambers.

B. **Inappropriate Staff Behavior:** Board members should refer to the administration any city staff who does not follow proper conduct in their dealings with board members, other city staff, or the public. These employees may be disciplined in accordance with standard city procedures for such actions.

C. **Board Members Behavior and Conduct:** City board members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the council, lose seniority or committee assignments (both within the city or with inter-government agencies). Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by board.

   Board members should point out to the offending council member infractions of the Code of Conduct. If the offenses continue, then the matter should be referred to the mayor in private. If the mayor is the individual whose actions are being challenged, then the matter should be referred to the vice mayor.

It is the responsibility of the mayor to initiate action if a board member's behavior may warrant sanction. If no action is taken by the mayor, the alleged violation(s) can be brought up with the full council in a public meeting.

If violation of the Code of Conduct is outside of the observed behaviors by the mayor or council members, the alleged violation should be referred to the mayor. The city council should ask the appropriate staff member to investigate the allegation and report the findings to the city council. It is the city council's responsibility to take the next appropriate action. These actions can include but are not limited to: discussing and counseling the individual on the violations; recommending sanction to the full council to consider in a public meeting; or forming a council ad hoc subcommittee to review the allegation; the investigation and its findings, as well as, to recommend sanction options for council consideration.

A. City staff shall provide a copy of this resolution to the members of all city boards and commission to ensure they are familiar with the guidelines established by the city council.

B. Additional ethical restrictions, based on state law, apply to any financial conflict of interest issue that may arise, and those issues should be addressed on an individual basis as they arise.

GIVING AND RECEIVING GIFTS

When the season of giving is upon us, it is within the human spirit to give. While not limited to the holiday season, this is often the time of year municipal employers might want to give employees a Christmas bonus, providing a turkey/ham or giving the city/town councilmember a gift. Although the intent is good, it can cause a great deal of confusion for city employees and members of the governing body. OK Const. Article 10 §14 states that "Except as otherwise provided by this section, taxes shall be levied and collected by general laws, and for public purposes only, et al." Basically, this prohibits gifts or donations of public funds directly by the payment of money, including providing free rent, utilities or other services, or indirectly by lending public equipment or the labor of public employees when the primary benefit goes to a private corporation, association, or individual.

Oklahoma State Laws have strict regulations about changing an elected official's salary while he/she is in office. What about giving a turkey or a ham? It seems harmless, but if the turkey or ham was purchased with public funds, it could be considered an emolument (fringe benefit). Laws in Oklahoma prohibit an elected or appointed official's salary or emolument to be changed after his or her election and/or appointment. Municipal employees may receive a Christmas bonus or a turkey/ham as compensation, but this is a matter of policy. A Christmas bonus or free turkey/ham is not a gift when it is used as payment in exchange for service to the public as a whole. The value of the compensation must be figured as income for reporting purposes under state and federal laws. For a non-cash item to be a true payment, it must be recorded as a real part of one's salary.

It is important to consult with your city attorney when implementing a policy for the expenditure of public funds. Relying and acting upon the advice of your municipal attorney offers a measure of protection that otherwise you would not have if you act without consultation.

MUNICIPAL ELECTED OFFICIAL SURVEY

The following comments are the result of a survey that has been submitted to numerous officials, representing many of the municipalities in the Tulsa area and northeast Oklahoma. The following responses should serve as a guideline for elected officials, both new and established.

1. **The best elected officials possess the following traits:**
   - A genuine desire to benefit the public being served, not just a constituency that may have elected them.
   - A willingness to seek training or other learning opportunities.
   - A willingness to look at options before a decision is made.
   - Honesty, knowledgeable, consensus-builder.
   - Respect for coworkers, both peers and subordinates.
   - A desire to share their insights and experience with similar entities, and not just the unit of government that they currently serve.
   - High moral and ethical standards that supersede legal standards.
   - A willingness to work together as a team towards common goals.
   - A mindset that is open to compromise.
   - A willingness to take the time to research all sides of an issue before making a final decision
   - An appreciation that there will be times when everyone will not agree.
   - A willingness and ability to communicate.
   - Understands that we are all human and sometimes make mistakes.
   - Thoughtful, consistent, supportive, responsible, practical, and intelligent.

2. **Conduct by an elected official that is most damaging to a municipality is the following:**
   - Any attempt through private meetings to make a decision that should be made in accord with the open meeting act, followed closely by any attempts to subvert the ordinary chain of command by giving orders to staff members that their supervisors are not made aware of.
   - Making "busy" work for staff.
   - Using the position for financial gain for themselves or individuals and using the position to only further the agenda of certain individuals, or certain groups of individuals.
   - Self-serving decision making.
   - Vindictive decision making.
   - Making very important decisions without fully researching all the issues.
   - Believing and buying in to people who only tell you part of a story – the part that best suits them and their motives.

- Having a "plant" at City Council meetings to perform the dirty work for a Councilmember.
- Being involved with day-to-day operations instead of performing their roles as policy maker.
- Believing "everything" that they her on the street or read in the local newspaper.
- The "gotcha" member. They wait until the meeting to ask questions often only to make themselves look good at the cost of making others look bad. They often distrust staff, their fellow members, and revel in failures more than the successes.

3. **Conduct by an elected official that is <u>most beneficial</u> to a municipality is the following:**
   - An intelligent search for ways to make the city and the lives of its citizens better, safer, and more productive.
   - Working with other elected officials and staff to make decisions that will benefit all citizens.
   - The newly elected official should keep his/her mouth closed and ears open for the first several months while they learn the parameters of what they can or more especially cannot do in their elected capacity.
   - They should research the history of the issues of the day by asking questions of all sides and make sure they listen more than they speak.
   - They must be fully informed to maintain credibility.
   - Maintaining an open mind.
   - Compliment staff in public and criticize staff in private, if criticism is warranted.
   - Being positive and calm.

EXAMPLE SOCIAL MEDIA IMPRESSUM

Use on social media, particularly Facebook, so you can confidently hide or delete comments.

Comments posted to this page will be monitored. The City of Clinton reserves the right to hide or remove comments, including those that have obscene language or sexual content, threaten a person or organization, support or oppose political candidates or ballot propositions, promote or encourage illegal activity, promote commercial services or products, promote individual causes, websites or social media sites or are not topically related to the particular posting.

CONFIDENTIALITY AGREEMENT FOR EXECUTIVE SESSION

This Confidentiality Agreement between the parties signing below establishes that all information discussed, heard or read in the City Council Executive Session on _____, will not be released, copied, discussed or shared in any manner with any individual other than City Council members present in the Executive Session, members of City staff present during the Executive Session, and other persons authorized by the City Council to be present in the Executive Session. Breach of this Confidentiality Agreement may result in personal liability and potential violation of the Oklahoma Open Meeting Act.

I have read the above statement regarding confidentiality and agree to abide by it to the best of my ability.

Signed on this _____day of_____.

_____	_____
Mayor	City Manager
_____	_____
Vice Mayor	City Attorney
_____	_____
_____	_____

CITY COUNCIL DISCLOSURE OF INTEREST FORM

The undersigned, in accordance with City Ordinance and State Law, hereby discloses the following Conflict of Interest:

A. I have an interest in following issue that is pending:

B. My conflict exists because of the following:

C. Does the transaction involve any of the following:

   a. Selling, buying, or leasing property, real or personal, to or from the municipality;

   b. Contracting with the municipality; or

   c. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.

If yes, AND you or an immediate family member are engaging in that activity, the action is illegal. If your interest is in a company doing business with the City and your interests consists of a "proprietary interest" or ownership of more than twenty-five percent (25%) of the business or of the stock therein or any percentage which constitutes a controlling interest, the transaction is illegal. Does this section apply to your transaction? YES / NO

D. Competitive Bidding. Is the contract for a construction project involving more than $50,000? If yes, you are forbidden to be interested directly or indirectly through stock ownership, partnership interest or otherwise in any such contract. Does this section apply to your transaction? YES / NO

E. I have an interest in an issue that will appear on a City Council agenda, as follows:

   a. I understand that because my interest is a personal or family interest in which I have a financial risk in the outcome of the vote, I am precluded from voting on this issue. I understand I can present factual information to the board as a member of the public could and understand that

even though I am not legally required to leave the room during the council's discussion of this matter, that I have been advised I should do so. Does this section apply to your transaction?

YES / NO

b. I or a family member has an interest in an issue appearing before council. I do not have any direct or indirect financial interest in the outcome of the vote and am making this disclosure to avoid any allegation that I had an inappropriate conflict of interest. Does this section apply to your transaction? YES / NO

Dated this _____ day of _____, 20___

_____
Signature

_____
City Clerk

_____
City Attorney

RESPONSIBILITY AS AN ELECTED PERSON

Elected persons are responsible for more than just their conduct, which is detailed in Section Two: Conduct, Ethics and Conflict of Interest. They are also responsible for financial tasks like budgeting and accounting. All Cities are required by law to budget and account for the revenues and expenditures made by the City. The City is also required by law to have an audit conducted each year by a licensed independent auditing firm. Finance is responsible for all accounting functions, debt services, investments, asset management, budgeting, rate analysis, and purchasing.

Accounting

The Finance Department is responsible for developing and maintaining accounting and reporting systems for the City, and any public trusts that the City exercises oversight authority.

The City accounts for governmental funds, which include General Fund, Capital Project Funds, Debt Service Funds, and Special Revenue Funds based on the modified accrual basis of accounting. Under this method, revenues are recognized when "measurable and available". Measurable means knowing or being able to reasonably estimate the amount. Available means collectible within the current period or soon enough thereafter (defined by the City as 60 days after year end) to pay current liabilities. The primary revenue sources, which have been treated as susceptible to accrual by the City, are sales tax, police fines, user fees, intergovernmental revenues, and other taxes. Expenditures (including capital outlay) are recorded when the related fund liability is incurred, except for general obligation bond principal and interest which are recorded when due.

The City also accounts for proprietary funds based on the accrual basis of accounting. Under this method, revenues are recognized when earned and expenses are recorded when the liability is incurred, or economic asset used.

The City utilizes encumbrance accounting in all funds under which purchase orders, contracts, and other commitments for the expenditure of funds are recorded in order to reserve a portion of the applicable appropriation. Encumbrances outstanding at year-end are not considered expenditures for budgetary purposes but are reported as a reservation of fund balance since the City intends to honor the commitments and provide for supplemental appropriations in the following budget year. All appropriations lapse at year-end.
The City's financial accounting software package may also include modules for budgeting and purchasing.

In the normal course of business, the City might participate in various federal and state grant programs from year to year. Each program contains specific conditions and accounting requirements, which must be met to ensure reimbursement and safeguard of the City's eligibility for future grant awards.

Budgeting
The administrative staff is responsible for developing a budget for review by the City Council. The goal and purpose of the budget is to allocate available funds to accomplish the policies and directions provided by the Council through the City Manager.

Budget Process
A detailed request is prepared for the specific department operating budget, equipment needs and capital projects and is submitted for analysis. Meetings are held with the various Department Heads to affirm objectives, set priorities and justify work programs. The City Council and Municipal Authority Trustees deliberate upon the proposed budget by holding a public hearing to approve the annual budget no later than seven (7) days prior to the end of the current fiscal year. The City Council must approve the budget before any expenditure is made in the new fiscal year.

Passage of the budget is a major milestone for the City, but not the end of the process. After passage, the budget is entered into the City's financial accounting package. The budget is monitored throughout the year as a part of the budget process. Further, progress reports of revenues and expenditures on a monthly basis are presented to the Council.

UNDERSTANDING MUNICIPAL TRUSTS AND AUTHORITIES

Oklahoma law allows for the creation of a public trust for limited purposes. In doing so, the city gains some advantages in the ability to finance projects and some other differences in how it can conduct its' business. The greatest advantage is the ability to sell revenue bonds to finance construction of public utilities or other projects that can be funded by the revenue that is created. The revenue bonds can be approved and sold by a vote of the Trustees of the Trust and do not require a vote of the people, as do general obligation bonds that are used by the city to finance projects.

Many trusts in Oklahoma have been created to allow that flexibility. The trust is for all purposes a separate, legal entity and therefore, required to have separate meetings and separate agendas for its meetings. The Trustees of the Trust are designated by the trust documents, and many times will be elected officials of the city. Although we sometimes refer to the two entities as one and the same, they really are not. Each entity has its own budget, has its own financial structure, and does business in specific areas without mingling its financial affairs with the other entity. All of the open meeting and open record restrictions that apply to the City will apply to the trust. Although your form of government may have special limitations on the roles of the Mayor and other elected officials, the Trust Indenture should be reviewed to determine the specific powers of the trustees of the trust that governs your operations.

Cities are allowed by law to create different types of entities to carry out municipal functions. Three areas in which these entities may exist are as follows:

A. **PUBLIC TRUSTS.**

State law allows "public trusts" to be created to carry out projects that otherwise could not be conducted by the City. The primary purpose of a public trust is to create more flexibility in financial transactions that the city is able to use in operations, primarily because of constitutional debt limitations. The trust will qualify as a public trust only if the trust has a purpose that is public in nature and the City has agreed to be the beneficiary of the trust. Public trusts are also subject to the OK Open Meeting Act and many the regulations that govern the City. The following public trusts have been created and are active at this time: Clinton Airport Authority, Clinton Economic Development Authority, Clinton Public Works Authority, Clinton Recreation Authority, Clinton Solid Waste Authority

PUBLIC TRUST CONFLICTS STATUTE

The following statute applies to public trusts and limits the activity of trustees of those trusts:

60 Okla.Stat. §178.8 - Conflict of Interest - Transactions Exempt

A. Except with regard to residents of a facility for aged persons operated by a public trust, who are trustees of the public trust operating the facility and who comprise less than a

majority of the trustees, a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust, or any for-profit firm or corporation in which such trustee or any member of his or her immediate family is an officer, partner, principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with such trust. Upon a showing, thereof, such trustee shall be subject to removal and such contract shall be deemed unenforceable as against such trust unless the records of such trust shall reflect that such trustee fully and publicly disclosed all such interest or interests, and unless such contractual relationship shall have been secured by competitive bidding following a public invitation to bid.

The following types of transactions are exempt from the aforementioned provisions of this section:

1. The making of any loan or advance of any funds to, or the purchase of any obligations issued by such public trust, in connection with the performance of any of its authorized purposes;

2. Any legal advertising required by law or indenture or determined necessary by the trustees of such public trust;

3. The performance by any bank, trust company or similar entity or any services as a depository; or

4. The sale of any public utility services to such public trust, in which the price of said services is regulated by law.

It shall be the duty of each public trust to compile a list of all conflicts of interest for which its trustees have made disclosure. It shall also be the duty of each trust to compile a list of all dealings between its trustees and the trust which involve the exempted transactions listed above. Such lists shall be compiled semiannually for periods ending June 30 and December 31 of each year. Such lists shall be compiled on forms prescribed by the Oklahoma Tax Commission and shall be matters of public record. Copies of such lists shall be filed with the Secretary of State by September 1 and March 1 of each year.

B. The provisions of this section shall be inapplicable to any public trust created and existing prior to July 1, 1988, if all bonds issued by such public trust are required to be issued under and pursuant to a single bond indenture by amendment or supplement thereto and if the instrument or will creating such public trust and the bond indenture under which such trust must issue all bonds shall have been held to be valid and binding agreements in an opinion of the Supreme Court of the State of Oklahoma; and nothing in this section shall impair or be deemed to impair the trust indenture, the bond indenture, or existing or future obligations of such public trust.

B. **STATUTORY BOARDS.**

State law requires or allows cities to create certain boards and commissions, those boards have specific purposes that are established by state law. As statutory boards they are generally subject to the open meeting act. At this time the Clinton City Council approves the appointment of citizens to the Planning & Zoning Commission, Board of Adjustments, Personnel Board, Golf Advisory Board, Beautification Committee and representatives to the Foss Master Conservancy District, the Southwest Oklahoma Development Authority and the Midwestern Oklahoma Industrial

C. **CITY CREATED COUNCIL COMMITTEES.**

The City of Clinton does not presently utilize committees but reserves the right to create committees are composed of up to three council members, are advisory only and are not subject to the Open Meeting Act.

BEST PRACTICES FOR ELECTED OFFICIALS

BUILDING STABILITY

Our goals should be the same for the mayor, elected council member and city employee, that we want the following things in our city government:

A. Stability: Everyone we deal with needs our government to be stable, meaning predictable, reliable and consistent in how we do business.

B. Fulfilling: Our city government experience should be fulfilling for everyone involved, from the highest ranking to the lowest ranking person associated with our government. We get there by accomplishing good goals, and by leaving it better than we found it.

C. Enjoyable: We deal with difficult issues sometimes, but the experience of working to make our government better should be enjoyable for everyone involved.

The more stable our cities are, the more fulfilling and enjoyable our service will be. The stability test was created as a way to measure how our cities are doing; the 10 categories used were chosen based on input from a number of municipal officials, with the idea that we should identify the broad areas that should be measured to determine how well our communities are functioning. Some cities have adopted this test as a framework for annual retreats, using it to identify areas in which they seek improvement and as a way to measure how they have improved from year to year.

1. **Financial Stability**: Do you have enough money to operate?

    a. Create a written policy that establishes financial goals for the city, approved by council resolution that gives clear direction to staff.

majority of the trustees, a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust, or any for-profit firm or corporation in which such trustee or any member of his or her immediate family is an officer, partner, principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with such trust. Upon a showing, thereof, such trustee shall be subject to removal and such contract shall be deemed unenforceable as against such trust unless the records of such trust shall reflect that such trustee fully and publicly disclosed all such interest or interests, and unless such contractual relationship shall have been secured by competitive bidding following a public invitation to bid.

The following types of transactions are exempt from the aforementioned provisions of this section:

1. The making of any loan or advance of any funds to, or the purchase of any obligations issued by such public trust, in connection with the performance of any of its authorized purposes;

2. Any legal advertising required by law or indenture or determined necessary by the trustees of such public trust;

3. The performance by any bank, trust company or similar entity or any services as a depository; or

4. The sale of any public utility services to such public trust, in which the price of said services is regulated by law.

It shall be the duty of each public trust to compile a list of all conflicts of interest for which its trustees have made disclosure. It shall also be the duty of each trust to compile a list of all dealings between its trustees and the trust which involve the exempted transactions listed above. Such lists shall be compiled semiannually for periods ending June 30 and December 31 of each year. Such lists shall be compiled on forms prescribed by the Oklahoma Tax Commission and shall be matters of public record. Copies of such lists shall be filed with the Secretary of State by September 1 and March 1 of each year.

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1. **Financial Stability**: Do you have enough money to operate?

    a. Create a written policy that establishes financial goals for the city, approved by council resolution that gives clear direction to staff.

c. Clear, simple, monthly reports to elected officials.

2. **Governing Body Stability**: How stable is your governing body?
    a. Hold an annual training, including training to staff and elected officials about meeting protocol.
    b. Plan to hold an annual retreat to set goals.
    c. Hold regular meetings with staff to ensure all are working on the projects that are important.
    d. Have a code of ethics for elected officials.
    e. Have a best practices resolution for oversight.
    f. Be professional.

3. **Meetings**: How good are your meetings?
    a. They should be business meetings.
    b. Have respect for fellow elected officials.
    c. Have and abide by clear meeting rules.
    d. Include a good balance of public input limited to agenda topics.
    e. Attend meetings in other cities and learn from them.

4. **Employees**: How good is your workforce?
    a. How do you instill pride in their work?
    b. Improve uniforms and appearance with employee help.
    c. Provide a good salary and benefits.
    d. Create a sense of being a part of the team that works toward a common goal.
    e. Show appreciation to your employees.

5. **Public Image**: What does the public think of your city?
    a. Having good, professional meetings will help.
    b. Emphasize what you do well.
    c. What do your city properties look like?
    d. What does your city equipment look like?
    e. Do you show appreciation to vendors?
    f. Do you pay on time?

6. **Crisis Management**: How do you handle a crisis?
    a. Understand everyone's role.
    b. Understand operations before an event.
    c. Have elected officials tour emergency management facilities and understand who is in charge.

7. **Economic Development**: Are you involved in economic development?
    a. Have you set goals for economic development?
    b. Does the city own land for development?

c. Do you have an economic development director or contract?

8. **Planning & Goal Setting**: How well do you plan and set goals for city projects?
    a. Hold an annual or regular goal setting meeting with written results.
    b. Have short term and long term planning.
    c. Have clear communication, including action steps.

9. **Administration**: How stable has your upper management been?
    a. Identify the strengths and weaknesses of a good working relationship.
    b. Communicate about expectations.
    c. Build and maintain trust between the elected officials and the administration.

10. **Communication**: How well do you communicate?
    a. Create a communications system that is agreed to, that may include:
        i. Weekly reports
        ii. Annual reports
        iii. City newsletter
        iv. Employee newsletter
        v. Email of important events
    b. If possible, have council committees
    c. Informal time with elected officials for management

If you can find stability in these 10 areas, your city will operate more efficiently and achieve greater success throughout the years.