

**BOARD/COMMITTEE AGENDA MEMO**  
**November 5, 2008**

**FROM:** Brian Williams, Assistant to the City Manager

**TO:** All City of Manhattan Advisory Board and  
Committee Members

**SUBJECT:** Code of Ethics for Elected and Appointed Officials

**BACKGROUND**

Numerous national and state municipal associations, as well as state and national associations representing elected and appointed officials such as the League of Kansas Municipalities, the National League of Cities, and the International City/County Management Association have advocated for the adoption of a formal ethics policy. It is becoming increasingly typical for cities to have a comprehensive policy that establishes organizational values and guidelines for conduct in addition to those enumerated by state law.

In late 2007, the City Commission directed City Administration to begin the process of developing a Code of Ethics that would be applicable to the City's elected and appointed officials and its employees. City Administration solicited participation in and formed a committee that was intended to represent those employees and elected and appointed officials who would ultimately be affected by the Code. This committee was composed of a City Commissioner, a community member, and several City employees. In order to accomplish the stated objective of creating a policy that is reflective of the community's values and priorities, this committee solicited input from a broad range of citizen stakeholders, including appointees to many of the City's advisory boards and committees.

During its October 14, 2008, meeting the City Commission adopted via a policy resolution the Code of Ethics for Elected and Appointed Officials. This Code is intended to guide the official conduct of all City Commissioners and members of City Advisory Boards and Committees.

City Commissioners and appointees to the City's Advisory Boards and Committees will be responsible for familiarizing themselves with the Code of Ethics, its applicability to their official position and duties, and updates to the Code of Ethics, as they may occur. During each of the respective Commission/Board/Committee initial orientation sessions, participants will be presented with a copy of the Code of Ethics followed by a discussion of its applicability to their position. Throughout their tenure, these elected and appointed officials will be encouraged to continually apply the ethical principles in their daily activities on behalf of the City; periodic discussions will naturally occur or may be

initiated if a situation arises where a potential ethical conflict arises. City Administration will continually seek to provide relevant resources (case studies, news articles, etc.) that reinforce our community's values and our organization's ethical principles, and will provide advice as requested. The resolution identifies appropriate points of contact should any questions arise regarding the applicability of the Code of Ethics.

## **DISCUSSION**

At the core of the Code of Ethics is a group of five ethical principles. These ethical principles are statements intended to reinforce the City's organizational mission and beliefs about how our organization – Commissioners, Board and Committee members, and employees – should serve our community. These five ethical principles, with their definitions in italics and followed by operational statements, are as follows:

**TRANSPARENCY:** *free from pretense or deceit; characterized by visibility or accessibility of appropriately disclosable information, especially concerning business practices; forthcoming*

- Be honest, accurate, and forthright in communication with each other and the public we serve, while still respecting the need to maintain the privacy and confidentiality of information and materials pursuant to the Kansas Open Records Act and other applicable laws.
- Be accessible and dependable in providing clear, concise, and complete information that is appropriate at the time of the request

**INTEGRITY:** *firm adherence to a strict moral or ethical code; doing the right thing when no one is looking*

- Hold ourselves and each other accountable in carrying out our responsibility to protect the public interest
- Consistently act in ways that merit trust in our abilities and decisions
- Do not allow our personal or private interests to influence our roles as public servants

**QUALITY:** *producing or providing products or services of high caliber or merit; marked by a concentrated expenditure of involvement, concern, and commitment to excellence*

- Be committed to improving ourselves and our organization through personal growth and professional innovation
- Take pride in our ability to consistently deliver services to our community efficiently and effectively
- Be competent and responsive to the changing needs of our community

**STEWARDSHIP:** *the careful and responsible management or supervision of something entrusted to one's care*

- Earn and maintain trust by respecting the City's built environment, natural and economic resources
- Focus on a long-term vision in order to protect and promote the greatest public good
- Be compassionate, loyal, and selfless in carrying out our responsibilities as public servants

**FAIRNESS/EQUITY:** *marked by impartiality and honesty; free from self-interest, prejudice or favoritism; justice according to natural law or right*

- Respect those who may not share our background or beliefs and value the benefits that result from considering everyone's opinion
- Treat each other fairly, considering how we would want to be treated

Additionally, the Commission requested that the committee develop appropriate guidelines for ethical behavior specific to the issues of *Conflicts of Interest* and *Gifts and Gratuities*. Those guidelines, also included in the Code of Ethics and intended to reinforce the five ethical principles, are as follows:

#### **CONFLICT OF INTEREST:**

- A. Legal Standards pertaining to Conflicts of Interests: City Commissioners and members of City Boards or Committees (collectively hereinafter "City Officials" or "Officials") should not discuss, advocate, or vote on any matter:
1. In violation of either K.S.A. 75-4304 or K.S.A. 75-4305, which are the Kansas Statutes dealing with Conflicts of Interest. All City Officials shall make themselves aware of the provisions of said statutes.
  2. Which is of a quasi-judicial nature, such as, but not necessarily limited to, site specific zoning matters, matters before the Board of Zoning Appeals, and matters before the Code Appeals Board, if the City Official determines that factors exist, related to the Official, which would prevent any party to the quasi-judicial matter from receiving a fair and impartial decision.
  3. When the City Official determines factors exist, related to the Official, which would prevent the Official from acting in the best interests of the community, as a whole, and, instead would tend to cause the Official to act in their own self interest or the special interests of others to the detriment of the community as a whole.
- B. Promoting Fairness and Transparency/Higher Standards of Conduct Above Legal Conflicts: Even if a City Official's action is in compliance with the provisions of Section A, the Official shall disclose to the public any factors related to the Official, which the Official deems relevant to the concept of fairness in dealing with public business, before discussing, advocating, or voting on any matter.

- C. It shall be the City Official's responsibility and authority, alone, to determine the relevant factors necessary to make the decisions set forth in Sections A and B. The City Official may request assistance from the City's legal staff, City Manager or his/her designee, other members of the Official's body, or any other person the Official deems appropriate, in reaching his/her decision. In determining such relevant factors, the City Official shall consider all factors they believe a reasonable person in the community would consider.

**ACCEPTANCE OF GIFTS, GRATUITIES OR BENEFITS:**

- A. City Officials should not accept any gift, gratuity or benefit ("gifts"), which a reasonable person would believe is provided to the City Official primarily because of his/her official position, if:
1. The value of the gift exceeds \$25, or the accumulation of the value of gifts from a single donor to the City Official exceeds \$50 in a 12-month period; or
  2. a reasonable person would believe it is intended, or is likely, to cause the City Official to act in a preferential manner towards the donor; or
  3. a reasonable person would believe the City Official is under an obligation to, or influence of, the donor; or
  4. the item consists of cash, or anything easily convertible to cash, such as, but not limited to, entertainment tickets, regardless of the amount or value.
- B. For the purposes of this section, the terms "gift", "benefit" and "gratuity" shall mean the transfer of cash, goods, or services without reasonable and valuable consideration. The terms shall not include campaign contributions made in compliance with all applicable laws.
- C. It shall be the City Official's responsibility and authority, alone, to evaluate what a reasonable person in the community would believe in connection with this section.

The guidance included in the resolution for evaluating situations that may involve issues of ethics is based on the *Discern – Disclose – Distance* model. If a question arises, the individual involved should first *Discern* if the situation presents an ethical conflict for him- or herself. He or she may seek advice from others in making this determination. If, after this consideration, the individual determines that an ethical conflict exists, he or she is advised to *Disclose* that conflict to those affected. Alternately, if that individual determines that an ethical conflict does not exist, it still may be appropriate to disclose the circumstances of the situation to those affected. Finally, if that individual determines that any situation presents an ethical conflict, he or she should *Distance* themselves from the issue. Most oftentimes, this distancing will take the form of the individual recusing him- or herself from any discussion or consideration of the issue at hand.

## **ACTION**

All Board and Committee members are encouraged to apply the principles and guidelines contained in the Code of Ethics as they carry out their official duties. These appointed officials are also encouraged to discuss openly the applicability of those principles and guidance to their official responsibilities, as well as any related potential ethical questions or conflicts. Further, these officials should seek any necessary clarification through discussions with other Board and Committee members, the City's legal staff, or City Administration through their Board Liaison, as applicable.

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Enclosure:

1. Resolution No. 102108-B
2. K.S.A. 75-4304 and 75-4305

**POLICY MANUAL**  
**RESOLUTION NO. 102108-B**  
**CITY OF MANHATTAN, KANSAS**

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<b>SUBJECT</b>	<b>EFFECTIVE DATE</b>
Code of Ethics	10-21-2008

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**A. BACKGROUND:**

Numerous national and state municipal associations, as well as state and national associations representing elected and appointed officials such as the League of Kansas Municipalities, the National League of Cities, and the International City/County Management Association have advocated for the adoption of a formal ethics policy. It is becoming increasingly typical for cities to have a comprehensive policy that establishes organizational values and guidelines for conduct in addition to those enumerated by state law.

**B. PURPOSE:**

The purpose of this policy is to establish a Code of Ethics for the City of Manhattan's elected and appointed officials, as well as to grant specific authority, and direction, to the City Manager to establish and maintain a comparable administrative Code of Ethics and relevant administrative policies for the City's employees.

**C. POLICY:**

1. The City Commission for the City of Manhattan, Kansas, hereby establishes as the basis for its Code of Ethics for Elected and Appointed Officials the following statement of values and guidelines for ethical behavior:

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- a. The City of Manhattan is a diverse community whose Commission/Manager form of government serves its residents and visitors by providing that which they cannot provide by themselves alone.

As City Commissioners and members of the City's Boards and Committees (collectively hereinafter "City Officials" or "Officials"), we represent the City through daily actions and interactions with the public we serve. In doing so, we are bound by laws, statutes, and regulations. This Code of Ethics is meant not to replace but to supplement those existing guidelines.

This Code of Ethics reflects the values of our community and establishes a foundation of behavior for all elected and appointed officials. These principles provide guidance for reaching decisions which are governed, ultimately, by the dictates of each individual's conscience and his or her commitment to the public good. Each official is responsible for upholding these standards, and, by doing so, for setting an example for others to follow. The responsibility for knowing whether or not a given set of circumstances creates an ethical conflict and for acting appropriately rests solely with the individual.

These five ethical principles are statements designed to reinforce our organizational mission and beliefs about how we should serve our community. The City's elected and appointed officials should aspire to embody these principles in their daily conduct.

- i. **TRANSPARENCY:** *free from pretense or deceit; characterized by visibility or accessibility of appropriately disclosable information, especially concerning business practices; forthcoming*
  - a) Be honest, accurate, and forthright in communication with each other and the public we serve, while still respecting the need to maintain the privacy and confidentiality of information and materials pursuant to the Kansas Open Records Act and other applicable laws.
  - b) Be accessible and dependable in providing clear, concise, and complete information that is appropriate at the time of the request
- ii. **INTEGRITY:** *firm adherence to a strict moral or ethical code; doing the right thing when no one is looking*
  - a) Hold ourselves and each other accountable in carrying out our responsibility to protect the public interest
  - b) Consistently act in ways that merit trust in our abilities and decisions
  - c) Do not allow our personal or private interests to influence our roles as public servants
- iii. **QUALITY:** *producing or providing products or services of high caliber or merit; marked by a concentrated expenditure of involvement, concern, and commitment to excellence*
  - a) Be committed to improving ourselves and our organization through personal growth and professional innovation
  - b) Take pride in our ability to consistently deliver services to our community efficiently and effectively
  - c) Be competent and responsive to the changing needs of our community
- iv. **STEWARDSHIP:** *the careful and responsible management or supervision of something entrusted to one's care*
  - a) Earn and maintain trust by respecting the City's built environment, natural and economic resources
  - b) Focus on a long-term vision in order to protect and promote the greatest public good
  - c) Be compassionate, loyal, and selfless in carrying out our responsibilities as public servants

- v. **FAIRNESS/EQUITY:** *marked by impartiality and honesty; free from self-interest, prejudice or favoritism; justice according to natural law or right*
  - a) Respect those who may not share our background or beliefs and value the benefits that result from considering everyone’s opinion
  - b) Treat each other fairly, considering how we would want to be treated
- b. These guidelines for ethical behavior are intended to reinforce the preceding ethical principles, to wit:

- i. **CONFLICT OF INTEREST:**

- a) Legal Standards pertaining to Conflicts of Interests: Individual City Commissioners and members of City Boards or Committees (collectively hereinafter “City Officials” or “Officials”) should not discuss, advocate, or vote on any matter:

- 1) In violation of either K.S.A. 75-4304 or K.S.A. 75-4305, which are the Kansas Statutes dealing with Conflicts of Interest. All City Officials shall make themselves aware of the provisions of said statutes.
- 2) Which is of a quasi-judicial nature, such as, but not necessarily limited to, site specific zoning matters, matters before the Board of Zoning Appeals, and matters before the Code Appeals Board, if the City Official determines that factors exist, related to the Official, which would prevent any party to the quasi-judicial matter from receiving a fair and impartial decision.
- 3) When the City Official determines factors exist, related to the Official, which would prevent the Official from acting in the best interests of the community, as a whole, and, instead would tend to cause the Official to act in their own self interest or the special interests of others to the detriment of the community as a whole.

- b) Promoting Fairness and Transparency/Higher Standards of Conduct Above Legal Conflicts: Even if a City Official’s action is in compliance with the provisions of Section a), the Official shall disclose to the public any factors related to the Official, which the Official deems relevant to the concept of fairness in dealing with public business, before discussing, advocating, or voting on any matter.

- c) It shall be the City Official’s responsibility and authority, alone, to determine the relevant factors necessary to make the decisions set forth in Sections a) and b). The City Official may request assistance from the City’s legal staff, City Manager or his/her designee, other members of the Official’s body, or any other person the Official deems appropriate, in reaching his/her decision. In determining such relevant factors, the City Official shall consider all factors they believe a reasonable person in the community would consider.

ii. **ACCEPTANCE OF GIFTS, GRATUITIES OR BENEFITS:**

- a) City Officials should not accept any gift, gratuity or benefit (“gifts”), which a reasonable person would believe is provided to the City Official primarily because of his/her official position, if:
  - 1) The value of the gift exceeds \$25, or the accumulation of the value of gifts from a single donor to the City Official exceeds \$50 in a 12-month period; or
  - 2) a reasonable person would believe it is intended, or is likely, to cause the City Official to act in a preferential manner towards the donor; or
  - 3) a reasonable person would believe the City Official is under an obligation to, or influence of, the donor; or
  - 4) the item consists of cash, or anything easily convertible to cash, such as, but not limited to, entertainment tickets, regardless of the amount or value.
- b) For the purposes of this section, the terms “gift”, “benefit” and “gratuity” shall mean the transfer of cash, goods, or services without reasonable and valuable consideration. The terms shall not include campaign contributions made in compliance with all applicable laws.
- c) It shall be the City Official’s responsibility and authority, alone, to evaluate what a reasonable person in the community would believe in connection with this section.

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**2. All City Officials shall be responsible for familiarizing themselves with the Code of Ethics during their initial orientation sessions and ensuring they are familiar with any updates to the Code of Ethics, as applicable.**

- a. Commissioners who have questions about the applicability of the Code of Ethics should seek the advice of their fellow Commissioners. Alternately, Commissioners may seek counsel or advice from the City’s legal staff, City Manager, or his/her designee. If, after any such discussion, a Commissioner determines that his or her actions may violate the Code of Ethics, he or she should act accordingly by recusing him or herself from consideration of the matter at hand.**



## **K.S.A. 75-4304**

### **Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES Article 43.--PUBLIC OFFICERS AND EMPLOYEES**

**75-4304. Same; making or participating in certain contracts prohibited; exceptions; abstaining from action.** (a) No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest.

(b) No person or business shall enter into any contract where any local governmental officer or employee, acting in that capacity, is a signatory to or a participant in the making of the contract and is employed by or has a substantial interest in the person or business.

(c) A local governmental officer or employee does not make or participate in the making of a contract if the officer or employee abstains from any action in regard to the contract.

(d) This section shall not apply to the following:

(1) Contracts let after competitive bidding has been advertised for by published notice; and

(2) contracts for property or services for which the price or rate is fixed by law.

(e) Any local governmental officer or employee who is convicted of violating this section shall forfeit the office or employment.

**History:** L. 1970, ch. 366, § 4; L. 1974, ch. 397, § 1; L. 1990, ch. 306, § 17; May 31.

## **K.S.A. 75-4305**

### **Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES Article 43.--PUBLIC OFFICERS AND EMPLOYEES**

**75-4305. Same; filing of report of interest if statement of substantial interest not filed; abstaining from action.** (a) Any local governmental officer or employee who has not filed a disclosure of substantial interests shall, before acting upon any matter which will affect any business in which the officer or employee has a substantial interest, file a written report of the nature of the interest with the county election officer of the county in which is located all or the largest geographical part of the officer's or employee's governmental subdivision.

(b) A local governmental officer or employee does not pass or act upon any matter if the officer or employee abstains from any action in regard to the matter.

**History:** L. 1970, ch. 366, § 5; L. 1974, ch. 397, § 2; L. 1990, ch. 306, § 18; May 31.