

# **CITY COUNCIL HANDBOOK**

**CITY OF BETHANY**

**6700 NW 36<sup>TH</sup> STREET  
BETHANY, OKLAHOMA 73008**

## **INTRODUCTION**

Continuing education and creating a more stable local government is the goal of the Bethany City Council. The goal of this Handbook is to provide stability by compiling resources to assist the Council thereby allowing it to more successfully meet the needs of the community. By adopting best practices, the City will continue to work toward stability.

### **BEST PRACTICES**

The City Council recognizes the benefit of best practices to ensure the sustainability of positive operational traditions such as public transparency, Council Member accountability, and engagement in accordance with state statutes. It is the goal of the City Council to work towards best practices, consisting of the following:

#### **A. Elected Official Accountability:**

- 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 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 the Council and policy-making to achieve the goals of the City.
- c. The passage of purchasing policies to ensure fiscal accountability.
- d. Implementation of practices designed to maximize transparency and to make information about City government easily accessible to the public.
- e. A City Council Code of Conduct that is reviewed annually and readily available for Council Member reference.

#### **B. Goals and Objectives:**

- a. An annual evaluation and review of City operations, with feedback to the City Manager for implementation.
- b. An annual strategic planning and budget session to evaluate the satisfaction of expectations and goals of the City Council to ensure that expectations and goals are being met.

- c. Monthly financial and expenditure reports provided to the Council on a timely basis, including an annual review and approval of a comprehensive fee schedule for all fees charged by the City.
- d. Review of expenditures.
- e. Continued implementation of measures to improve transparency and to make information about the City's government easily accessible to the public.

### **FORM OF GOVERNMENT**

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 non-contractual employees of the City.

In most cities, 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. 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 and the Charter;
- 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 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. Any direction of that type should be directed to the City Manager who can then communicate that direction, if appropriate, to the employees involved.

Council Members should also be aware that certain groups within the City are represented by state-sanctioned unions. 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 resolution.

### **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 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. Goal-Setting**

To create an effective policy, elected officials must set a strategic direction 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**

City Councils should 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. 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 City policies, and carries out the 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. 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 the City Manager, to follow the rules and to uphold the constitution and laws of the City of Bethany and the State of Oklahoma. 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.

## **MEETINGS AND THE OPEN MEETING ACT**

Meetings of public bodies 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." An informal get-together involving five 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 Council Member 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 five Council Members are present. It is the responsibility of the individual Council Member to avoid this problem. (Telephone or computer communication by a majority of members is also prohibited.)

**Further, extreme care should be taken with 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, it should not be discussed or acted upon at a meeting of the City Council. (If five Council Members 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 the City to allow approval, by one motion and vote, of a number of items that are considered routine. The City Manager or 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, the City Council can discuss any consent issue without removing it from the consent agenda.

**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.

**Attendance:** Attendance at City Council meetings by members is addressed by statute. 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.

**CONFLICTS OF INTEREST AND CONDUCT**

One of the more dangerous and sensitive subjects involving City Council Members is the question of conflicts 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.

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

- A.** A general prohibition that precludes any 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 trusts that preclude the public trusts from contracting with trust members or their families. 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 City Council 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 City Council 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 City 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 a Council Member serves on the board of directors of a company doing business with the City, a conflict exists that will require the Council Member to excuse themselves from the discussion and voting on those business dealings.

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 City Council Member or family of any City Council Member. This rule applies even if the 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:

## **COUNCIL MEMBERS PROHIBITED 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.

### **Public Competitive Bidding Act.**

#### **22 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 Code of Ethics of the City Council is 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.

Oklahoma State Statutes and 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 City 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, 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 hundreds 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, the 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 the 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 City Council 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 City Council Meetings.

## **CITY COUNCIL MEMBERS**

- All members of the City Council, including those serving as Mayor and Vice-Mayor, have equal votes.
- No City Council Member has more power than any other Council Member, and all should be treated with equal respect.

## **RESPONSIBILITY OF ALL COUNCIL MEMBERS**

- Fully participate in meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others, including the public, other 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 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 City 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 and make parliamentary rulings with advice.

### **POLICY ROLE OF THE CITY COUNCIL**

Members shall respect and adhere to the structure of the City government as outlined by Oklahoma Statutes and the City Charter. City Council 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, Council 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 the City Manager. The Mayor will serve as the designated City representative. If the Mayor is unavailable, then the Vice-Mayor shall serve as the representative. If the Vice-Mayor is unavailable, the Mayor will recommend another Council Member.
- B. Correspondence Signatures:** The City Clerk and the Executive Assistant will assist in the preparation of any official correspondence needed by the Council. All Council 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:** City Council Members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention endorsements during City Council Meetings or other official City meetings.

- D. Travel Expenses:** All travel of the City Council Members, in which the 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.

### **CITY COUNCIL MEMBER CONDUCT WITH ONE ANOTHER**

City Councils 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 the City of Bethany. In all cases, this common goal should be acknowledged even as the Council Members 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. Council 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 the Rules of Conduct for City Council Meetings.
- C. Avoid Personal Comments That Could Offend Other City Council Members:** City Council Members shall avoid personal comments that could offend other Members.
- D. Demonstrate Effective Problem-Solving Approaches:** City Council 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. Written notes, voicemail messages and e-mails 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 TOWN STAFF**

Governance of a city relies on the cooperative efforts of elected officials, who set policy, and Staff, who implement and administer the City Council'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 Staff and/or requests for additional background information should be directed through the City Manager. Materials supplied to a City Council Member in response to a request may be made available to all members of the board so that all have equal access to information.
- C. Never Publicly Criticize an Individual Employee:** City Council Members should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's Department Director. Comments about Staff performance should only be made to the City Manager through private correspondence or conversation. Council Members are not to

get involved in daily administrative functions, except those involving committees established by the City Council and those involving Council agenda items in which management is presenting the item for consideration. City Council 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 City Council agenda items or items presented to board committees.

- D. Check with City Staff on Correspondence Before Taking Action:** Before sending correspondence, City Council Members should check with the City Manager to see if an official City response has already been sent or is in progress.

### **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 City 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.

- A. Be Welcoming to Speakers and Treat Them with Care and Gentleness:** The way that the City Council treats people during public hearings can do a great deal to make them relax or push their emotions to a higher level of intensity.
- B. Actively Listen:** It is disconcerting to speakers to have Council 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 or 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 City Council 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 City Council Members to members of the public should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker.
- C. No Personal Attacks of Any Kind, Under Any Circumstance:** Council 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.

- D. Follow Rules of Conduct for City of Bethany City Council Meetings:** Council Members should follow the Rules of Conduct for City of Bethany City Council Meetings.

## **COUNCIL MEMBER CONDUCT WITH THE PUBLIC: IN UNOFFICIAL SETTINGS**

- A. Make No Promises on Behalf of the City Council:** Council 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 the City Manager or Staff for further information. It is inappropriate to overtly or implicitly promise Council action, or to promise Staff will do something specific.
- B. Make No Personal Comments About Other City Council Members:** It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other City Council Members, their opinions and actions.
- C. Remember That This Is a Small Town at Heart:** City Council 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. It is a serious and continuous responsibility.

## **COUNCIL MEMBER CONDUCT WITH OTHER PUBLIC AGENCIES**

- A. Be Clear About Representing the City or Personal Interests:** If a Council 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 City Council. If the Council 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 Council 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. Council Members should be clear about which organizations they represent and inform the Mayor and City Council of their involvement.

**B. Correspondence Also Should Be Equally Clear About Representation:**

City letterhead may be used when the Council Member is representing the City and the City's official position. A copy of official correspondence should be given to the City Clerk or Executive Assistant for filing as part of the permanent public record.

**COUNCIL 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:** Council Members may attend any board or commission meeting, which are always open to any member of the public. However, Council Members 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 Council 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. Council 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.

## **COUNCIL MEMBER CONDUCT WITH THE MEDIA**

Council Members may be 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 City Council to present and speak on the official City position. If an individual Council Member is contacted by the media, the 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.

## **COUNCIL ACCESS AND USE OF PUBLIC FACILITIES AND EQUIPMENT**

City Council Members acknowledge that the powers bestowed on the Council by state law are granted to the Council as a whole, and not to individual Members. As such, the powers granted to Council are only exercised in public meetings in compliance with the Oklahoma Open Meeting Act.

Individual Council Members, other than the Mayor who has an office at City Hall, do not have any greater access to public facilities, work sites, or city-owned property and equipment than the public at large. All requests for assistance with official duties (clerical, mailing, travel arrangements, etc.) should be made through the City Manager or a Staff Member designated by the City Manager.

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. City e-mail accounts should be used exclusively for city business. In order to comply with legal requirements for the preservation of public records, Council Members should conduct city business through the city email account.

## **TRAINING AND BUILDING STABILITY**

### **MANDATORY COUNCIL EDUCATION**

A statute was passed by the Oklahoma legislature requiring all Council and Board Members elected after January 1, 2005, to attend eight hours of municipal government training within one year of taking office. The specific terms of the statute are as follows:

#### **Section 8-114 - First Time Elected or Appointed Officers Required to Attend Institute for Municipal Officers**

**A. Each person elected or appointed for the first time as an officer of a municipality** as defined by paragraph 6 of Section 1-102 of this title, shall be required within one (1) year after taking the oath of office to attend an institute for municipal officials. The Institute shall be conducted at all times, in cooperation with the Oklahoma Department of Career and Technology

Education, by or under the supervision of a statewide organization that is exempt from taxation under federal law and designated pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 170(a). The statewide organization shall demonstrate to the Oklahoma Department of Career and Technology Education that it has represented municipalities, had statutory functions and conducted training programs for municipalities for at least fifteen (15) years prior to November 1, 2005. It shall further demonstrate that its continuous official purpose is to promote the general welfare of cities and towns, to foster or conduct schools, short courses and other training sessions, to provide technical assistance and consulting services and other aids for the improvement and increased efficiency of city and town government, and to serve as the representative of cities and towns in carrying out the duties and prerogatives conferred on it by state law.

**B. The Institute shall consist of eight (8) hours of instruction.** A certificate of completion shall be awarded to those persons who attend and successfully complete the Institute and a list of those persons shall be filed with the Oklahoma Department of Career and Technology Education.

**C. The curriculum for the Institute shall include,** but not be limited to: municipal budget requirements, the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, ethics, procedures for conducting meetings, conflict of interest, and purchasing procedures.

**D. The Institute shall be held at a minimum of six regional locations in the state.** Every effort shall be made by the Institute to accommodate training through long-distance learning.

**E. A person elected or appointed to a municipal office** who fails to satisfy the education requirements of this section shall cease to hold the office commencing at the next scheduled meeting of the governing body following the first-year anniversary of the person's taking the oath of office.

**F. At the time of filing, the designated statewide organization** shall provide the necessary information to the candidate of the option for attendance at the Institute as provided for in this section. In the case of officials nominated and elected for municipal offices at town meetings, the presiding officer of the town meeting shall notify the candidate of the option.

The failure to obtain the training results in a forfeiture of office without any

affirmative vote by the other members, and may preclude the Council Member from being eligible to serve in the future.

## **BUILDING STABILITY**

The City Council aspires the following:

- A. Stability: Everyone the City Council deals with needs the City government to be stable, meaning predictable, reliable and consistent in how the Council does business.
- B. Fulfilling: The city government experience should be fulfilling for everyone involved, from the highest ranking to the lowest ranking person associated with the government.
- C. Enjoyable: The City Council deals with difficult issues, but the experience of working to make City government better should be enjoyable for everyone involved.

The more stable the City of Bethany, the more fulfilling and enjoyable Council Member service will be. The stability test was created as a way to measure how cities and towns are doing. The 10 categories used were chosen based on input from a number of municipal officials, with the idea that elected and appointed officials should identify the broad areas that should be measured to determine how well 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. The stability test will consist of the following categories: financial stability, governing body stability, meetings, employees, public image, crisis management, economic development, planning and goal setting, administration, and communication. The Board will take the stability test no less than once per fiscal year.

## **PUBLIC IMAGE**

One of the biggest problems facing municipalities is a negative public image. Cities and Towns continue to work to improve services and accessibility to the community, yet the public focuses on the negatives. By utilizing social media, the City Council can improve the City's public image. If utilized correctly, Council Members will learn to engage with the community and build rapport. Social media can be a tool for notices and pushing information, but it can also build engagement and interaction.

# Bethany City Council

## Filing for Office, Elections

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**The Council:** The Council serves as the legislative arm of the city. There are 9 elected members of the Council consisting of the mayor and two (2) members from each of the four (4) wards. Each member is elected for a four (4) year term. The mayor and four (4) members are elected during one election cycle called the Mayor Election Year. The other four (4) members are elected two (2) years later. (Charter §2-1, §6-7)

### **Elections/Re-elections/Holding Office: General Information:**

1. Elections are held every odd numbered year. (Charter §6-4)
2. Mayor and Councilmembers can serve up to three (3) consecutive terms of four (4) years or twelve (12) consecutive years. (Charter §2-1, §2-3)
3. After serving three (3) consecutive terms, no councilmember may hold the same office for at least two (2) years.
4. A candidate for mayor, if serving as a councilmember whose term does not expire in the current calendar year shall resign his or her councilmember seat before filing for Mayor. (Charter, 6-3)
5. A candidate may file for no more than one office at any election. (26 O.S. §5-106, Charter, 6-2 (e))
6. Councilmembers have the right to endorse candidates for all council seats or other elected offices. However, no endorsements should be mentioned during council meetings or other official city meetings.

### **Elections/Re-elections: Eligibility:**

1. Councilmember: Must be a registered voter and resident of the ward they are representing for at least one (1) year prior to declaring their candidacy. If a councilmember moves and is no longer in the ward they have been elected to represent, he or she will cease to hold office. (Charter §2-2)
2. Mayor: Must be a registered voter and a resident of the city for at least one (1) year prior to declaring their candidacy. If the mayor moves and no longer resides in Bethany, he or she will cease to hold office. (Charter §2-3)

**Elections/Re-elections: Filing for Office:** Candidates for councilmember or mayor file for office with the Secretary of the Oklahoma County Election Board by submitting a \$50 (fifty dollar) cashier's check or certified check made payable to the County Election Board, along with a sworn statement of candidacy that includes the following information:

1. Legal name showing how it should appear on the ballot.
2. Street address of residence.
3. Ward in which the candidate resides.

4. Age.
5. Office for which the candidate is filing.

The affidavit should NOT include a reference to party affiliation. (Code of Ordinances, Title I, Chapter 30 §31.02)

# Bethany City Council

## Mayor and Councilmember Expectations

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### Meeting Types

1. Council:
  - a. Attend Council and Assigned Committee Meetings.
    - 1) Council meetings are held the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of every month.
  - b. Council meetings begin no earlier than 6:00 PM. (Code of Ordinances, Title I, Chapter 30, Section 30.01, Ordinance 2044, Mar. 7, 2023)
  - c. Regular Council meeting times are set once per year in writing on or before December 15 for the following calendar year. (25 O.S. § 311 (A) (1))
  - d. If a member misses more than one-half (1/2) of the regularly scheduled meetings within four (4) consecutive calendar months, he or she will cease to hold office and will not be eligible for reappointment to the unexpired term for the vacated position. (Charter, Section 2-10)
2. Special Meetings
3. Emergency Meetings
4. Ceremonial Events: Although not required, attend ceremonial events (ribbon cuttings, ground breakings, etc.) when and if possible.

### Meeting Expectations

1. Prepare: Review agenda and backup items prior to meeting.
2. Participate: Participate in the deliberative process.

### Education

1. First time elected or appointed officers of a municipality are REQUIRED to attend eight (8) hours of mandatory municipal government training within one (1) year after taking the oath of office. Failure to do so will result in removal from office and may preclude eligibility to serve in the future.
2. Training is conducted in cooperation with the Oklahoma Department of Career and Technology or an organization that is approved by the Department.
3. Training should include but not be limited to:
  - a. Municipal budget requirements
  - b. The Oklahoma Open Meetings Act
  - c. The Oklahoma Open Records Act
  - d. Ethics
  - e. Procedures for conducting meetings
  - f. Conflicts of interest
  - g. Purchasing procedures
4. Certificate of Completion will be awarded upon successfully completing the course and should be filed with the Oklahoma Department of Career and Technology Education.

# City Council Rules and Guidance

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The following points are consolidated or generated from Bethany's Charter, Code of Ordinances and State law. Legal authority is provided for the members to explore. This consolidation is meant to aid members of the Council to understand the things members of the Council can and cannot do.

**This document is not all encompassing of every rule or procedure in the City's Code of Ordinances. It addresses the most common issues confronting members of the governing body of Bethany.**

## General Operation of Government

1. Bethany is a Council-Manager form of government. Charter §1-2
2. The Council power is expressly limited to: (a) appointment and removal of the city manager; (b) enacting legislation by ordinance; (c) raising revenue, making appropriations, regulating bonds elections, etc.; (d) establishing pensions or retirement plans for city employees; (e) inquiry into the conduct of offices and departments; (f) appointment and removal of its own subordinates like members of the Board of Adjustment or Planning and Zoning; (g) granting pardons; (h) regulating elections; (i) regulating the organization, powers, duties, and functions of the municipal court; (j) creating, changing, or abolishing offices and departments; (k) regulating animals within the City; (l) regulating the moving of buildings within the City; (m) defining, controlling, and prohibiting nuisances within the City; and (n) determining local matters of policy that is authorized by the Oklahoma Constitution. Charter §2-6
3. Individual members of the Council have no power by themselves except specific and limited authority granted to the mayor to represent the City.
4. The Council does not operate the City. This responsibility is thrust upon the city manager. Charter §3-3. The city manager is the Chief Executive Officer and the head of the administrative branch of Bethany's government.
  - a) The Council, as well as individual members, are prohibited from directing or requesting the appointment or removal of any employee. Charter §2-7
  - b) Because the city manager is the Chief Executive Officer of the City, members of the Council are prohibited from interacting with employees of the City in any official capacity as if they were a department head, manager, boss, or supervisor. Members of the Council may interact with employees just like any other citizen. For example, they can call the police or fire department for emergencies, pay their utility bills, reserve park pavilions, etc.
  - c) It is not appropriate for a member of the Council to persuade, coerce, or direct an employee of the City to take any course of action within their job duties or functions. For example, it would not be appropriate to tell an animal control officer that "I am a Councilmember, and you need to come impound my neighbor's dog."

- d) It would not be appropriate to criticize an employee publicly. If a member of the Council has criticisms of an employee, they should only be made privately to the city manager because as the Chief Executive Officer of the City of Bethany, it is the Manager's responsibility to address personnel issues. Charter §3-3

### **Agenda Items**

1. The city manager determines what is placed on the agenda. Ord. 30.16 (A) and (B)
2. Members of the Council may request the city manager to place items for discussion on the agenda. Ord. 30.16 (A)
3. Requests must be delivered by noon on the Thursday before the next scheduled council meeting. Ord. 30.16 (A)
4. Requested items may be delayed up to the third next succeeding regular meeting. Ord. 30.16 (B)

**Sometimes Councilmembers send notifications or make requests of the city attorney to submit items for discussion on behalf of a Councilmember. This is appropriate, but as a matter of record, the requested item will be identified as originating from the Councilmember making the request.**

### **Discussion Before Scheduled Public Meetings**

1. The public should have the benefit of discussion and debate of members of the Council regarding City matters. 1981 OK CIV APP 57, 637 P.2d 1270; 1982 OK AG 212.
2. Council members may discuss City matters to be placed on an agenda with **less than a quorum** whether in person or through some electronic form such as phone, social media, etc. A quorum is a simple majority of the governing body, trust, or committee. 25 O.S. §304 (2)
3. **Be very careful.** It would be unwise for a member to discuss or debate business to be on an agenda by speaking or emailing only one member of the Council, and then speaking with the next, then the next, and so on. If a member's contact is with less than a quorum but the intent is to bypass the open meetings act's requirement of public discussion, the member can be criminally liable. 25 O.S. §314 (A).
4. Securing votes or a consensus from a quorum before the meeting is a violation of law. See 2020 OK AG 4.
5. It is ok to speak with one another about scheduling matters to be on an agenda, or to have topics placed on an agenda. This is not discussion and debate but is considered to be ministerial communication.
6. When in doubt, do not discuss the matter unless it is at a public meeting.

## Discussion During Scheduled Public Meetings

1. Meetings should be conducted orderly.
2. The Chair of the meeting is tasked with preserving strict order and decorum. Ord. 30.17
3. Members desiring to speak shall address the Chair and say "Mr. or Madame Mayor. Ord. 30.23 (B) (1)
4. Members speaking out of turn transgress the rule and may be called to order and should cease. Ord. 30.23 (B) (1)
5. Members are permitted to speak twice on a matter being discussed. Ord. 30.23 (B) (3)
6. Members are permitted to speak no more than five minutes on a matter being discussed. Ord. 30.23 (B) (5)
7. Members may request additional opportunity and or time to speak before or after time has expired. Additional time may be granted with 2/3 vote of the members present. Ord. 30.23 (B) (5)

**Public Comment** is an opportunity for citizens to speak to members of the Council. Absent an emergency, no action may be taken by the governing body on any matter discussed in public comment. Ord. 30.24 (A) (2).

1. Interested persons may request an agenda item be placed on the next agenda, but the person has no right to have an item placed. Ord. 30.24 (A) (2)
2. Members of the public may speak on any agenda item if recognized by the Chair. Discussion is limited to the agenda item. Ord. 30.24 (A) (2)

**Public Hearings** are special proceedings where the governing body sits in a quasi-judicial or legislative role. public hearings are used to get testimony from all interested parties including the public. These commonly occur with special use permits and planning and zoning matters. But they can happen in other scenarios if the Council desires to set such a matter on the agenda. Members of the public may speak on such items, when recognized by the Chair. Ord. 30.24 (A) (2)

## Executive Sessions

An executive session is a means for a governing body to discuss confidential and sensitive matters behind closed doors. Such 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. Sessions can only be held for certain specific reasons, such as but not limited to discussing pending litigation or claims, the purchase of property, or union negotiations. 25 O.S. §307 (B) (1) – (11).

1. Executive session discussions are confidential and/or privileged. Matters discussed in executive session should not be discussed publicly because they have the potential for harming the City, its personnel, and or its citizens. For example, publicly discussing a lawsuit can cause damage to the prosecution or defense of the lawsuit in behalf of the City. Publicly discussing union negotiations may harm the relationship management has with its all its employees. Publicly discussing vulnerabilities to terror attacks may place the citizens in danger.
2. Actions may be taken on executive session items, however, votes cast for any such action must be done openly in the regular meeting and not behind closed doors. 25 O.S. §307 (E) (3).
3. No public body may go into executive session unless the session is expressly on the agenda and there is a majority vote to enter executive session made by the governing body. 25 O.S. §307 (E) (1) and (2)
4. Violating executive session laws is criminal. 25 O.S. §307 (F).

### **Communications with the Public**

1. It is never appropriate to discuss any personnel matter with or in the public. Absent specifically identified records in the open records act, personnel information of employees including the city manager is confidential to include, but not limited to, employee evaluations, payroll deductions, or any information that would constitute an unwarranted invasion of personal privacy. 51 O.S. §24A.7.
2. Charter §3-3. It is not appropriate to tell a citizen that you will take administrative action to address a complaint or concern because operating the City is the job of the city manager. For example, Molly Doe tells you that their water meter is not working or the water bill is too high. It is not appropriate to tell Ms. Doe that you will get Public Works to fix the problem. It would be appropriate:
  - a) To tell the citizen to contact City Hall and report the concern to the appropriate department.
  - b) To refer the citizen to the Report A Concern link on the City's website.
  - c) To listen to the citizen's concerns and refer them to the appropriate department for aid, i.e., the police department, fire department, public works department, etc.
- 2) Charter §3-3. If a citizen has a problem or difficulty with a City employee, it is appropriate to inform the citizen to make a written complaint to the city manager or Report A Concern link on the City's website.