

RESOLUTION NUMBER 17-7463

A RESOLUTION ADOPTING THE ETHICS POLICY OF THE CITY OF SALINA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SALINA, KANSAS:

Section 1. Policy. The governing body of the City of Salina acknowledges the importance of sustaining the public's confidence in the integrity of its local government through independent, fair, and impartial local governance and administration. Neither public office nor public employment can be used for personal gain. The policy of the City of Salina shall be to promote and assure ethical conduct by its elected and appointed officers and its employees.

Section 2. Application and Purpose.

- (a) This policy applies to members of the City's governing body; appointed members of the City's commissions, authorities, boards, and committees (collectively "board members"); and the City's employees. As used in this policy, the persons to which this policy applies are referred to as "city officers and employees."
- (b) As actively involved participants in the Salina community, city officers and employees must be watchful for ethical considerations, including conflicts of interest, that may arise in relation to the performance of their respective duties. This policy is intended to guide city officers and employees in the avoidance of unethical conduct and to preserve the ethical integrity of the decision-making processes inherent in local government. This policy is not intended to modify the statutory or common law standards under Kansas conflict of interest law. The analysis of (a) whether a city officer or employee has a conflict of interest and (b) whether the conflict of interest disqualifies a city officer or employee from performing a duty begins with application of the Kansas conflict of interest act (the "Act")¹ to determine whether the matter affects any "business"² in which the city officer or employee has a "substantial interest"³. Where those statutes are inapplicable, the determination of whether a matter presents a disqualifying conflict of interest must be based upon application of "common law" principles.⁴

Section 3. Definitions. For purposes of this policy, the following words and phrases shall mean:

- (a) "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income.⁵
- (b) "Common law" means, in general, a body of law that develops and derives through judicial decisions, as distinguished from legislative enactments.⁶
- (c) "Compensation" means any money, thing of value or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by that person or another, but shall not mean nor include reimbursement of reasonable expenses if the

reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.⁷

- (d) "Contracts" means agreements including but not limited to sales and conveyances of real and personal property and agreements for the performance of services.⁸
- (e) "Disqualify" or "disqualifying" means of a nature under the specific facts of the matter to render a city officer or employee ineligible or unfit by reason of interest or holding a fixed preconceived opinion⁹ from participating in the performance of what would otherwise be his or her duty in relation to the matter.
- (f) "*Ex parte*" means on one side only; by or for one party; done for, in behalf of, or on the application of, one party only.¹⁰
- (g) "Pecuniary" means consisting of money or that which can be measured in money.¹¹
- (h) "Preceding calendar year" has its usual meaning, except that in the case of candidates and individuals newly appointed to office or employment, it means the 12 months immediately preceding a required filing date (referring to a statement of substantial interest).¹²
- (i) "Substantial Interest"¹³ means any of the following:
 - (1) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.
 - (2) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.
 - (3) If an individual or an individual's spouse, either individually or collectively, has received in the preceding 12 months, without reasonable and valuable consideration, goods or services having an aggregate value of \$500 or more from a business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.
 - (4) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, other than an organization exempt from federal taxation of corporations under section 501(c)(3), (4), (6), (7), (8), (10), (19) of chapter 26 of the United States code, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.
 - (5) If an individual or individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays

fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$2,000 or more in the preceding calendar year.

As used in this definition, "client or customer" means a business or combination of businesses.

- (j) "Quasi-judicial" means the action, discretion, etc., of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature.¹⁴
- (k) "Quasi-judicial proceeding" means a proceeding that affects specific identified persons or properties and involves the application of established standards to individual facts to determine specific rights or to take specific actions under existing law.

Section 4. General Ethical Principles. City officers and employees shall abide by the following general ethical principles:

- (a) Place the public trust and interests of the City first and never intentionally act outside the scope of authority prescribed by one's official duties;
- (b) Exercise fair, honest, and unbiased judgment in one's role as a decision maker and advisor;
- (c) Do not knowingly misrepresent or withhold facts or information for the purpose of achieving a desired outcome;
- (d) Do not seek, accept, or offer any gifts or favors of significant value which are either intended by the source or have the effect upon the recipient of influencing the objectivity of an advisor or decision-maker;
- (e) Do not disclose or use information received in the course of performing one's duties that is to be maintained in confidence (1) by rule, regulation, or directive in the case of an employee, (2) by the intent of the governing body in the case of a governing body member, or (3) by the intent of the applicable board in the case of a member of a board; subject to any legal requirements of the Kansas open records act; and
- (f) Treat all persons with courtesy and respect at all times.

Section 5. Substantial Interest.

- (a) Background and applicable law.

- (1) Limitations upon participation. The Act prohibits a city officer or employee from (a) participating in the making of any contract on behalf of the City with any business in which the city officer or employee has a substantial interest¹⁵ (with limited exceptions

described below) or (b) taking any other action relating to the business without first disclosing his or her substantial interest.¹⁶

- (2) Disclosure of substantial interests. The Act requires governing body members to file and annually update a statement of substantial interests in the office of the county election officer.¹⁷ Any other city officer or employee who is not required to file a disclosure of substantial interests must, before acting upon any matter which will affect any business in which he or she has a substantial interest, file a written report of the nature of the interest with the county election officer.¹⁸
- (3) Contracts. As prohibited by K.S.A. 75-4304, no city officer or employee shall, in the capacity of a city officer or employee, make or participate in the making of a contract with any person or business by which he or she is employed or in whose business he or she has a substantial interest. A city officer or employee does not make or participate in the making of a contract if the member abstains from any action relating to the contract.¹⁹ The prohibition against a city officer or employee making or participating in the making of a contract shall not apply to (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.²⁰
- (4) State law violations. Pursuant to K.S.A. 75-4306, violation of K.S.A. 75-4304 (contracts) or 75-4305 (matters other than contract) or failure to make any disclosure of substantial interests required by K.S.A. 75-4302a is a class B misdemeanor. The Kansas governmental ethics commission does not assume an enforcement role in relation to alleged violations of the Act by a city officer or employee. Violation of the Act by a city officer or employee is subject to prosecution by the Saline county attorney.

(b) Local Policy.

- (1) Compliance with the Act. All city officers and employees shall comply with the Act in all respects.
- (2) Matters other than contract. When a city officer's or employee's substantial interest in a business has been disclosed by written report filed with the county election office, the city officer or employee may either participate in a matter involving the business or abstain from any action relating to the matter.
- (3) Matters of contract. No city officer or employee shall, in the capacity of a city officer or employee, make or participate in the making of a contract with any person or business by which he or she is employed or in whose business he or she has a substantial interest, except in the limited circumstances when allowed under the Act for (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.
- (4) Undisclosed substantial interest. A city officer or employee shall abstain from any action relating to a matter which will affect any business in which the member has a substantial interest that the member has not disclosed by written report filed with the county election officer.

Section 6. Common-Law Conflict of Interest.

- (a) Background and applicable law. If a conflict of interest question cannot be resolved by applying the "substantial interest" test, Kansas case law recognizes the application of common-law principles in determining if a city officer or employee has a conflict of interest and whether it disqualifies the city officer or employee from acting in relation to the matter.²¹ The Kansas Supreme Court has provided the general rule regarding common-law conflicts of interests:

We, of course recognize the common-law principle that a public officer owes an undivided duty to the public whom he serves and is not permitted to place himself in a position that will subject him to conflicting duties or cause him to act other than for the best interests of the public. If he acquires any interest adverse to those of the public, without a full disclosure it is a betrayal of his trust and a breach of confidence.-

The law, however, does not forbid the holding of an office and exercising powers thereunder because of a possibility of a future conflict of interest.²²

The Kansas Supreme Court further indicated in the *Anderson* decision:

The difficult problem which is often presented in conflict of interest cases is in determining whether or not the personal interest of the commissioner or board member is of a nature justifying disqualification to act. Usually this is a question to be determined under the peculiar facts and circumstances of the particular case presented to the court for determination.²³

When addressing the meaning of the phrase "personal interest" the Kansas Attorney General has referred to a New Jersey case in which the Court quoted a commentator who distilled varying conflict of interest circumstances into four types of situations that, depending upon the facts of the matter, could present a common-law conflict of interest.²⁴ Those included:

1. "Direct pecuniary interest" when an official votes on a matter benefitting the official's own property or affording a direct financial gain;
2. "Indirect pecuniary interest" when an official votes on a matter that financially benefits one closely tied to the official, such as an employer, or family member;
3. "Direct personal interest" when an official votes on a matter that benefits a blood relative or close friend in a non-financial way, but a matter of great importance;
4. "Indirect personal interest" when an official votes on a matter in which an individual's judgment may be affected because of membership in some organization and a desire to help that organization further its policies.²⁵

The common law recognizes that a common-law conflict of interest does not arise from a remote or speculative interest, or the mere possibility of a future conflict of interest.²⁶

Factors warranting consideration include whether the matter is legislative (therefore of more general application) or quasi-judicial (therefore affecting specific persons or property).

Attachment "A" to this policy summarizes all Kansas appellate court decision and attorney general opinions indicating what does or does not constitute a common-law conflict of interest.

- (b) Local policy. A city officer or employee shall disclose and abstain from any action relating to a matter which presents him or her with a common-law conflict of interest.

Section 7. Appearance of bias. If a governing body member or board member has neither a substantial interest nor a common-law conflict of interest in a matter, but believes he or she has an interest relating to the matter that could present to the general public the appearance of bias, the member may, in his or her sole discretion, abstain from taking action in relation to the matter.

Section 8. Available legal resources. The following legal resources are available to the City to assist in the administration and enforcement of this policy:

- (1) City's legal counsel. The client of the City's legal counsel is the City as an organization in the form of a Kansas municipal corporation as it acts primarily through the governing body and secondarily through the governing body's authorized representatives.
- (2) Special ethics counsel. Special ethics counsel refers to legal counsel engaged by the City to provide legal counsel specifically relating to administration and enforcement of this policy at the discretion of the governing body and the city manager and particularly when the ethical matter requiring legal counsel presents potential conflicts of interest in relation to the representation of the City as an organization by the City's legal counsel.
- (3) Kansas governmental ethics commission. The Kansas governmental ethics commission is required to issue an advisory opinion on the interpretation or application of the Act upon receipt of a written request by a city officer or employee or by any person who has filed as a candidate for local office.²⁷ Any person who requests and receives a written advisory opinion and who acts in accordance with its provisions shall be presumed to comply with the Act.²⁸ Individuals requesting an advisory opinion must write to the ethics commission listing all relevant facts and circumstances surrounding the request, and all advisory opinions are available to the public. The ethics commission may also answer questions on an informal basis regarding the interpretation or application of the Act. The ethics commission will not issue advisory opinions or provide guidance regarding common-law conflicts of interest.
- (4) Kansas attorney general. Upon request, the Kansas attorney general may furnish written opinions to the governing body of the City regarding whether the specific facts of a matter present a disqualifying common-law conflict of interest. By Kansas attorney general policy, requests must be submitted in writing by the governing body or the City's chief legal counsel. Requests may not be submitted by individual members of the governing body. The attorney general will not furnish opinions on issues threatened, pending or scheduled for determination by the courts, including appeals from orders issued by quasi-judicial bodies. Unlike the Kansas governmental ethics commission, which is required by law to furnish

opinions upon request, the attorney general is not required to furnish opinions, and each request will be evaluated based on, among other things, whether it presents a question of statewide interest.

Section 9. Identification of substantial interests or common-law conflicts of interest in anticipation of action.

- (a) Self-initiated disclosure and abstention. A city officer or employee shall be primarily responsible for disclosing what he or she believes to be the basis of a substantial interest or common-law conflict of interest and for abstaining when required from any action relating to the matter. If a governing body member or board member is unsure whether the specific facts of the matter present a substantial interest or common-law conflict of interest, he or she should consult with the applicable staff board liaison or the city manager. The staff board liaison shall inform the city manager. If necessary, the City's legal counsel or special ethics counsel will be consulted regarding the potential substantial interest or common law conflict of interest. The City's legal counsel or special ethics counsel will consult with the city officer or employee; any relevant city officers or employees; and, when applicable, the governing body, to determine the course of action to identify the relevant facts of the matter and to address the legal question of whether a substantial interest or common-law conflict of interest exists. That determination may include, but not be limited to, (1) whether the matter can be resolved based upon consultation with the City's legal counsel or special ethics counsel; (2) whether the city officer or employee will independently seek a Kansas governmental ethics commission advisory opinion regarding the potential substantial interest; (3) whether the governing body chooses to authorize a request for a Kansas governmental ethics commission advisory opinion regarding the potential substantial interest; or (4) whether the governing body chooses to request a written opinion of the Kansas attorney general regarding the potential common law conflict of interest.
- (b) Separate-party-initiated inquiry. If a city officer, city employee, or any other person believes that a city officer or employee has a substantial interest or common-law conflict of interest relating to a specific matter, and chooses to raise the question, he or she should do so by informing the applicable staff board liaison or the city manager. The staff board liaison shall inform the city manager. If necessary, the City's legal counsel or special ethics counsel will be consulted regarding the alleged substantial interest or common-law conflict of interest. The City's legal counsel or special ethics counsel will consult with the city officer or employee alleged to have the substantial interest or common-law conflict of interest; any relevant city officers or employees; and, when applicable, the governing body, to determine the course of action to identify the relevant facts of the matter and to address the legal question of whether a substantial interest or common-law conflict of interest exists, including but not limited to the same considerations and options outlined in subparagraph (a) above.
- (c) Governing-body member to governing-body member. If a governing-body member chooses to raise the question of whether another governing-body member has a substantial interest or a common-law conflict of interest, he or she should do so by first advising the governing body member thought to have the substantial interest or common-law conflict of interest. If that does not resolve the matter, the city manager should be informed for the purpose of arranging for consultation with special ethics counsel in executive session regarding the course of action to identify the relevant facts of the matter and to address the legal question of whether a

substantial interest or common-law conflict of interest exists, including but not limited to the same considerations and options outlined in subparagraph (a) above.

Section 10. Participation by disclosure of substantial interest or abstention due to substantial interest, common-law conflict of interest, or appearance of bias.

- (a) Participation by disclosure of substantial interest. Disclosure of a substantial interest as the basis for taking action in relation to a matter in which the city officer or employee has a substantial interest shall include making a statement immediately following the introduction of any public consideration of the matter identifying the substantial interest and confirming that written notice of the substantial interest is on file with the county election officer.
- (b) Abstention due to substantial interest, common-law conflict of interest, or appearance of bias. Abstaining from any action relating to a matter shall include:
- (1) Disclosure of the basis for the abstention immediately following the introduction of any public consideration of the matter;
 - (2) Stepping down from the dais and leaving the meeting room during consideration of the matter;
 - (3) Refraining from any advocacy regarding the matter at any time; and
 - (4) Refraining from consultation with any of the interested parties, staff, or the media regarding the matter at any time.

Section 11. Due Process in Quasi-Judicial Proceedings.

When the focus of a City decision-making body shifts from the entire city to specifically identified persons or properties, the function of the body shifts from legislative to quasi-judicial. In quasi-judicial proceedings, the City must comply with procedural due process requirements.²⁹ Due process requires that the proceedings be fair, open, and impartial.³⁰ Denial of due process may occur based on a decision-maker's: (1) prejudgment of a matter; and (2) *ex parte* communications related to a matter.

The doctrine of prejudgment requires that decision-makers keep an open mind and continue to listen to all the evidence presented before making the final decision on a matter.³¹ If a decision-maker is shown to have an "irrevocably closed" mind, he or she will be deemed to have prejudged the matter.³² Prejudgment may be established by a decision-maker's written or oral statements to interested parties, or by a decision-maker's advocacy for or against the matter while it is under consideration by an advisory body.

However, a decision-maker will not be deemed to have prejudged a matter based solely on a pre-existing political view or general opinion on a particular issue. The Kansas Supreme Court has cited with approval a Missouri case where the Missouri court reasoned that:

Familiarity with the adjudicative facts of a particular case, even to the point of having reached a tentative conclusion prior to the hearing, does not necessarily disqualify an administrative decisionmaker, in the absence of a showing that the decisionmaker is not capable of judging a particular controversy fairly on the basis of its own circumstances.³³

With respect to *ex parte* communications, the Kansas Supreme Court has stated that due process requires that "the parties must be informed of the evidence submitted for consideration and must be provided an opportunity to respond and rebut the evidence."³⁴ If *ex parte* communications are present in the context of quasi-judicial proceedings, they may compromise the fairness and the openness of the proceedings by denying other interested parties the opportunity to hear, rebut, or respond to the evidence.

To provide guidance for consistent application of the due process requirements described above, the following policies shall be applied to identify and resolve potential issues resulting from prejudice and *ex parte* communications.

Prejudgment.

City officers serving as quasi-judicial decision makers shall endeavor to keep an open mind and a willingness to listen to all the evidence presented before making a final decision on the matter. If a city officer determines that he or she is not able to keep an open mind or consider all the evidence before making a decision, the officer shall abstain from any action relating to the matter.

Ex parte communications.

During the pendency of any quasi-judicial proceeding, no city officer who is a member of an advisory or decision-making body shall participate with any person in *ex parte* oral or written communications relevant to the merits of the matter, unless:

- (1) The city officer places on the record the substance of any written or oral *ex parte* communications concerning matter; and
- (2) A public announcement of the content of the communication and of interested parties' rights to rebut or respond to the substance of the communication is made at each hearing where action is considered or taken on the subject to which the communication related.

This prohibition does not preclude a member of an advisory or decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and a member of the advisory or decision-making body if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

Oral or written communication between an assigned member of the city staff and a member of an advisory or decision-making body within the scope of the assigned staff member's advisory role does not constitute an *ex parte* communication.

If a city officer is unable or unwilling to comply with the above requirements, he or she shall abstain from any action relating to the matter.

Section 12. Preventative judicial remedies. At the discretion of the governing body, the City may pursue in the Saline County district court any injunctive, declaratory, or other judicial relief necessary to prevent the violation of this policy by a city officer or employee.

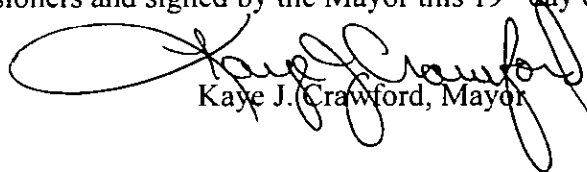
Section 13. City response to actions taken by conflicted employee or upon conflicted vote.

- (a) City employee. Upon discovery of an action taken by a city employee affected by an undisclosed substantial interest, a disqualifying substantial interest or a common-law conflict of interest, the city manager shall take the action he or she deems to best serve the public interest, with the approval of the governing body when applicable.
- (b) Appointed board member. Upon discovery of an action taken by any of the City's commissions, authorities, boards, or committees affected by a member's undisclosed substantial interest, a disqualifying substantial interest or a common-law conflict of interest, the acting body shall, after consulting with city staff and legal counsel, take the action it deems to best serve the public interest. The conflicted member who participated in the affected matter shall be disqualified from voting on the remedial action.
- (c) Governing body member. Upon discovery of an action taken by the governing body affected by a member's undisclosed substantial interest, a disqualifying substantial interest or a common-law conflict of interest, the governing body shall take the action it deems to best serve the public interest. The conflicted member who participated in the affected matter shall be disqualified from voting on the remedial action.

Section 14. Consequences of violation for city officer or employee. As described in Section 5.(a)(4) above, the Act imposes specific penalties upon the individual for its violation. Kansas common law does not impose specific penalties upon the individual for actions taken under a common-law conflict of interest. Aside from any consequences under state law, violation of this policy by a city employee may result in disciplinary action under the authority of the city manager. Violation by a board member may result in (a) private notice and warning, (b) private or public censure, or (c) removal from office; at the discretion of the governing body, based upon the nature of the violation. Violation by a member of the governing body will be addressed on a case-by-case basis at the discretion of the other members of the governing body, with the advice of special ethics counsel.

Section 15. This resolution shall be in full force and effect from and after its adoption.

Adopted by the Board of Commissioners and signed by the Mayor this 19th day of June, 2017.


Kaye J. Crawford, Mayor

(SEAL)

ATTEST:



Shandi Wicks, CMC, City Clerk

ATTACHMENT "A" TO RESOLUTION NO. 17-7463

SUMMARY OF KANSAS CASES AND ATTORNEY GENERAL OPINIONS
ADDRESSING WHAT CONSTITUTES A COMMON-LAW CONFLICT OF INTEREST

Kansas appellate court decisions and attorney general opinions indicating what does or does not constitute a common-law conflict of interest are as follows:

Anderson v. City of Parsons, 209 Kan. 337 (1972): A property owner challenged the validity of various proceedings in the development of an urban renewal program in Parsons, Kansas, on the basis of an alleged conflict of interest arising from city commissioners' ownership of property within the general urban renewal area at the time they voted on various resolutions during the progress of the urban renewal program. The court discussed statutory and common-law conflict of interest rules and held that the commissioners would be prohibited from acting on specific urban renewal projects involving property they own, but they would not be prohibited from acting solely on the basis of property ownership within the general urban renewal area designated in the city.

City of Topeka v. Huntoon, 46 Kan. 634 (1891): The Court recognized the common-law rule that public officials are disqualified to vote on propositions in which they have a "direct pecuniary interest adverse" to the public body they represent. However, the court found no such conflict of interest where a city council member voted on the establishment of a sewer district which would include and exclude some of his property.

City of Concordia v. Hagaman, 1 Kan.App. 35 (1895): A city council member was hired by the city to revise, compile, and publish ordinances. The city later refused to pay for the services, on the ground that the contract was void due to the council member's conflict of interest. The court held that the contract was voidable at the option of the city, and stated as follows:

In the absence of a penal prohibitive statute, on grounds of public policy alone, an express contract entered into between the mayor and council of a city of the second class and one who is at the time a councilman of such city, for the performance of services for the city, will not be enforced. Such contract, while not absolutely void, may be avoided by the city, at will, so long as it remains executory.

Kan. Atty. Gen. Op. No. 85-141 (1985): The attorney general opined that common-law conflict of interest principles disqualify a city council member from making or voting on a motion to have the city pay for attorney fees incurred by that council member in a civil action against the city and the councilmember in his or her individual capacity.

Kan. Atty. Gen. Op. No. 01-56 (2001): The attorney general was asked to decide whether certain situations presented a conflict of interest in the context of credentialing or noncredentialing of health care personnel whose application for credentialing would be reviewed by a state technical committee. The attorney general recognized and recited the common-law conflict of interest principles stated in *Anderson*, but stated that a blanket opinion could not be furnished on the issue of whether a conflict of interest was present in the particular situations posed, because additional facts were needed and each situation must be evaluated based on its own circumstances.

ATTACHMENT "B" TO RESOLUTION NO. 17-7463

TABLE OF AUTHORITIES

Consolidated-Salina EPN111155

- ¹ K.S.A. 75-4301a, *et seq.*
- ² K.S.A. 75-4301a(b) (defining "business").
- ³ K.S.A. 75-4301a(a)(1-5) (defining "substantial interest").
- ⁴ *See Anderson v. City of Parsons*, 209 Kan. 337, 341, 496 P.2d 1333 (1972); *see also* Kan. Atty. Gen. Op. No. 85-141 (1985) (explaining that if a conflict of interest question does not fall under the scope of the Act, "[i]t is necessary to look to common law principles in resolving [the] question"); Kan. Atty. Gen. Op. No. 85-169 (1985) (same).
- ⁵ K.S.A. 75-4301a(b).
- ⁶ BLACK'S LAW DICTIONARY 276 (6th ed. 1990).
- ⁷ K.S.A. 75-4301a(i).
- ⁸ *Id.* at (g).
- ⁹ BLACK'S LAW DICTIONARY 472 (6th ed. 1990).
- ¹⁰ *Id.* at 576.
- ¹¹ *Id.* at 1131.
- ¹² K.S.A. 75-4301a(j).
- ¹³ *Id.* at (a).
- ¹⁴ BLACK'S LAW DICTIONARY 1245 (6th ed. 1990).
- ¹⁵ K.S.A. 75-4304.
- ¹⁶ K.S.A. 75-4305.
- ¹⁷ K.S.A. 75-4302.
- ¹⁸ K.S.A. 75-4305(a).
- ¹⁹ *Id.* at (b).
- ²⁰ K.S.A. 75-4304(d).
- ²¹ *Anderson*, 209 Kan. at 341.
- ²² *Id.* at 341-342 (citing *United States v. Carter*, 217 U.S. 286, 30 S.Ct. 515 (1910)).
- ²³ *Id.* at 342 (citing *Reilly v. Ozzard*, 33 N.J. 529, 166 A.2d 360 (1960)).
- ²⁴ Kan. Atty. Gen. Op. No. 2001-56 (citing *Wyzykowski v. Rizas*, 626 A.2d 406, 414 (N.J. 1993) quoting Michael A. Pane, *Conflict of Interest: Sometimes a Confusing Maze, Part II, New Jersey Municipalities at 8, 9* (March 1980)).
- ²⁵ *Id.*
- ²⁶ *Anderson*, 209 Kan. at 341-342; *see also* 67 C.J.S. *Officers and Public Employees* § 347 ("According to some authority, in order to constitute a disqualification, the personal pecuniary interest of the official must be immediate, definite, and capable of demonstration and may not be remote, uncertain, contingent, and speculative.").
- ²⁷ K.S.A. 75-4303a(a).
- ²⁸ *Id.*
- ²⁹ *McPherson Landfill, Inc. v. Board of County Comm'rs*, 274 Kan. 303, 305, 49 P.3d 522 (2002).
- ³⁰ *Id.*
- ³¹ *Id.* at 318.
- ³² *Id.* (quoting *Madison River R.V. Ltd. v. Town of Ennis*, 298 Mont. 91, 94, 994 P.2d 1098 (2000)).
- ³³ *Id.* (quoting *Wagner v. Jackson Cty. Bd. of Zoning Adjustment*, 857 S.W.2d 285, 289 (Mo.App. 1993)).
- ³⁴ *Id.* at 533 (citing *Suburban Medical Center v. Olathe Community Hosp.*, 226 Kan. 320, 331, 597 P.2d 654 (1979)).