

BEFORE THE OFFICE OF THE KANSAS ATTORNEY GENERAL
120 SW 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1597
Shawnee County, Kansas

In the Matter of Leslie Coelho, Lois Elrod,)
and Clint Waggoner, for Conduct as)
Councilmembers on the City Council for the)
City of White Cloud, a Public Body)
Pursuant to K.S.A. 75-4318(a))

Case No. 2024-OG-0003

CONSENT ORDER

NOW on this 17th day of December, 2024 this matter comes before the Attorney General for the purposes of resolving the above-captioned matter pursuant to the provisions of K.S.A. 75-4320d(a)(1), which grants the Attorney General authority to enter into consent orders.

In lieu of further legal proceedings concerning violation of the Kansas Open Meetings Act (KOMA), K.S.A. 75-4317 *et seq.*, the undersigned hereby knowingly and voluntarily agree as follows:

1. On or about July 20, 2023, the Attorney General’s Office received a complaint alleging that the City of White Cloud (“the city council”) violated the KOMA. Following this complaint, the Attorney General’s Office conducted an investigation into allegations that the city council improperly discussed matters in executive session in violation of K.S.A. 75-4319(a) and (b), which require that a public body follow a certain procedure to recess into executive session and limit its discussions during executive session to specific statutory topics.

2. The city council is a public body that is subject to the requirements of the KOMA and must comply with the KOMA.

3. Investigation and/or statements provided by or on behalf of the city confirm the following violations of the KOMA by a preponderance of the evidence:

- a. On or about January 13, 2020, the city council—specifically Leslie Coelho, Lois Elrod, Richard Nuzum, Clint Waggoner, and Michelle Waggoner—recessed into executive session “to discuss a city employee”; an adequate reference to a justification listed in K.S.A. 75-4319(b) was not made; a statement sufficiently describing the subject to be discussed was not given; and, the motion failed to include the time and place where the open meeting would resume.
- b. On or about September 14, 2020, the city council—specifically Leslie Coelho, Lois Elrod, Clint Waggoner, and Michelle Waggoner—recessed into executive session “to discuss the flea market.” No reference to a justification listed in K.S.A. 75-4319(b) was made. Moreover, this topic of discussion does not fit within a

statutory justification for executive session. Finally, the motion failed to include the time and place where the open meeting would resume.

- c. On or about April 5, 2021, the city council—specifically Leslie Coelho, Lois Elrod, Richard Nuzum, Clint Waggoner, and Michelle Waggoner—recessed into executive session “to discuss the FEMA project.” No reference to a justification listed in K.S.A. 75-4319(b) was made. Moreover, this topic of discussion does not fit within a statutory justification for executive session. Finally, the motion failed to include the time and place where the open meeting would resume.
- d. On or about April 5, 2021, the city council—specifically Leslie Coelho, Lois Elrod, Richard Nuzum, Clint Waggoner, and Michelle Waggoner—recessed into executive session following its original motion as described in paragraph c., above. On this occasion, the city council verbally moved to “add 10 minutes” to the executive session, rather than make a complete motion as required by K.S.A. 75-4319(a).
- e. On or about June 7, 2021, the city council—specifically Leslie Coelho, Lois Elrod, Clint Waggoner, and Michelle Waggoner—recessed into executive session “to discuss the resignation, at the last Council meeting, of Councilman Richard Nuzum.” No reference to a justification listed in K.S.A. 75-4319(b) was made. Moreover, this topic of discussion does not fit within a statutory justification for executive session. Finally, the motion failed to include the time and place where the open meeting would resume.
- f. On or about November 1, 2021, the city council—specifically Leslie Coelho, Lois Elrod, Clint Waggoner, and Michelle Waggoner—recessed into executive session “to discuss FEMA.” No reference to a justification listed in K.S.A. 75-4319(b) was made. Moreover, this topic of discussion does not fit within a statutory justification for executive session. Finally, the motion failed to include the time and place where the open meeting would resume. Although the motion did not include the time the open meeting would resume, the motion included the duration (“45 minutes”) of the executive session. Notwithstanding, the city council resumed the open meeting prior to the implied time.
- g. On or about February 7, 2022, the city council—specifically Brad Cluck, Leslie Coelho, Lois Elrod, Jennifer Goff, and Clint Waggoner—recessed into executive session, “to discuss the disbursements.” No reference to a justification listed in K.S.A. 75-4319(b) was made. Moreover, this topic of discussion does not fit within a statutory justification for executive session. Finally, the motion failed to include the time and place where the open meeting would resume. Although the motion included the time the open meeting would resume, the city council resumed the open meeting prior to the stated time.
- h. On or about February 7, 2022, the city council—specifically Brad Cluck, Leslie Coelho, Lois Elrod, Jennifer Goff, and Clint Waggoner—recessed into executive session “to discuss the Flea Market Manager Applications”; an adequate reference to a justification listed in K.S.A. 75-4319(b) was not made; and, the motion failed

to include the place the open meeting would resume. Although the motion included the time the open meeting would resume, the city council resumed the open meeting prior to the stated time.

- i. On or about March 7, 2022, the city council—specifically Brad Cluck, Leslie Coelho, Lois Elrod, Jennifer Goff, and Clint Waggoner—recessed into executive session “to discuss the meter reader position”; an adequate reference to a justification listed in K.S.A. 75-4319(b) was not made; and, the motion failed to include the place the open meeting would resume. Although the motion included the time the open meeting would resume, the city council resumed the open meeting prior to the stated time.
- j. On or about May 8, 2023, the city council—specifically Leslie Coelho, Lois Elrod, and Clint Waggoner—recessed into executive session “to discuss the follow up of the letter that was mailed to the previous City Clerk.” No reference to a justification listed in K.S.A. 75-4319(b) was made. Moreover, this topic of discussion does not fit within a statutory justification for executive session. Finally, the motion failed to include the time and place where the open meeting would resume. Although the motion did not include the time the open meeting would resume, the motion included the duration (“10 minutes”) of the executive session. Notwithstanding, the city council remained in executive session beyond the stated duration.
- k. On or about October 2, 2023, the city council—specifically Leslie Coelho, Karon DeRoin, Lois Elrod, Clint Waggoner, and Michelle Waggoner—recessed into executive session “to discuss a letter received by Councilmembers at the end of last week and earlier today.” No reference to a justification listed in K.S.A. 75-4319(b) was made. Moreover, this topic of discussion does not fit within a statutory justification for executive session. Finally, the motion failed to include the time and place where the open meeting would resume. Although the motion did not include the time the open meeting would resume, the motion included the duration (“20 minutes”) of the executive session. Notwithstanding, the city council resumed the open meeting prior to the implied time.
- l. On or about November 6, 2023, the city council—specifically Leslie Coelho, Karon DeRoin, Lois Elrod, Clint Waggoner, and Michelle Waggoner—recessed into executive session “to discuss a letter received.” No reference to a justification listed in K.S.A. 75-4319(b) was made. Moreover, this topic of discussion does not fit within a statutory justification for executive session. Finally, the motion failed to include the time and place where the open meeting would resume.
- m. On or about December 18, 2023, the city council—specifically Leslie Coelho, Karon DeRoin, Clint Waggoner, and Michelle Waggoner—recessed into executive session “to discuss a legal matter”; an adequate reference to a justification listed in K.S.A. 75-4319(b) was not made; a statement describing the subject to be discussed was not given; and, the motion failed to include the time and place the open meeting would resume.

4. Based upon the above information, Leslie Coelho, Lois Elrod, and Clint Waggoner individually admit and agree that they violated KOMA as set out in paragraphs 3.a., through 3.m. above.

5. Leslie Coelho, Lois Elrod, and Clint Waggoner now fully understand and agree that for each executive session held, they fully intend to comply with the requirements of K.S.A. 75-4319(a) and (b) concerning executive sessions.

6. The Attorney General and Leslie Coelho, Lois Elrod, and Clint Waggoner mutually desire to enter into this Consent Order in lieu of further adjudicative proceedings.

7. Leslie Coelho, Lois Elrod, and Clint Waggoner understand and waive all rights to further adjudication of facts and law that could be determined pursuant to other enforcement proceedings conducted in accordance with K.S.A. 75-4320a(a), 75-4320d(a)(2), or 75-4320f concerning this matter.

8. Leslie Coelho, Lois Elrod, and Clint Waggoner waive any claim or assertion that the Kansas Judicial Review Act (KJRA), K.S.A. 77-601 et seq., applies to agency actions that are governed by the provisions of K.S.A. 75-4317 et seq., and amendments thereto, relating to open meetings (KOMA), and subject to an action for civil penalties or enforcement, and thus they do not have a right to appeal under the KJRA.

9. The Attorney General accepts the waivers and stipulations by Leslie Coelho, Lois Elrod, and Clint Waggoner.

WHEREAS, the Attorney General finds that the above facts have been established by a preponderance of the evidence, and that it is proper that Leslie Coelho, Lois Elrod, and Clint Waggoner be subject to this Order based on the provisions of K.S.A. 75-4320d(a)(1), which permits the Attorney General to impose conditions or requirements on a public body for violation of the KOMA in a Consent Order;

AND WHEREAS the Attorney General and Leslie Coelho, Lois Elrod, and Clint Waggoner mutually desire to enter into a Consent Order in lieu of further adjudicative proceedings to resolve the violation.

NOW THEREFORE, Leslie Coelho, Lois Elrod, and Clint Waggoner consent to the following terms and conditions, and the Attorney General orders that:

10. Leslie Coelho, Lois Elrod, and Clint Waggoner agree and shall:
 - a. For the executive session violations detailed in paragraphs 3.a. through 3.m., above, Leslie Coelho, Lois Elrod, and Clint Waggoner agree to and shall individually pay a civil penalty of \$250 each. Such payment shall be made payable by certified check, personal check or money order to the Office of the Attorney General pursuant to K.S.A. 75-760 within 30 days of the effective date of this Consent Order; and
 - b. Not engage in any future violations of the KOMA.

11. Leslie Coelho, Lois Elrod, and Clint Waggoner understand and agree that if they fail to comply with the terms of this Consent Order, the Attorney General may take action to enforce its provisions as authorized by K.S.A. 75-4320d(c) and amendments thereto.

12. Leslie Coelho, Lois Elrod, and Clint Waggoner understand and agree that if they engage in any future violation of the KOMA, the facts and statements contained herein may be considered in determining the appropriate enforcement action and remedy.

13. Leslie Coelho, Lois Elrod, and Clint Waggoner agree and understand that this Consent Order does not resolve future and/or currently unknown unlawful conduct that may occur or be brought to the attention of the Attorney General or any other prosecutor, and any such alleged violations of the KOMA may be subject to investigation proceedings as provided by K.S.A. 75-4320b and/or enforcement proceedings conducted in accordance with K.S.A. 75-4320a(a), 75-4320d(a)(2), or 75-4320f.

14. In consideration of these admissions and agreements by Leslie Coelho, Lois Elrod, and Clint Waggoner, and the above-agreed remedies, the Attorney General agrees to forgo further prosecution for the violations of the KOMA set forth herein.

15. Leslie Coelho, Lois Elrod, and Clint Waggoner agree that this Consent Order conforms to Kansas and federal law and that the Attorney General has the authority to enter into this Consent Order.

16. Except as provided in paragraphs 11 and 12, this Consent Order shall operate as a complete release of all claims Leslie Coelho, Lois Elrod, and Clint Waggoner may have against the Attorney General, his agents or employees, arising out of the investigation of this matter. Leslie Coelho, Lois Elrod, and Clint Waggoner agree not to file, or cause to be filed, any litigation or claims in any federal or state court of law or federal or state administrative agency against the Attorney General, the Office of the Attorney General, its agents or employees, individually or in their official capacity. Such litigation or claims include, but are not limited to, any K.S.A. Chapter 60 or Chapter 61 civil action regarding negligence and/or a 42 United States Code action and/or any administrative petition for redress. Leslie Coelho, Lois Elrod, and Clint Waggoner agree that all actions in this matter were a bona fide use of discretion and authority granted to the Attorney General, the Office of the Attorney General, its agents and employees, which is a statutory exception to liability within the Kansas Tort Claims Act, K.S.A. 75-6104(b), (c) or (e).

17. Leslie Coelho, Lois Elrod, and Clint Waggoner understand that this Consent Order shall be maintained and made available for public inspection pursuant to the provisions of K.S.A. 75-4320d(e) and amendments thereto.

18. This Consent Order shall be a public record in the custody of the Office of the Attorney General.

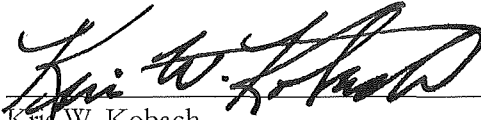
19. This Consent Order constitutes the entire agreement of the parties and may only be modified by a subsequent writing signed by the parties. This Consent Order shall be interpreted in accordance with the laws of the State of Kansas.

20. This Consent Order shall become effective on the date indicated in the Certificate of Service.

WHEREFORE, the Attorney General and Leslie Coelho, Lois Elrod, and Clint Waggoner consent to these provisions.

IT IS SO ORDERED.

OFFICE OF THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "Kris W. Kobach", is written over a horizontal line.

Kris W. Kobach
Kansas Attorney General

Prepared By:

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City of White Cloud City Council, by each individual involved in a violation of the KOMA:

Leslie Coelho
Leslie Coelho, former councilmember

9/30/24
Date

Lois Elrod, former councilmember

Date

Clint Waggoner, former councilmember

Date

ATTEST:


Matthew Henry, Clerk

Date

City of White Cloud City Council, by each individual involved in a violation of the KOMA:

Leslie Coelho, former councilmember

Date



Lois Elrod, former councilmember

10-8-24

Date

Clint Waggoner, former councilmember

Date

ATTEST:

Matthew Henry, Clerk

Date