

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 Clint Waggoner as a)
Member of the City Council for the)
City of White Cloud)
_____)

Case No. 2025-OG-0001

FINDING OF VIOLATION

NOW on this ____ day of February, 2025, 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)(2), which grants the Attorney General authority to issue a finding of violation.

The Attorney General gives notice of the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. The City of White Cloud, Kansas, is a political or taxing subdivision of the state, and thus is a public body or agency. The City Council of the City of White Cloud exercises the powers of the city as a body politic and corporate. *See* K.S.A. 15-105.

2. The City Council of the City of White Cloud is a public body that is subject to the requirements of the Kansas Open Meetings Act (KOMA), K.S.A. 75-4317 *et seq.*, and any meetings it holds must comply with the KOMA.

3. During the relevant period, the City Council for the City of White Cloud (“city council”) was comprised of Councilmembers Leslie Coelho, Lois Elrod, Richard Nuzum, Clint Waggoner, and Michelle Waggoner, in 2020; Councilmembers Leslie Coelho, Lois Elrod, Richard Nuzum (who resigned in May 2021), Clint Waggoner, and Michelle Waggoner in 2021; Councilmembers Brad Cluck, Leslie Coelho, Lois Elrod, Jennifer Goff, and Clint Waggoner, in 2022; Councilmembers Brad Cluck (who resigned in March 2023), Leslie Coelho, Lois Elrod, Jennifer Goff (who resigned in June 2023) Clint Waggoner, Michelle Waggoner (who filled a vacancy in April 2023), and Karon DeRoin (who filled a vacancy in August 2023).

4. In October 2024, former councilmembers Leslie Coelho and Lois Elrod individually admitted and agreed that they violated the KOMA based on facts as described in this finding of violation, and entered into a Consent Order with the Attorney General to resolve these KOMA violations. Each also agreed to comply with the requirements of K.S.A. 75-4319(a) and (b). Former councilmembers Coelho and Elrod have satisfied the requirements of the Consent Order.

5. The Attorney General offered former councilmember Clint Waggoner the opportunity to enter into the same Consent Order, subject to the same terms and conditions as former councilmembers Coelho and Elrod and in lieu of further adjudicative proceedings or actions, but former councilmember Clint Waggoner declined this opportunity.

6. This finding of violation applies solely to Clint Waggoner for his conduct as a councilmember on the City Council for the City of White Cloud and not to former councilmembers Coelho and Elrod or to the current legally constituted city council.

7. On or about July 20, 2023, the Attorney General's Office received a complaint alleging that the City Council for the City of White Cloud violated the KOMA.

8. Following this complaint, the Attorney General's Office conducted an investigation into several allegations, including 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.

9. Investigation confirmed the following:

- 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.” The official meeting minutes state, “Clinton Waggoner made a motion at 8:25 pm to go into Executive Session to discuss a City employee. The Council asked Water Manager Brad Haynes to stay.”
- 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.” The official meeting minutes state, “Clinton Waggoner made a motion to go into Executive Session at 7:50 pm to discuss the Flea Market. Charlie Messner and Kathy Messner were asked to stay.”
- 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.” The official meeting minutes state, “Michelle Waggoner made a motion to go into executive session for 15 minutes to discuss the FEMA project. Clint Waggoner seconded the motion. Leslie Coelho and Lois Elrod were for the motion. Richard Nuzum was against the motion. Motion carried with a majority of 4-1.”
- 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, Clint Waggoner made a motion to “add 10 minutes” to the executive session. The official meeting minutes state, “Clint Waggoner made a motion to add 10 minutes to the executive session. Shelly

Waggoner seconded the motion. Leslie Coelho and Lois Elrod were for the motion. Richard Nuzum was against the motion. Motion carried with a majority of 4-1.”

- 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.” The official meeting minutes state, “Michelle Waggoner made a motion to enter executive session at 8:30 pm for 15 minutes to discuss the resignation, at the last Council meeting, of Councilman Richard Nuzum. Leslie Coelho seconded the motion. All were in favor; the motion carried.”
- 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.” The official meeting minutes state, “Clint Waggoner made a motion at 7:37 pm to go into Executive Session for 45 minutes, to discuss FEMA. Michelle Waggoner seconded the motion. All were in favor; the motion carried. The Council asked Brad Haynes and City Clerk Amber Jakeman to stay during Executive Session.” The official meeting minutes go on to state, “Clint Waggoner made a motion at 8:14 pm to go out of Executive Session. Lois Elrod seconded the motion. All were in favor; the motion carried.”
- 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.” The official meeting minutes state, “Jennifer Goff made a motion to go into executive session from 8:05 pm – 8:15 pm to discuss the disbursements. Clint Waggoner seconded the motion. All were in favor; the motion carried.” The official meeting minutes go on to state, “Clint Waggoner made a motion to come out of executive session at 8:13 p.m. Jennifer Goff seconded the motion. All were in favor; the motion carried.”
- 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.” The official meeting minutes state, “Jennifer Goff made a motion to go into executive session from 8:19 to 8:30 to discuss the Flea Market Manager application. Lois Elrod seconded the motion. All were in favor; the motion carried.” The official meeting minutes go on to state, “Jennifer Goff made a motion to come out of executive session at 8:25 pm. Clint Waggoner seconded the motion. All were in favor; the motion carried.”
- 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.” The official meeting minutes state, “Jennifer Goff made a motion to go into executive session from 7:53 pm to 8:08 pm to discuss the meter reader position, allowing Brad Haynes

and City Clerk Jakeman to stay. Leslie Coelho seconded the motion. All were in favor; the motion carried.” The official meeting minutes go on to state, “Jennifer Goff made a motion to come out of executive session at 8:02 pm. Clint Waggoner seconded the motion. All were in favor; the motion carried.”

- 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.” The official meeting minutes state, “Councilmember Leslie Coelho made a motion at 8:45pm to go into executive session for 10 minutes to discuss the follow up of the letter that was mailed to the previous City Clerk. Councilmember Michelle Waggoner seconded the motion. All were in favor; the motion carried.” The official meeting minutes go on to state, “Councilmember Clint Waggoner made a motion at 8:58 pm to come out of executive session. Councilmember Leslie Coelho seconded the motion. All were in favor; the motion carried.”
- 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.” The official meeting minutes state, “Councilmember Michelle Waggoner made a motion to go into executive session at 8:33 pm for 20 minutes to discuss a letter received by Councilmembers at the end of last week and earlier today. Councilmember Lois Elrod seconded the motion. All were in favor; the motion carried.” The official meeting minutes go on to state, “Councilmember Michelle Waggoner made a motion to come out of executive session on 8:43pm. Councilmember Leslie Coelho seconded the motion. All were in favor; the motion carried.”
- 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.” The official meeting minutes state, “City Clerk Jakeman suggested the Council enter into executive session for 15 minutes to discuss a letter received. Councilmember Karon DeRoin made a motion to enter executive session at 8:32pm, for 15 minutes. Councilmember Clint Waggoner seconded the motion. All were in favor; the motion carried.”
- 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.” The official meeting minutes state, “At 5:01pm Council member Michelle Waggoner made a motion to enter executive session, for 15 minutes, to discuss a legal matter allowing City Clerk Amber Jakeman, Attorney Euler, and Mr. Euler’s nephew to attend the executive session with the Council. Councilmember Leslie Coelho seconded the motion. All were in favor; the motion carried.”

CONCLUSIONS OF LAW

10. K.S.A. 75-4317(a) provides that “[I]n recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the policy of this state that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public.”

11. K.S.A. 75-4319(a) requires a public body to follow a specific procedure in order to comply with the statutory requirements for recessing into executive session: “[U]pon formal motion made, seconded and carried, all public bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include: (1) A statement describing the subjects to be discussed during the closed or executive meeting; (2) the justification listed in subsection (b) for closing the meeting; and (3) the time and place at which the open meeting shall resume. The complete motion shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the public body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

12. K.S.A. 75-4319(b) provides fifteen specific justifications a public body may use to recess to a closed or executive meeting. Included, in part, are to discuss personnel matters of nonelected personnel;¹ for consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship;² to discuss employer-employee negotiations whether or not in consultation with the representative or representatives of the public body or agency;³ to discuss data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and indivial proprietorships;⁴ for the preliminary discussion of the acquisition of real property;⁵ to discuss matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;⁶ and to discuss matters relating to security measures (subject to certain conditions).⁷

13. The individual members of a public body are responsible for ensuring compliance with the KOMA. The KOMA places the burden of compliance with the law on the indivial members of the public body and not on its staff or employees. *See e.g.*, K.S.A. 75-4320(a) (acknowledging that “any member” of a public body is liable for violation of the law).

14. A “[T]echnical violation’ is a term of art adopted by courts in discussing KOMA violations.” *Stevens v. City of Hutchinson*, 11 Kan. App. 2d 290, 291, 726 P.2d 279 (1986). “Kansas courts will look to the spirit of the law, and will overlook mere technical violations where the public body has made a good faith effort to comply and is in substantial compliance with the KOMA, and where no one is prejudiced or the pubic right to know has not been effectively denied.” *Id.* (internal quotes omitted).

¹ K.S.A. 75-4319(b)(1).

² K.S.A. 75-4319(b)(2).

³ K.S.A. 75-4319(b)(3).

⁴ K.S.A. 75-4319(b)(4).

⁵ K.S.A. 75-4319(b)(6).

⁶ K.S.A. 75-4319(b)(11).

⁷ K.S.A. 75-4319(b)(12).

15. K.S.A. 75-4320d(a)(2) provides that a finding of violation issued by the Attorney General may require a public body or agency to cease and desist from further violation, comply with the provisions of K.S.A. 75-4317 *et seq.*, complete training, and pay a civil penalty in an amount not to exceed \$500.00 for each violation. Civil penalties must be paid by the member or members of the body themselves, not out of the public treasury. K.S.A. 75-4320(a).

16. Based on a review of the city council's motions and information obtained during investigation of this matter, it is clear that the executive sessions held, and motions for executive session, including motions made by former councilmember Clint Waggoner, between January 13, 2020, and December 18, 2023, did not comply with the KOMA as follows:

- 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.” The motion did not contain an adequate reference to a justification listed in K.S.A. 75-4319(b); 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. This is a violation of the KOMA.
- 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. This is a violation of the KOMA.
- 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. This is a violation of the KOMA.
- 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). This is a violation of the KOMA.
- 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. This is a violation of the KOMA.

- 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. This is a violation of the KOMA.
- 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. This is a violation of the KOMA.
- 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.” The motion did not contain an adequate reference to a justification listed in K.S.A. 75-4319(b), 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. This is a violation of the KOMA.
- 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.” The motion did not contain an adequate reference to a justification listed in K.S.A. 75-4319(b), 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. This is a violation of the KOMA.
- 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. This is a violation of the KOMA.

- 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. This is a violation of the KOMA.
- 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. This is a violation of the KOMA.
- 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.” The motion did not contain an adequate reference to a justification listed in K.S.A. 75-4319(b), 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. This is a violation of the KOMA.

17. After due consideration, the Attorney General concludes that the violations in paragraphs 16.a. through m. above are more than mere technical violations. Discussing matters in executive session that were required to be discussed in an open meeting effectively denied the public’s right to know. Failing to state the time and place the open meeting would resume, or not abiding by the stated time the open meeting was to resume, impaired the public’s right to attend and listen to the meeting.

18. The KOMA grants the Attorney General broad authority to remedy violations. The purpose of this authority is to ensure public bodies and agencies recognize and comply with the public policy set out in K.S.A. 75-4317(a). Meetings for the conduct of governmental affairs and the transaction of governmental business must be open to the public subject to the specific provisions that permit a public body to discuss some matters outside of public view. A public body and its members are responsible for ensuring that they do not ignore these specific provisions.

19. The Attorney General finds that formal action is warranted in order to resolve the KOMA violations by Clint Waggoner as councilmember on the White Cloud City Council. After due consideration of the facts of this case, the Attorney General determines that a Finding of Violation is the proper sanction to remedy these 13 violations and deter any future violations. Accordingly, the Attorney General imposes the following requirements on former Councilmember Clint Waggoner:

- a. Cease and desist from any further violation of the KOMA;
- b. Comply with the provisions of K.S.A. 75-4317 *et seq.*, and amendments thereto;
- c. Identify and complete at least one hour of training on the KOMA;
- d. Provide a written certification of attendance within ten days of the training; and
- e. Pay a civil penalty in the amount of \$50 for each of the thirteen (13) violations identified in paragraphs 16.a. through m., above, for a total of \$650.00. This civil penalty shall be paid individually and not from city council, city, or other public funds. Such payment shall be made payable to the Office of the Attorney General pursuant to K.S.A. 75-760 on or before April 1, 2025.

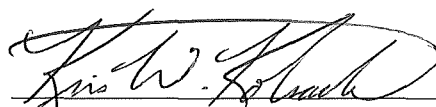
20. This Finding of Violation and the remedial action it requires serve as a warning that the actions of Clint Waggoner, as a councilmember on the White Cloud City Council, fell below the expected standards for a public body or agency in complying with the KOMA. It also serves as a reminder that the individual members of a public body bear the burden to comply with the law and safeguard the public policy embodied by the KOMA.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Attorney General finds that Clint Waggoner, for his conduct as a councilmember on the White Cloud City Council, be and is hereby sanctioned by the imposition of this Finding of Violation and the actions it requires.

Clint Waggoner shall submit to the Office of the Attorney General his written certification and payment required by paragraph 19 on or before April 1, 2025, by sending it to Attorney General at 120 SW 10th Avenue, 2nd Floor, Topeka, Kansas 66612-1597.

IT IS SO ORDERED.



Kris W. Kobach
Attorney General