

**AGENDA
WORK SESSION**

**BASEHOR CITY COUNCIL
October 5, 2009
7:00 p.m.
Basehor City Hall**

1. Kevin Robinson, People Wise – Presentation regarding Personnel audit and policies.
2. Joe McAfee, MHS Engineering – Update regarding 150th Street project - Craig to Parallel
3. Aaron Hale, MKEC Engineering – Update regarding Wolf Creek Parkway project.
4. Review bids for sewer line relocation in Wolf Creek Junction
5. Brett Napier, Level 4 Engineering – Update regarding Basehor Town Center Project
6. Review quotes for demolition of two foundations in Pinehurst Subdivision.
7. Discuss Glenwood Estates sewer line update.

Basehor City Council reserves the right to amend the agenda following its publication in the Basehor Sentinel newspaper. Citizens are encouraged to attend all public meetings. Updates to the agenda may be viewed at www.cityofbasehor.org

Memo

Date: 9/29/2009
To: Basehor City Council
Cc: Mayor, Terry Hill
From: Mark Loughry, City Administrator MEL
RE: 10/05/09 Work Session

Council, attached you will find the agenda packet for the October 5th Work Session. The agenda is fairly short and straight forward but I wanted to give you a quick run down of the topics.

Agenda item one is a the formal presentation of the report of findings from People Wise. In July of 2009 People Wise was retained to perform a comprehensive audit of the City of Basehor personnel manual and policies as well as actual employment practices. This report is a compilation of the facts and issues they discovered. President Washington, Mayor Hill and I have reviewed this document with People Wise and feel it is accurate. Kevin Robinson will be here to go into detail about the findings but there are a few items I think are particularly noteworthy. The personnel files were lacking in federally required forms specifically the I-9 form being utilized is out of date and not properly filled out. Our job descriptions and Employee Manual are out of date and need to be changed to reflect recent changes in employment law. Lastly there is no documentation of ongoing employee training. There are some additional issues but those to me were the areas of immediate concern. You have two attachments for this item, one is the formal proposal and the other is a highlighted copy of the report with the City Documents they refer to attached for easier referral.

Agenda items two and three are progress reports on City projects and no support documentation was provided for the packets. These are fairly self explanatory.

Agenda item four is the review of bids for the Wolf Creek Parkway sewer line relocation. The bids have not been opened for this yet so are not included but once we have them we will get those out to you. Because we do not want to hold this project up we may ask for you to hold a special meeting to approve these bids and the bids for the water line relocation at the same time. If the timing does not work out for a special meeting we may bring this directly to the regular meeting on the 19th.

Agenda item five is another report on a City project and does not have any supporting documentation for the packet.

Agenda item six is the review of quotes for an abatement of the foundations in the Pinehurst Subdivision. This nuisance has made its way through the abatement process and has been

Memo

approved by the Council for abatement. The final action needed to start the process is the approval of the quotes for demolition. We have received two quotes but are not including them in the packet as we hope to have two more by the end of the week. We will send all of the quotes received by the end of the week for your review. The quotes received have come in under my purchasing authority but this is a non budgeted item so will need your approval. Once the work is complete we will give the property owner a chance to reimburse the City for the work and if that does not happen we will place it on the tax roll.

Agenda item seven was placed on at the request of Councilmember Moyer. We are working with the County on the Glenwood Estates sewer line and hope to have a little more information to share with you the night of the meeting. As of now the majority of the work to be done is in the hands of the County to complete before we can proceed. This will be a very informal update.

If you have questions or require further discussion please let me know.

AGENDA

BASEHOR CITY COUNCIL WORK SESSION

September 14, 2009

6:00 p.m.

Basehor City Hall

Official Presiding: Mayor Terry L. Hill

Members Present: President Jim Washington, David Breuer, Dennis Mertz

Members Absent: Iris Dysart, Bill Moyer

Staff Present: Mark Loughry, Mary Mogle, Gene Myracle

The work session was called to order at 6:09 p.m. with members President Washington, David Breuer, and Dennis Mertz.

1. Discussion of Theno Estates Subdivision annexation.

The city administrator reported tonight was an update and hoped to get an idea if Council was interested in staff proceeding for final approval. He noted there were some outstanding issues 1) incomplete assessment of infrastructure, 2) need additional application, 3) County was of the opinion that all annexations should be addressed at the same time. There was also an item of an outstanding agreement that had yet to be signed addressing upsizing fees in the amount of \$41,516. Council had agreed to allow the developer pay \$5,000 on the next eight building permit issued.

Mayor Hill asked if there were issues regarding the annexation. President Washington noted it was within the Comprehensive Plan and anyone connected to the City sewer was to be annexed into the City.

Councilmember Mertz noted excise tax was not addressed in the agreement and wanted to make sure the developer knew up front. The city superintendent explained the County currently issued building permits

Mr. Loughry reported Mr. Theno agreed to come in tomorrow and sign the agreement. The agreement still needs to be signed by the city.

Councilmember Breuer asked how soon it would take place and if they would be included in the rebate program since that was the driving force to annex. Mr. Loughry reported the occupied four lots would be notified of the annexation and have an opportunity to voluntarily annex. President Washington suggested contacting the city

attorney because they disagree regarding island annexations. President Washington and Mr. Reavey disagree whether the back of a lot surrounded by city property qualifies as an island.

2. Hear update from Larkin Excavating regarding 150th Street – Craig to Parallel project.

Mr. Loughry reported the engineer called this afternoon and was under the impression he needed to provide written documentation similar to CAS Construction and was not able to attend this evening.

3. Discussion regarding Purchasing Policy.

The proposed purchasing policy has been reviewed by the city attorney. Mr. Loughry and Mr. Reavey discussed changes on page 5 and would like to add a portion back that would require contracts to be reviewed by the city attorney and would require certain signatures.

Councilmember Mertz would like to see a lien waiver required for payment and require any binding contract to have 702 & 703 forms. Mr. Loughry explained he thought that would be a problem since contractors provide a statutory bond and part of the bond requirement is that contractors must pay their subcontractors. Council had no problem adding that to the policy by including text that says contractors must pay their subcontractors in order to do business with the City.

Councilmember Mertz requested a 5% variance for local contractors be added, giving preference to local contractors, but in an amount not to exceed \$15,000. Councilmember Breuer noted he did not care for the program because he had lost bids in the past. Mr. Loughry reported attorneys do not care for this program because it shows preferential treatment and there are statutes that address it.

President Washington noted in a City of the Third Class the City did not have to accept the lowest bids.

Councilmember Breuer suggested pre-qualifying contractors before they can bid on a City project.

President Washington reported with the changes, he thought it was ready to come back to Council for approval.

Councilmember Mertz asked why the city administrator wanted to jump from \$2,500 to \$15,000 on purchasing limits. Mr. Loughry explained the City did not have a lot of purchases that were over \$15,000 and it would allow him to do business in the City without making big equipment purchases.

Mayor Hill said \$15,000 seemed like a lot of money; however, if it helps to move daily business forward, he supported it. Council would also be reviewing purchases made, and

it seems that Council would approve most purchases anyways, so the \$15,000 limit would save time

President Washington reported staff would not buy something that was not in the budget; and if Council start to get department head plans, they would know about things that would fall under the plan. The requirement is three written quotes on major purchases.

Councilmember Mertz asked if contractor payments would still be on the vendor payment summary and could be removed from the Consent Agenda. Mr. Loughry reported the treasurer report would be information only. Mr. Loughry was uncomfortable with detailed garnishment information being provided to Council, as this is an HR function. Councilmember Mertz said he was concerned about check numbers being missing from summary, numbers not in sequence. Mr. Loughry reported he spoke with the finance person and a memo would be provided to explain any discrepancies that occur. This memo will be included with the voided or approved check.

Mr. Loughry will add the lien waiver portion, put back in language requiring the signature of the city attorney, and place it on next week's agenda for Council approval. Mayor Hill asked Mr. Loughry to get with the city attorney regarding a lien waiver form.

4. Discussion regarding Planning Director position.

Mr. Loughry reported changing the makeup of the position. He would like to see a civil engineer on staff and contract out a planner when needed. He also recommended changing the title from Planning Director to City Engineer and they would handle planning issues. They would be project manager for large projects such as 150th Street improvements and Wolf Creek development, but would not be the only person working on these. Mr. Loughry felt this would be the best time to make this change, as it would be easier now to hire a City Engineer due to the state of the economy. For planning services in the interim, several options are being researched currently that would provide adequate staff until the City Engineer got up to speed.

President Washington said he had past discussions with the mayor and city administrator about hiring a retired civil engineer part-time and thought the city administrator's suggestion would be the preferable solution and would help control costs. He suggested hiring someone with at least three to five years of experience. Mayor Hill said he was leaning toward hiring an engineer as the planner. Councilmember Breuer thought an engineer would be able to help the city superintendent. Mr. Loughry did not feel it would take Council action since it was not a new position unless Council wanted to take formal action. Council did not feel they needed to take formal action and directed the city administrator to move forward with his search to fill the position.

Mr. Loughry said he wanted to make it clear that he thought MHS Engineering did a good job, but an on-site City Engineer position would save money and would allow this person to take on additional tasks that need to be completed.

Mayor Hill said he thought in the past the City should have an on-site city attorney; however, with an experienced city administrator he did not think that was necessary now.

5. Timing and schedule of future meetings and work sessions.

Mayor Hill reported work sessions are getting less and less important on meeting nights. Mr. Loughry reported by having work sessions prior to a meeting did not give staff ample time to research Council's questions. He explained his preference would be to do away with work sessions before the regular meetings and have regular meetings every other week and a work session between the regular meetings. President Washington suggested having three meeting nights per month, rotating work sessions and meetings.

The city administrator reported the intent was to speed up the meetings.

The first Monday of each month will be a work session starting at 7:00 p.m., and the third Monday of each month will be a meeting starting at 7:00 p.m. An ordinance will be prepared for action at the 9/21 meeting. Any meeting following on a holiday will be held the following Monday. Council has not enacted the calendar for October.

6. Discuss creation of Assistant City Administrator position, job description, and pay scale.

There is a consensus of moving forward. Mr. Loughry did not want to bring up the issue without Lloyd being present. It would require modifying the job description, which does not require formal action.

7. NRP

Patrick reviewed the changes made after the last meeting. He made corrections to the Interlocal Agreement, which will need to come before Council again for adoption. USD #458 will take it to their school board on October 3.

Carol Washington asked who the City's HR person is. This is the city clerk. She also questioned whether there is some reason the City did not have a check signature machine? She felt it is costly for staff to sign the checks. A signature stamp was suggested, but Mr. Loughry does not prefer the signature stamp for security reasons. There is software that will print signatures. He prefers to sign the checks. He thinks it is necessary to evaluate if three people need to sign each check. A copy of the check register will be presented to the Council for review.

Carol Washington noted that whenever the change of meeting dates takes effect, everything will need to be updated with the information, such as the Chamber website and newspaper. She also noted that people normally come during hot button issues.

Adjourned at 7:30 p.m.

Submitted for Council review this 5th day of October 2009.

Mary A. Mogle, City Clerk

Transcribed by Dana Dotson, Intern to City Administrator

Human Resource Management Audit

“Report of Findings”

For The:

City of Basehor

By:

People Wise of Missouri, Inc.

July 2009

City of Basehor

Human Resource Audit – July 2009

Table of Content

| | |
|--|----|
| Table of Content | 2 |
| Detail Report of Findings..... | 4 |
| Background | 4 |
| Quick Response | 5 |
| Detailed Response..... | 5 |
| HR Audit Overview – Quick Response | 6 |
| Management..... | 6 |
| Employee Relations | 6 |
| Hiring Practices..... | 7 |
| New Employees | 9 |
| Wage and Hours..... | 9 |
| Benefits | 10 |
| Safety and Security | 11 |
| Harassment..... | 11 |
| Workers Compensation..... | 12 |
| Employee Separation | 12 |
| Recordkeeping and Other Documentation..... | 13 |
| In-House Human Resource Functions | 13 |
| HR Audit Overview – Detailed Response | 15 |
| Strategic Plan Awareness and Implementation..... | 15 |
| Employment Process..... | 15 |
| Promotion..... | 16 |
| Job Descriptions..... | 17 |
| Performance Appraisal Process | 18 |
| Personnel Files..... | 18 |
| Employee Handbook (personnel policies and guidelines)..... | 19 |
| Article B. Position Classifications | 19 |
| Article C. Recruitment and Promotion | 19 |
| Article D. Compensation | 19 |
| Article E. Attendance and Leave | 20 |
| Article F. Other Employment Benefits | 20 |
| Article H. Discrimination and Harassment..... | 20 |
| Article E. Outside Employment..... | 21 |
| Article L. Telecommunications | 21 |
| Article Z. Grievance and Hearings | 21 |
| Compensation | 21 |
| FLSA Classification..... | 22 |
| Executive Duties | 23 |
| Administrative Duties | 23 |
| Learned Professional Duties | 23 |
| City Administrator | 23 |

| | |
|---|----|
| Police Chief..... | 23 |
| City Planner | 23 |
| City Clerk..... | 24 |
| Please Note – Police Chief..... | 24 |
| Posted Schedules..... | 24 |
| Turnover Data / Retention | 25 |
| Regulatory Compliance | 26 |
| ADA Policy..... | 27 |
| Extended Leave Policy | 27 |
| COBRA..... | 28 |
| State and Federal Notices Posted..... | 28 |
| Litigation and Complaint Filings..... | 28 |
| Affirmative Action Plan and EEO-1 | 28 |
| Training..... | 29 |
| Safety | 30 |
| Addendum A | 31 |
| Addendum B | 32 |
| Addendum C | 33 |
| Addendum D..... | 35 |

Detail Report of Findings

Background

The Basehor City Council (“the Council”) has a clear mission to represent the local community and to ensure that quality services provided meet present and future needs. The Council’s organizational values emphasize teamwork and partnership of the Governing Body, staff and citizens to empower Basehor to continue its development as a top-quality community second to none.

Upon request, People Wise submitted a proposal to conduct an Internal Human Resource (HR) Management Audit as an independent body, to ensure the City’s compliance with current employment regulations and best practices. The week of June 22, 2009, the Board of Directors and Mayor Terry L. Hill agreed upon conducting the HR audit. People Wise was notified of the agreement and was introduced to the Police Chief and Acting City Manager Lloyd Martley, Jr., who scheduled the onsite portion of the audit for Tuesday, June 30, 2009. City Clerk Mary Ann Mogle was notified of the audit late Monday, June 29, 2009. In essence, the audit was conducted as a surprise or unannounced audit.

The objective of conducting a Human Resource Management Audit was to help identify opportunities to increase the strategic contribution of HR and serve as a blueprint for aligning HR functions with the City’s strategic objectives, ensure compliance with the law and best practices, and help create a continuous improvement environment.

The audit process is designed to minimize intrusion on the client’s normal work. To that end, on-site time is limited, keeping meetings and interviews concise and completing most of our analysis, review, and research off-site to avoid being a distraction to workflow. While on site; Ms. Mogle provided the audit team a copy of the following materials:

- Personnel Policies;
- Job Descriptions;
- Additional Personnel Policies;
- Pay Plan and Policy;
- Safety Manual;
- Application and New Hire Documents; and
- Training Materials.

In addition, the audit team conducted a physical walk-through, audited personnel files; current and terminated files, visual inspection of required postings, inspection of document storage, an evaluation of communication methods, interaction between management and subordinate(s), and other various operational functions and activities which potentially impact and affect employee morale, retention, and productivity.

The “Report of Findings” is structured by presenting the audit question then answer. Specific items included in the audit are:

Quick Response

- Management
- Employee Relations
- Hiring Practices
- New Employees
- Wage and Hour
- Benefits
- Safety and Security
- Harassment
- Workers Compensation
- Employee Separation
- Recordkeeping and Other Documentation
- In-House Human Resource Functions

Detailed Response

- Strategic Plan Awareness and Implementation
- Employment Process
- Promotion
- Job Descriptions
- Performance Appraisal Process
- Personnel File
- Employee Handbook
- Compensation
- FLSA Classification
- Scheduling of Hours
- Turnover Data / Employee Retention
- Regulatory Compliance
- COBRA
- Litigation or Complaints
- Training
- Safety

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HR Audit Overview – Quick Response

Management

- Q.1. Do you have a mission statement?
A. The City has a comprehensive plan.
- Q.2. Do job descriptions exist?
A. Yes, for each position.
- Q.3. Are job descriptions up to date?
A. No. The descriptions need reviewing and updating. Essential functions verse Non-essential functions requires review, as well as the accuracy of the description at this time.
- Q.4. Are employee goals well defined and in line with those of the City?
A. Employee or department goals were verbalized during the audit by department heads, and are in line with City objectives of citizen satisfaction.
- Q.5. Is there open communication to and from Management?
A. Communications are achieved through various contemporary modalities; written, oral, cell phones or pagers, fax, and e-mail. While these methods are used on a daily basis, communications are not structured. Dissemination between departments may or may not have notification or request for confirmation or acknowledgement of the communication piece.
- Q.6. Are workweeks identified and defined?
A. Yes, Saturday through Friday.
- Q.7. Are full-time and part-time hours defined?
A. Yes, Article C. Recruitment and Promotion; Sections (a) through (f)
- Q.8. Are shifts defined?
A. Yes. Weekly schedules are posted for certain positions. Office support personnel work a set schedule, while schedules are posted and verified for payroll for maintenance and police officers. Schedules are not kept as suggested by the Department of Labor

Employee Relations

- Q.1. Is there a system for performance evaluation? How, and how often?
A. Yes. Advised by the City Clerk, and supported by personnel records, a system was implemented by the previous City Administrator a couple of years ago. Evaluations are currently conducted on an annual basis, Article D. Compensation, Section D-3.
- Q.2. Is quality and quantity of work evaluated?

- A. Yes, in general. Police officers and management have an additional page of criteria, which is evaluated.
- Q.3. Are workplace policies flexible?
A. No obvious deviations are noted.
- Q.4. Are disciplinary actions for violating workplace policies flexible?
A. From personal interviews, it is concluded that in recent time, no personnel has been discipline for violation a City policy.
- Q.5. Is there a process for employees to lodge complaints?
A. Yes, Article Z. Grievances and Hearings. Kansas is an “at will” state. Grievance and Hearings are specific to Unions or Collective Bargaining’s labor agreement. The implication of this Article supersede the State’s “at will” doctrine. The Article should be eliminated in its entirety.
- Q.6. Are there a variety of individuals to whom employees may lodge complaints (supervisor, Management)?
A. Yes, all department heads, Governing Body, and City Clerk.

Hiring Practices

- Q.1. How often do you hire?
A. In-frequent. Driven primarily by expansion in the department, three new police officers have been hired since the adoption of the revised Master Pay Plan, January 2008.
- Seasonal positions for the Public Works Department reflect the majority of the annual turnover.
- Q.2. What are your anticipated hiring needs?
A. This is an area of disconnect. According to the Mayor, Chief of Police, and Superintendent, the City is growing and will require additional personnel. The City Clerk predicts no growth anytime in the near future. Revisiting the staff plan for the City and the milestones for growth should be considered.
- Q.3. Are there Uniform Guidelines in place for selection processes?
A. No. Each Department head is responsible for their own recruiting process, with the exception of placing ads (sourcing). The City Clerk is responsible for the process. The department head determines the staffing need to either fill a vacancy or obtain additional support.

From discussion, there is not an indication of a systemized process, other than the Pay Plan for determining beginning wages. When a position is open and candidates sourced, the department heads proceed based on their experience, schedule, and department urgency.

- Q.4. Are all applicants required to fill out and sign an application form?
A. Yes.
- Q.5. If applicable, do application forms identify that the employment relationship at the organization is “at-will”?
A. Yes. The application currently used was developed and distributed by *Amsterdam Printing*. The copy right data is 1998, and the EEO language is dated, no reference to Veteran Status. A new form should be obtained.
- Q.6. Does the employment application refrain from requesting protected information?
A. Yes. No questions are found on the application that reflect any protected information.
- Q. Are independent contractors accurately identified?
A. No independent contractors were identified during the audit.
- Q.7. Are the Forms I-9 complete with approved identification documentation, and reviewed annually to remove in-active Forms?
A. The forms are not correctly completed. While the identification documents used to complete the Forms are approved documents; one exception noted on an in-active employee, the information is incorrectly written on the Form, and the hire date is not noted.

It is our recommendation the City implements to correct the errors as Homeland Security recommends as corrective action, a self-audit. The self-audit enables new Forms to be completed and should an audit occur by Homeland Security, fines and penalties avoided.

- Q.8. Are I-9s and medical information kept separately from personnel files?
A. Yes, a single exception noted in random review. In the same file cabinet draw, medical records are in a separate sealed envelope with the employee’s name. A workers compensation report; also medical, was found in one employee file.

Form I9 is a separate three ring binder. In-active employees are not separated from active employees, and the binder contained a form for everyone.

- Q.9. Do new employees fill out W-4 forms?
A. Yes, forms are also updated on an annual basis by the City Clerk.
- Q.10. Are W-4 forms sent to the IRS?
A. Employers are no longer required to routinely submit Forms W-4 to the IRS. However, in certain circumstances, the IRS may direct you to submit copies of Forms W-4 for certain employees in order to ensure that the employees have adequate withholding. Employers are now required to submit the Forms W-4 to IRS only if directed to do so in a written notice or pursuant to specified criteria set forth in future published guidance. Kansas W4’s are sent to the State as required.

New Employees

Q.1. Is there an employee handbook?

A. Yes, Personnel Policies and Guidelines. Each new employee receives a copy and signs an acknowledge receipt sheet.

Q.2. Is the employee handbook specific to your workplace?

A. Yes. The Handbook is specific to the employees of the City of Basehor.

Q.3. Do policies focus on the workplace?

A. Yes, the policies are specific to the City of Basehor.

Q.4. Do employee orientations take place?

A. Yes, the City Clerk attends to the paperwork and issuance of the Handbook, and the department head conducts the department orientation.

Q.5. Are policies communicated and enforced?

A. Yes, it is evident from the personal interviews, the department head communicates and enforces the City's policies.

Q.6. Are employees trained on work place policies and discrimination issues?

A. Police officers are regularly trained in these areas. Records indicate other staff members have received limited specific policy training other than during the orientation.

No records indicate training on discrimination or diversity awareness.

Q.7. Are employees trained on Safety issues specific to their roles (i.e. heavy lifting)?

A. Yes, the Superintendent is well verse in OSHA and safety procedures, and has received multiple safety and compliance certifications.

Wage and Hours

Q.1. Are compensation levels monitored and reviewed?

A. Yes, by the City Administrator and City Clerk. All adjustments must be approved by the Governing Body.

Q.2. Are employees correctly designated as exempt or nonexempt per FLSA?

A. Section 13(a)(1) of the FLSA (Fair Labor Standard Act) provides an exemption from minimum wage and overtime pay for employees who are employed in a bona fide Executive, Administrative, Professional, Outside Sales, and certain Computer Technology positions.

The City Planner may be incorrectly classified, based on current duties and requirements. All others positions are classified correctly based on their specific duties and requirements.

Classification requirements for the key positions are addressed in the FLSA Classification section, pages 23 and 24 of 33.

- Q.3. Are non-exempt employees compensated at least one and one-half times their hourly wage for any hours worked beyond 40?
- A. Yes. Payroll reports were not audited, however Article D. Section D-5 Overtime Work, is compliant with FLSA overtime laws which require overtime pay to be at least one and one-half times an employee's regular rate of pay after forty (40) hours of work in a workweek. In discussion with the City Clerk, overtime is paid at time and one-half.
- Q.4. Is there a formal pay structure?
- A. Yes. The City adapted a Master Pay Plan on January 24, 2008, and recent new-hire payroll information indicates compliance with the Plan.
- Q.5. Is working time documented? How is time submitted?
- A. Hours worked by hourly non-exempt individuals; specifically police officers, is documented on the weekly schedule. Changes are noted on the schedule and provided to the City Clerk for processing of payroll.
- Q.6. Are paid time off (vacation, holidays, etc) structures developed?
- A. Yes. Article E. Attendance and Leave, Section E-3 addresses holidays, Section E-4 is the Vacation Policy, and Section E-5 is Sick Leave.
- Q.7. Are appropriate payroll withholdings performed?
- A. Not audited.

Benefits

- Q.1. What benefits do you offer employees?
- A. The benefit program was not audited.
- Q.2. Are employees informed about their benefits?
- A. Employees are informed about the benefit package during the initial orientation with the City Clerk.
- In addition, all employees received training on the benefit of workers compensation, updated and completed new health insurance applications, and reviewed the time and attendance policy and travel policy.
- Q.3. Are Summary Plan Descriptions provided to plan participants?
- A. Upon request.
- Q.4. Are general COBRA notices provided to plan participants?
- A. Yes, the recent terminated employee whose file was audited had a copy of the COBRA notification letter.

- Q.5. Are employees allowed up to 12 weeks of leave under the FMLA? (50 employees)
A. Article E. Attendance and Leave, Section E-11 Family Medical Leave policy states when the City has fifty (50) or more employees, the employees may receive up to twelve (12) weeks leave. The policy is not clear if under the fifty (50) employees.
- Q.6. Are plan documents in compliance with ERISA?
A. The Employee Retirement Income Security Act of 1974 (ERISA) is a Federal law that sets minimum standards for most voluntarily established pension and health plans in private industry to provide protection for individuals in these plans. The City participates in a certified plan administered by ICMA-RC, exclusively for the public sector.
- Q.7. If there is a health care plan, is protected health information kept private?
A. Yes, and medical records are sealed in a locked filing cabinet.
- Q.8. Are all Form 5500s completed and reported?
A. The 5500 reports are administered by ICMA-RC.

Safety and Security

- Q.1. Are employees instructed to report safety hazards?
A. Weekly safety meetings are hosted by the Superintendent, and other safety materials are distributed by the City Clerk to the department heads to share with their respective staffs.
- Q.2. Are workplace accidents, near-misses, injuries, and illnesses reported and investigated?
A. The single incident report was reviewed with the Superintendent. The injury sustained was an accident. Preventive measures were discussed with the co-workers.
- Q.3. Are walkways clear of debris?
A. Only the City Hall was visited and reviewed for workplace safety. The issue at City Hall is the wrinkled carpeting causing a tripping hazard.
- Q. Are minors prohibited from performing hazardous work?
A. No minors on staff.
- Q.4. Is there a safety training program in place?
A. Yes, for Public Works. All employees recently reviewed safety-training videos. Public Works were trained on UV Radiation, and winter safety.

Harassment

- Q.1. Are employees trained on harassment issues?
A. No record of recent training was provided.

- Q.2. Is there a process in place for reporting harassment?
A. Yes - Personnel Policies and Guidelines: Article H. Discrimination and Harassment, Section H-4. Complaint Procedure.
- Q.3. Is that policy communicated to all employees?
A. Yes – during orientation. Policy was introduced to staff after the adoption (12/3/2007) during a quarterly training meeting.
- Q.4. Are managers trained on investigation of harassment?
A. No record of training.

Workers Compensation

- Q.1. Does the City have an early return to work program in place?
A. Yes, the Superintendent provided an overview of the program and identified medical clinic.
- Q.2. Is regular contact made with employees out on lost time?
A. No recent loss-time injuries.
- Q.3. Is contact made with medical providers?
A. No recent loss-time injuries.
- Q.4. Is the workplace environment maintained with safety in mind?
A. The superintendent excels in this area. The department has received multiple certificates for safety standards.
- Q.5. Are state (new and existing) requirements monitored?
A. The City is not required to comply with OSHA regulations, however the Superintendent has adapted a culture of safety and regularly reviews safety procedures, discusses preventive measures, and assesses safety issues before assigning laborers to the location.

Employee Separation

- Q.1. Is there a progressive discipline process?
A. Yes, Article Y. Discipline. Section Y-3 Disciplinary Action details the progressive steps. Section Y-4 is the procedure and Section Y-5 are examples of policy infractions that can result in disciplinary action up to termination.
- Q.2. Are counseling sessions conducted and documented?
A. Most evidence of this process is with the Police Department. The sessions are conducted and documented by the Chief of Police.
- Q.3. Do exit interviews take place?

- A. No record of an exit interview in either of the terminated files audited.
- Q.4. Do you have a process to ensure that equipment, keys, access, etc. are collected?
A. This section was not reviewed.
- Q.5. Are final paychecks provided on time?
A. This section was not reviewed.

Recordkeeping and Other Documentation

Personal interview with the City Clerk and Superintendent indicate compliance with record keeping. Storage is a cave location, records are transported by the Superintendent, and are kept for up to thirty (30) years. Weekly schedules are the item found that should be maintained that are not.

- Q.1. Are personnel files current?
A. Yes, the files audited contained the appropriate and required items.
- Q.2. Are the appropriate labor posters displayed in a conspicuous place?
A. Yes, Federal and State space saver posters were posted along with specific Kansas posters.
- Q.3. Are documents regarding employees kept for their required duration?
A. Yes, except the Form I9. Record retention for this document requires review and corrective action.

In-House Human Resource Functions

- Q.1. Determine whether the City’s Human Resources (HR) practices provide the appropriate level of accountability?
A. The City Clerk performs the majority of the HR functions. This area is not her expertise, however with the assistance of the City Administrator and Governing Body, the level of accountability is appropriate for the City.

This question should be revised after the new City Administrator is on-staff.

- Q.2. Determine whether the right HR management tools are available?
A. “Policy” is the responsibility of the City Administrator; subject to review and approval by the Governing Body. Through the League of Kansas Municipalities, The City Administrator and Clerk have access to information and assistance. Combined with practical experience, this should be appropriate expertise for this size operation. People Wise is also available to provide support.
- Q.3. Do personnel have the right qualifications, job descriptions, systems, and training?

- A. In the absence of a City Administrator, the City Clerk has assumed and accomplished additional HR duties. Her experience, or qualifications, are appropriate for the HR duties, which are secondary to her primary responsibilities.

To maintain current knowledge in HR, training must be frequent and specific to the entities needs. For smaller organizations, the cost effective approach in managing a HR department is readily available access and support from experts.

- Q.4. How the City's HR practices compare to industry norms?

- A. The City's HR practices are inline and comparable to other municipalities, including compensation and benefits.

Below are recommendations to revise policies and procedures identified in the audit, as some are generic and are written by the League of Kansas Municipalities for application in varying sized municipalities throughout Kansas.

- Q.5. Are additional resources needed for the strategic vision of the City to be implemented?

- A. None noted.

HR Audit Overview – Detailed Response

Strategic Plan Awareness and Implementation

The City of Basehor has on file for public review a Strategic Comprehensive Plan for City economic development and growth, ordinances, covenants and policies as they relate to the city and its function in these areas of city administration. Not included in the Strategic Plan, as with some other communities, is a section on human capital and specific position duties.

Are employees aware of the strategic plan of the organization?

It is evident the department heads understand the City's objectives and strategic plan. Moreover, they understand how their individual roles, contribute to the success or failure of the community.

Are initiatives a part of job descriptions, performance appraisals, goals, incentive compensation and training opportunities

While not addressed in the strategic plan, these areas are addressed in the personnel policies and practices of the City.

Employment Process

Recruiting, Interviewing, Sourcing, Screening, and responsiveness to applicants.

Each Department head is responsible for their own recruiting process, with the exception of placing the ads (sourcing). The City Clerk is responsible for this aspect of the process. The department head determines the staffing need to either fill a vacancy or obtain additional support. From discussion, there is not an indication of a systemized process, other than the Pay Plan for determining beginning wages. Other indications based on the lack of recent recruiting activity, when a position is open and candidates sourced, the department heads proceeds based on their experience, schedule, and departmental urgency.

In reviewing the personnel files, police officers had background checks sealed in their files, several had reference and employment checks, none had interview notes or an indication as to why this candidate was selected for the position; i.e., skills, experience, aptitude testing, marksmanship, etc. Copies of ads and contracts were not reviewed to verify two-week posting. Indications are that the local paper and the League of Kansas Municipalities are the primary methods of sourcing.

Upon an offer, the City Clerk facilitates the on-boarding process, providing the new hire with a copy of the employee manual, appropriate federal and state tax documents, the Form I9, direct deposit authorization, job description, and has them sign acknowledgements or receipt of a document. Department heads are then responsible for any initial training or department orientation.

To eliminate the emotional aspect of the process and mitigate risk of discrimination, it is recommended to establish a standardized process for sourcing, screening and extending an offer to a candidate. Implement a modified voluntary Affirmative Action Plan to identify hiring practices, including specific methods for posting open positions, goals in hiring, and a standardized process. Create standard forms for each department head to use during interviews, including a few “standard questions” with an area for notes.

Interviews should be “standardized” within each department, meaning that ALL applicants for that particular position are asked the same questions and notes are taken to show why one candidate would be chosen over another. These notes should be kept on file for at least one (1) year (for candidates not hired). All applicants should be notified in writing (via email and/or mail) letting them know of the decision to hire another candidate. A more standardized “orientation” should be designed for new employees to ensure a consistent experience.

In addition, the screening process should include pre-employment behavioral assessments, reference and background checks, license and education verification, and formal offer letter, or where appropriate an employment agreement.

Promotion

The areas reviewed regarding promotion or advancement opportunities in the audit include:

- Voluntary and involuntary transfer policies and practices;
- Employee relations; and
- Workforce planning.

Article C. Recruitment and Promotion; states that it is “the policy of the City to fill vacancies for supervisory, skilled and upper-level positions from within the ranks of present employees whenever possible”. For the City of Basehor, this is not a realistic approach to filling an open position. Cities with staffs of this size do not have the depth or resources for succession planning. Sourcing from outside candidates is required. This policy should be revised.

At the time of the audit, no other positions were vacant or being recruited. Specific tangible documentation of two (2) week postings was not obtained. The City Clerk stated all publications of career opportunities are posted for minimum of two (2) weeks.

Consideration may be given into developing as part of a Voluntary Affirmative Action Plan, specific sites and methods to be used in announcing an opportunity with the city to ensure all segments of the workforce are properly notified, thus mitigating exposure to allegations of discrimination in hiring practices.

Job Descriptions

By the date on the descriptions, these were provided by the League of Kansas Municipalities and adopted by the City in 2007.

Job Descriptions exist for each position. A copy is given to each employee upon hire, and a copy of the description is placed in the individual's personnel file. Each of the files audited included a job description as part of the new hire paper work.

Outstanding questions include, are job descriptions reviewed with the employee during performance appraisals to ensure an understanding of the expectation and areas the individual is evaluated in.

Job descriptions were reviewed and found to be complete with the customary sections:

- General Information about the Position;
- Title;
- Essential Functions;
- Education Requirements;
- Skills;
- Supervision;
- Working Conditions; and
- Physical Requirements.

It is recommended that job descriptions be updated annually to ensure compliance with any legislative changes; specifically the 2008 reform to the Americans with Disabilities Act, and reviewed with the employee during their performance review. This creates the opportunity to discuss; if applicable, needed changes to the description.

In addition, include at the end of the description, a place for signature and date as acknowledgement and confirmation of receipt. Also, remove the introductory period statement or include "at will" statement.

It is also recommended as part of the annual evaluation process to administer a Job Analysis Questionnaire, to be completed by the employee. From this questionnaire, gaps in expectations may be addressed, and the job descriptions may be updated with a focus on "Essential" vs "Marginal" functions of each position as well as the physical and mental abilities required.

Prior to the next review, the City Administrator, City Clerk, and Department Heads should receive training on the 2008 ADA changes and how the reform may effect the various positions within the City.

Performance Appraisal Process

A formal process exists and seems to have been carried out consistently for the previous two (2) years. Prior to that, there is no record of evaluations or the method of administration. Performance appraisals are tied to compensation as stated in the employee policies and procedures Handbook, Article D. Compensation, Section D-3. Raises are based on the budget and are approved by the Governing Body, then awarded to all employees whom receive a satisfactory rating in their performance evaluation. This type of recognition of across the board increases; while there are some merit provided based on Citizen feedback, is found to be a disincentive to top performances. What is the reward for their extra efforts?

Personnel Files

The City has employed a summer intern who was assigned the task two weeks prior to review to organize personnel files. While an intern may not be the appropriate individual for this task; due to the sensitive information, the files were well organized, the appropriate information was in the file, confidential medical materials were filed in a sealed envelope for each employee, W2's were with the payroll records in another cabinet, and the Form I9 were also in separate files.

The critical issues with the personnel files follows:

- All Form I9's; including active and terminated employees, from 1986 are in a file;
- The file is not compliance with record retention guidelines of active and in-active Forms are stored;
- The significance of the errors if audited could result in fines of up to \$2,500 per record.

It is recommended that the City implement to correct the issues a self-audit. Each employee will complete a new form marked as "Self-Audit" and provide current (new where applicable) forms of identification. The old is attached, inactive employee records removed and handled accordingly.

An alternative to a self-audit is to enroll in I9 Advantage, an online electronic record system for the Form I9 and employment eligibility verification through the joint efforts of Homeland Security and the Internal Revenue System (IRS); known as E-Verify. This automated system conducts the self-audit, corrects the data, and manages the maintenance hereafter. The investment for the automation is minimal.

Errors in the forms include:

- The form in use is outdated;
- Identification documents listed incorrectly in Section 3;
- No starting date verse document completion date noted;
- The forms are not always complete, data is missing from Section 1 and Section 3.

Correct forms are attached as **Addendum A**

Employee Handbook (personnel policies and guidelines)

The review of this material included;

- Review of the content of the Handbook for accuracy, compliance, and best practices; and
- Recommendation of updates as needed.

The City of Basehor has in place a “personnel policies and guidelines” Handbook with various ordinance revision dated 2007 and 2008. The document appears to be in part the generic guidelines as developed and provided by the League of Kansas Municipalities for communities throughout the State of Kansas.

While the Handbook addresses an inclusive list of human resource management areas typically found in an employment handbook, it is our recommendation to update the manual to address recent legislative changes and then review any applicable changes on an annual basis.

Policy updates needed currently include:

Article B. Position Classifications

B-4: Reference is to department heads recommending position classification and the Governing Body to approve. Without expertise in this area, the Body should not be approving a classification with a process to evaluate and following FLSA (Fair Labor Standards Act) in determining the appropriate status. In addition, reclassification or expansion in position coincides with the budget process.

Article C. Recruitment and Promotion

C-1: The “Definitions” section has no reference to Exempt or Non-Exempt classifications. Section D-5 references FLSA - Exempt status for non-participation overtime calculations.

C-5 The “Promotion” should include FLSA non-discriminatory language providing equal opportunity to any candidate, and reference to the job description for the positions minimum qualifications and requirements.

Article D. Compensation

D-3 Performance Evaluations

Section (a) states that performance appraisals will be considered in determining an increase or decrease. The disclosed practice and documents found in the employee files indicate that

for the past couple of years, all employees received annual adjustment as approved by the Governing Body who received a satisfactory rating on their performance appraisal.

The appraisal form currently used is an adequate system, using baseline dimensions for determining the various levels of performance to each of the measures. Best practices are for the department heads to receive annual training on the use of the appraisal form, and to incorporate specific organizational goals for the coming year. There is no indication of training occurring.

Article E. Attendance and Leave

E-6 Although the City of Basehor does not currently fall under the guidelines of the Family Medical Leave Act (FMLA); fifty (50) employees within a seventy-five (75) mile radius, a Maternity Leave policy is not recommended nor should it be distinguished separately from the guidelines of FMLA. This type of policy creates unnecessary risk of discrimination litigation under FMLA or the Pregnancy Discrimination Act amendment to Title VII of the Civil Rights Act of 1964, only requiring fifteen (15) employees for compliance.

As a best practice, and with the number of employees approaching fifty (50), the City of Basehor should adapt FMLA guidelines into the policies and procedures handbook as the operating practice, reserving the right of denial of leave requests.

E-9 The Military Leave policy is outdated and needs to be updated.

E-11 The Family and Medical Leave policy is outdated and needs to be updated.

Article F. Other Employment Benefits

F-9 (f) Update COBRA language.

F-15 The Cafeteria 125 Benefit only addresses Flexible Spending, none of the other areas of the benefit.

Article H. Discrimination and Harassment

H-5 Eliminate the Appeal of the Decision section. The City is an "at will" employer, and appeals of the investigation is not a good practice.

H-6 Record of a Sexual Harassment Complaint

Update formatting.

Article E. Outside Employment

Add a conflict of interest policy and procedure for addressing.

Article K, Section K-3, Substance Abuse Policy

Within the policy, any employee failing a drug test is awarded a second chance as described in the Disciplinary Action section of the policy, yet substance abuse is listed a cause for termination; Article Y, Section Y-6 (j); after second chance. This is not a recommended practice.

In addition, the Employee Assistance Program and Pre-employment Information Form should be in separate Articles, removing them from Article K, Section K-3.

Eliminate the Last Chance Agreement, also referenced as Article K, Section K-3.

Article L. Telecommunications

Update the language and incorporate a Social Computing and Monitoring Policy. Misuse of technology is listed as a violation of policy; however, there is not an established policy for monitoring the use of the Internet, e-mail, or other technologies.

Article Z. Grievance and Hearings

Kansas is an “at will” state. Grievance and Hearing are for Unions or Collective Bargaining’s labor agreement. Eliminate this Article in its entirety.

As stated, regularly scheduled review of the policies and procedures is strongly recommended. Employment law changes frequently to address economic and labor market conditions.

Compensation

For this section, the review of this material included;

- Internal equity analysis;
- External competitiveness comparison;
- Merit pay;
- Bonus plans;
- Benefits;
- Retirement; and
- Payroll processes, timekeeping, and reporting.

The City of Basehor adapted on January 24, 2008, a Pay Plan & Policy. Review of the post January 2008 hires; all of which were police officers, excluding seasonal hires or rehires, reflects starting compensation at the established rate and compliance with the Plan.

The audit did not include a review of payroll tax deductions, benefit withholdings, or garnishments. During the personal interview, the City Clerk addressed specific questions indicating competency in this function.

The audit included a review of wages to ensure no violation of the Fair Pay Act. The recently signed Lilly Ledbetter Fair Pay Act requires businesses to meticulously document pay decisions and retain detailed employment records to ward off discrimination suits.

Payroll was noted by the City Clerk as becoming time burdensome, now taking as much as fifty (50) percent of her time some weeks. To maximize the Clerk's efficiencies in performing her administrative duties, please see Addendum B for outsourced payroll processing proposal.

Also for consideration and future monitoring is the H.R. 12, S. 182 (111th Congress) Paycheck Fairness Act, introduced in both the House (H.R. 12) and the Senate (S. 182) and passed by the House on Jan. 9, 2009, once passed will update and strengthen the Equal Pay Act (EPA) of 1963. The Act would further deter wage discrimination by closing loopholes in the EPA and barring retaliation against workers who disclose their wages. The bill also allows women to receive the same remedies for sex-based pay discrimination that are currently available to those subject to discrimination based on race and national origin.

The Plan, Section 2. Pay Plan; references Department Heads recommending increases in conjunction to individual performance appraisals as Merit and Cost of Living adjustments. As conveyed; the City Administrator recommends to the Governing Body a rate for approval, which is awarded to everyone with a satisfactory or above rating on their individual appraisal. In addition to this practice, several were recommended for Merit increases based on a citizen satisfaction survey.

In determining competitive posturing, the Key Staff Position were benchmarked against three (3) other area communities. The Key positions are:

- City Administrator;
- Chief of Police;
- City Superintendent;
- City Planner; and
- City Clerk.

FLSA Classification

Section 13(a)(1) of the FLSA provides an exemption from minimum wage and overtime pay for employees who are employed in a bona fide Executive, Administrative, Professional, Outside Sales, and certain Computer Technology positions.

The Department of Labor measure eligibility; in summary, by the following scrutiny tests:

Executive Duties

- Primary duty is the management of the organization with relative freedom from direct supervision and generally fifty-percent (50%) of their time is spent in exempt duties;
- Directs the work of two (2) or more individuals;
- Authority to hire or fire, recommend advancement, promotion or other change of status of other employees.

Administrative Duties

- Office or non-manual labor directly related to the business operations; and
- Exercise of discretion and independent judgment with respect to matters of significance.

Learned Professional Duties

- Primary duty must be the performance of work requiring advanced knowledge;
- In a field of science or learning – Law, Engineering, and Accounting as examples; and
- Customarily acquired by a prolonged course of specialized intellectual instruction.

Outside or when in question of qualification, case law aids in determining the status of certain positions. For the Key City of Basehor Staff positions, the following reflect the current status, our findings and recommendations.

City Administrator

While the Governing Body reserves the right to review hiring and firing determination, this position's primary duty is the management of the entity, and the individual has the authority, or opportunity, to recommend employment status actions; including, hiring / firing, promotions, wage increases, and staffing requirements. In as much, the position qualifies as currently classified, Salary Exempt.

Police Chief

This position for the City of Basehor clearly has Executive management duties in the direction of a twenty-four hour operation with two or more subordinates reporting directly to the Chief. In addition, this position determines and recommends staffing needs, conducts performance appraisals, recommends training and development, and is not directly supervised the majority of the work period. In as much, the position qualifies as currently classified, Salary Exempt.

City Planner

This position is currently classified as hourly non-exempt. It is our finding that this position is a paraprofessional level, which is a learned profession fulfilling the qualifications for a Salaried Exempt position. This modification should be made in conjunction to the Fiscal 2010 budget development and approval process, or should there be position replacement prior to yearend.

City Superintendent

While this position is customarily Salaried Exempt, qualifying as Learned Professional or Executive Duties, the reported hours worked and duties performed during the work day do not meet the criteria or qualify for exempt status. Please see **Addendum C** for further details.

City Clerk

While this position is customarily Salaried Exempt, the size of the department and/or the current assigned duties do not meet the criteria or qualify for exempt status. Please see **Addendum D** for further detail.

Please Note – Police Chief

While classification corrections are in order at the City's Key Staff positions, a greater concern exists from a Key Staff member retention and welfare perspective. Resulting from the Chief's functioning as the Police Chief and Interim City Administrator, his morale and job satisfaction has been impacted. While the opportunity was offered to him to become the City Administrator and receive higher compensation, it is not his interest to accept the position.

With this understood, consideration should be given to a salary adjustment for this period of additional duties to recognize the efforts to manage both positions. During the initial discussion, Lloyd disclosed that during the absence of a City Administrator he is working approximately twenty (20) hours of overtime per week.

It is up to the Governing Body to determine the value of his service. It is not unreasonable to provide incentive pay of at minimum time and a-half for the hours worked above forty-five, standard weekly scheduled hours for an Exempt position.

Posted Schedules

Weekly schedules are posted for certain positions. Office support personnel work a set schedule. Schedules are posted and verified for payroll for maintenance and police officers. Schedules are not kept as suggested by the Department of Labor.

General requirements established by the United States Department of Labor (41 CFR 60-1.12 - Record Retention):

Any personnel or employment record made or kept by the employer* shall be preserved by the employer for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurs later. However, if the employer has fewer than 150 employees or does not have a Government contract of at least \$150,000, the minimum record retention period shall be one year from the date of the making of the record or the personnel action involved, whichever occurs later.

Such records include, but are not necessarily limited to, records pertaining to hiring, assignment, promotion, demotion, transfer, lay off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship, and other records having to do with requests for reasonable accommodation, the results of any physical examination, job advertisements and postings, applications, resumes, and any and all expressions of interest through the Internet or related electronic data technologies as to which the employer considered the individual for a particular position, such as on-line resumes or internal resume databases, records identifying job seekers contacted regarding their interest in a particular position (for purposes of recordkeeping with respect to internal resume databases, the employer must maintain a record of each resume added to the database, a record of the date each resume was added to the database, the position for which each search of the database was made, and corresponding to each search, the substantive search criteria used and the date of the search; for purposes of recordkeeping with respect to external resume databases, the employer must maintain a record of the position for which each search of the database was made, and corresponding to each search, the substantive search criteria used, the date of the search, and the resumes of job seekers who met the basic qualifications for the particular position who are considered by the employer), regardless of whether the individual qualifies as an Internet Applicant under 41 CFR 60-1.3, tests and test results, and interview notes.

** "Employer" substituted for "contractor"*

Turnover Data / Retention

For this section, the review of this material included;

- Information available
- Analysis conducted
- Exit interview information (if available)
- Process management
- COBRA process
- Filing requirements met

Seasonal employees excluded; in recent time according to the City Clerk and supported by inactive personnel files, the City has had two (2) resignations occur in 2009. Statistics from 2008 were not evaluated.

Review of the personnel files found letters of resignation, copies of the COBRA letters as required by Federal law, and pertinent exit information. In addition, copies of the required

notifications sent to the appropriate agencies as advisement of the resignation of the individual are in the files.

Terminated personnel files are archived in underground storage, and from discussion with the City Clerk, there is a good understanding of record retention requirements as provided by the League of Kansas Municipalities. As previously noted, Form 19 is the identified compliance area of concern.

Regulatory Compliance

For this section, the review of this material included;

- FLSA Classification
- ADA Policy
- Extended Leave Policies
- COBRA
- State and Federal notices posted
- Litigation and complaint filings
- Affirmative Action Plan and EEO-1

Perhaps the most critical area of the audit, each of the above sections shall be reported on separately.

ADA Policy

In this section, the audit measures the understanding and compliance with the American's With Disabilities Act, specifically critical areas of reform from the 2008 Addendum Act.

The findings are that the Handbook is outdated, along with current determination of "Essential verse Non-essential" Job Description duties. In addition, the City's substance abuse policy provides for a second chance if a random or post incident test is positive. It is recommended and for consideration in the City's best interest to provide an Employee Assistance Program (EAP), as it does for substance prevention, but not to provide the second chance and take advantage of the shift in liability and denial of workers compensation benefits.

In an older building, there are numerous areas of concern in regards to ADA should any remodel or expansion be considered. The list includes steps without a lift, no automatic door openers, carpet is severely wrinkled; which also causes safety concerns, and some passages are not accessible, and the restrooms are not Handicap assessable. It would be difficult for the City to provide in these conditions, reasonable accommodations to a variety of physical limitations.

Extended Leave Policy

In this section, the audit determines what if any legislative compliance is necessary, and then determines the compliance of the policy. The City of Basehor's existing extended leave policy, except for the "Maternity Policy" is voluntary, and is a benefit of employment, Article E. Attendance and Leave, Section E-11. Family and Medical Leave. This policy is not clear as to the leave policy if the City has less than fifty (50) employees.

In 1993, President Clinton signed the Family & Medical Leave Act (FMLA), which allows eligible employees to take up to 12 weeks of unpaid leave for childbirth, adoption, foster care, to care for a child, parent, or spouse with a serious medical condition, or if the employee themselves has serious medical condition. The Maternity Policy should be eliminated, the guidelines of FMLA followed, and eligible individuals should request leave.

COBRA

In this section, the audit determines what if any legislative compliance is necessary. The City of Basehor with over twenty (20) employees is required to participate and provide the terminated employee, voluntary or involuntary, the right to continue their health insurance until other coverage or the allowed coverage period expires. In auditing the terminated employee files, copies of the offer letter were present, indicate an understanding of the following and the City's compliance. Also note, the temporary modification provided by the Stimulus Package (ARRA) as follows:

The Consolidated Omnibus Budget Reconciliation Act (COBRA) provides workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Qualified individuals may be required to pay the entire premium for coverage up to 102 percent of the cost to the plan.

The American Recovery and Reinvestment Act of 2009 (ARRA) provides for premium reductions and additional election opportunities for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985. Eligible individuals pay only 35 percent of their COBRA premiums and the remaining 65 percent is reimbursed to the coverage provider through a tax credit. The premium reduction applies to periods of health coverage beginning on or after February 17, 2009 and lasts for up to nine months for those eligible for COBRA during the period beginning September 1, 2008 and ending December 31, 2009 due to an involuntary termination of employment that occurred during that period. The TAA Health Coverage Improvement Act of 2009, enacted as part of ARRA, also made changes with regard to COBRA continuation coverage.

State and Federal Notices Posted

State and Federal law required small business and others to post certain laws for easy access by the employees. The audit of these posting found to the City to be compliant with the requirement of Kansas, Federal, and Public Entity requirements.

Two (2) Federal "Space Saver" posters were posted; the current 2009 poster, and an outdated poster from approximately 2003. It is recommended to remove the outdated poster to ensure opportunity does not exist for an employee to state that they were provided misinformation.

Litigation and Complaint Filings

None found or disclosed.

Affirmative Action Plan and EEO-1

While larger cities have plans in place, according to the Federal Department of Labor who oversee the requirements, smaller cities typically participate voluntarily. Implementation of a plan would provide a practice and direction for recruiting and staff development.

The Employer Information Report EEO-1, otherwise known as the EEO-1 Report, is required to be filed with the U.S. Equal Employment Opportunity Commission's EEO-1 Joint Reporting Committee. The filing deadline for the 2009 EEO-1 Survey is September 30, 2009.

Training

General record of recent trainings included; Injury / Illness Procedure. Protecting Workers from UV Radiation, winter safety, and policy review. Certificates of completion are stored in the same file as personnel files, in individual envelopes.

While it is difficult to get everyone within a department (example: the police department) to conduct an on-site training, ensuring everyone access to training is critical. Oversight or missing an individual could result in a violation of Title VII; disparate-treatment.

Title VII makes it unlawful to "discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a). Title VII's prohibition includes "not only overt discrimination [commonly referred to as disparate-treatment discrimination] but also practices that are fair in form, but discriminatory in operation [commonly referred to as disparate-impact discrimination]."

Griggs v. Duke Power Co., 401 U.S. 424, 431, 28 L. Ed. 2d 158, 91 S. Ct. 849 (1971). Under the "disparate-treatment" scenario of employment discrimination, which, of course, is "the most easily understood [form] of discrimination," a plaintiff must demonstrate that the "employer . . . treats some people less favorably than others because of their race, color, religion, sex, or national origin." Proof of discriminatory intent, in disparate-treatment cases, "is critical, although it can in some situations be inferred from the fact of differences in treatment."

Claims predicated on the "disparate impact" theory, by contrast, "involve employment practices that are facially neutral in their treatment of different groups but that in fact fall more harshly on one group than another and cannot be justified by business necessity." A plaintiff advancing a claim of discrimination under the disparate-impact theory of liability need not prove discriminatory intent.

McDonnell Douglas Test: Title VII prohibits employment discrimination on the basis of religion race, color, religion, sex, or national origin. 42 U.S.C. § 2000e-2(a). Absent direct evidence of discrimination, a plaintiff must first demonstrate a prima facie case of discrimination. McDonnell Douglas Corp. v. Green , 411 U.S. 792, 802, 36 L. Ed. 2d 668, 93 S. Ct. 1817 (1973); Chalmers v. Tulon Co. of Richmond , 101 F.3d 1012, 1017 (4th Cir. 1996), cert. denied, 139 L. Ed. 2d 21, 118 S. Ct. 58 (1997). Once a party has made a prima facie case, the employer must provide a legitimate nondiscriminatory justification for its action.

Many methods exist for offering training and / or communications. The methods are as simple as information sheets stuffed with paychecks, a common practice in the City's Public Works department. It is recommended to provide all employees Harassment training annually, ADA AA2008 to department heads and other skill or leadership trainings. These trainings may be conducted on-line with a minimal disruption to operations for \$10.00 per employee/training.

Safety

Although the City of Basehor is not covered by OSHA regulations as a public entity, the City Superintendent Gene Myracle is very safety oriented, and is extremely versed and committed to developing a safety culture. Gene follows guidelines as part of an agency-wide objective to encourage cooperative, voluntary safety and health activities. These voluntary programs include training and education, consultation, voluntary protection programs, and abatement assistance.

The Occupational Safety and Health Act of 1970 (OSHA) does not address specifically the responsibility of employers to provide health and safety information. Voluntary Training Guidelines and instruction to employees, although Section 5(a)(2) does require that each employer “. . . shall comply with occupational safety and health standards promulgated under this Act.” However, more than 100 of the Act's current standards do contain training requirements. Guidelines are designed to help employers to:

- Determine whether a worksite problem can be solved by training;
- Determine what training, if any, is needed;
- Identify goals and objectives for the training;
- Design learning activities;
- Conduct training;
- Determine the effectiveness of the training;
- Revise the training program based on feedback from employees, supervisors, and others.

Addendum A

Form I9 (Current) Example

OMB No. 1615-0047; Expires 06/30/09

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form I-9, Employment Eligibility Verification

Read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification (To be completed and signed by employee at the time employment begins.)

| | | | |
|----------------------------------|-------|----------------|--------------------------------|
| Print Name: Last | First | Middle Initial | Maiden Name |
| Address (Street Name and Number) | | Apt. # | Date of Birth (month/day/year) |
| City | State | Zip Code | Social Security # |

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following)

- A citizen of the United States
- A noncitizen national of the United States (see instructions)
- A lawful permanent resident (Alien #)
- An alien authorized to work (Alien # or Admission #)

Employee's Signature _____ Date (month/day/year) _____

Preparer and/or Translator Certification (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

| | |
|---|------------------|
| Preparer's/Translator's Signature _____ | Print Name _____ |
| Address (Street Name and Number, City, State, Zip Code) _____ | |
| Date (month/day/year) _____ | |

Section 2. Employer Review and Verification (To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)

| Document title | List A | OR | List B | AND | List C |
|--------------------------|--------|----|--------|-----|--------|
| Issuing authority | _____ | | _____ | | _____ |
| Document # | _____ | | _____ | | _____ |
| Expiration Date (if any) | _____ | | _____ | | _____ |
| Document # | _____ | | _____ | | _____ |
| Expiration Date (if any) | _____ | | _____ | | _____ |

CERTIFICATION: I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) _____ and that to the best of my knowledge the employee is authorized to work in the United States. (State employment agencies may omit the date the employee began employment.)

| | | |
|---|------------------|-----------------------------|
| Signature of Employer or Authorized Representative _____ | Print Name _____ | Title _____ |
| Business or Organization Name and Address (Street Name and Number, City, State, Zip Code) _____ | | Date (month/day/year) _____ |

Section 3. Updating and Reverification (To be completed and signed by employer.)

A. New Name (if applicable) _____ B. Date of Rehire (month/day/year) (if applicable) _____

C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.

| | | |
|-----------------------|-------------------|---------------------------------|
| Document Title: _____ | Document #: _____ | Expiration Date (if any): _____ |
|-----------------------|-------------------|---------------------------------|

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

| | |
|--|-----------------------------|
| Signature of Employer or Authorized Representative _____ | Date (month/day/year) _____ |
|--|-----------------------------|

Addendum B

Payroll Processing

The following fee and services are provided in a Payroll Service Agreement.

- Setup / New Hire Processing ⁽¹⁾ (includes I-9 electronic)
- Payroll Processing ⁽²⁾
- Certified Payroll Reports ⁽³⁾
- Quarterly Payroll Tax Filing ⁽⁴⁾
- Quarterly Federal & State Wage Reporting ⁽⁵⁾
- W2 Preparation / 1099

For 26 to 50 employees paid on a semi-monthly basis -- \$211.04 per pay period.

1. *Employee processing for contractors includes social security number verification through E-Verify for Form I9 compliance under new state statutes, and state required new-hire registration where applicable. A one-time \$275.00 account set up fee applies.*
2. *Direct deposit, pay advise.*
3. *Electronic copy of payroll reports include hour and wage summary including year-to-date; health and welfare, vacation, holiday, sick or PTO time tracking, contributions and payroll taxes. Payroll services also include compliance with all state orders for wage garnishment and payment.*
4. *Electronic submission for EFTPS Federal and State Forms 940.*
5. *Preparation and submission of Federal and State Forms 941.*

I9 Advantage / E-Verify

The payroll fees above include the use of our i9 Advantage system. Federal legislation mandates that state and federal contractors utilize the Federal E-Verify system to verify the employment eligibility of all newly hired employees. Using this system now will keep you in compliance and position you to bid on these projects without any unnecessary delays.

This system includes electronic storage of all of your form i-9's (no paper filing necessary), registration with the E-Verify system with People Wise as your designate agent, automatic submission to the Federal E-Verify database, assistance in handling any no-match letters, assistance with any audits, and representation as your E-Verify designate.

Addendum C

City Superintendent

The Exemption in question for the City Superintendent is an Executive Exemption. The Duties Test under this exemption is:

1. Is the PRIMARY duty managing the City or a customarily recognized “department or subdivision” of the City;
2. Does he regularly supervise two or more employees (at least 80 hours worth of employee work per week); and
3. Has the authority to hire or fire other employees or have their recommendations on hiring/firing, advancement, promotion or other change of status decisions be given “particular weight”.

“Managing” includes: spending approximately 50% of work time on management activities like interviewing, selecting and training employees; setting and adjusting employee rates of pay and hours of work; evaluating employee performance; handling employee complaints/grievances; disciplining employees; planning work and determining techniques; determining materials, supplies, equipment and tools to be used; planning and controlling the budget; and providing for employee safety.

“Particular weight” refers to the requirement that a certain amount of consideration be given to an employee’s recommendations if that employee’s position is to meet the executive exemption. The following questions are used to determine “particular weight”:

- Is it part of the employee’s job duties to make hiring/firing/job change recommendations?
- How often does the employee make such recommendations? • How often are the employee’s recommendations taken (vs. overridden) by the Council or higher management?

An employee can still meet the executive exemption duties test if he or she sometimes performs nonexempt work (e.g., the labor or production work of the employees he or she supervises). However, the employee’s “primary duty” (see “General Definitions and Guidelines” section below) must be management.

Primary duty

To qualify for any of the above exemptions, an employee’s primary duty must be executive, administrative, professional, or computer work. Primary duty means the principal, main, major or most important duty that an employee performs. Factors to consider include:

- What is the relative importance of the exempt duties compared with other types of duties? (If the job exists mainly for the purpose of performing the exempt duties, it is likely to be considered exempt.)
- How much time does the employee spend performing exempt work? (Ideally it should be 50% or more of the time but this is not an absolute requirement.)

- How much supervision does the employee receive? How free is the employee to determine how to spend her time? (The more independence and freedom, the more likely it is to be considered exempt.)
- What is the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee? (If the employee's pay is relatively close to the level of nonexempt workers, this may harm the employee's chance of being considered exempt).

In this case the "big question" is how much time is spent on manual work and how much is spent on Managerial work. At first glance it seems that more than 50% of time is spent on more non-exempt type work. However, if he truly is spending an additional 20 hours per week doing work at home (statement made during personal interview), this might not be an accurate representation.

I would recommend doing a true Job Analysis, which includes all time spent in the role including the time spent after regular work hours.

Addendum D

City Clerk

The exemption in question for the City Clerk is an “Administrative” Exemption.

The Duties test under this exemption includes:

1. Does she have the primary duty of performing office or non-manual work directly related to the management or general business operations of the city.
2. This non-manual or office work must require the exercise of discretion and independent judgment on significant matters.

If the employee’s primary duty is to administer the business affairs of a city, the employee is likely an “administrator.” If the employee’s primary duty is providing the goods/services of the organization, the employee is likely a “production” employee. Work performed in areas such as finance, accounting, insurance, purchasing, human resources, computer network, Internet and database administration is likely to be seen as administering the business affairs of the city.

According to the current job description (assuming it is an accurate description of the current duties) the essential functions of the role include both Administrative Functions such as Accounts Payable, Performing Research, Assists with budget, Prepares Payroll, Acts as HR Director, Making Bank Deposits, and prepares documents for the Mayor and others.

However, she also performs production functions such as Providing Citizens assistance, preparing receipts for permits and fees, publishes ordinances, registers voters, acts as court clerk, and accepts petitions and rezoning requests.

In order to meet the exemption a determination would have to be made as to where she spends the majority of her. Is it in Administration or Production?

To determine whether an employee exercises discretion and independent judgment on significant matters, the city should ask these questions:

- Does the employee have authority to formulate, interpret or implement management policies?
- Does the employee carry out major assignments and perform work that affects business operations to a substantial degree?
- Does the employee have authority to commit the city in matters with a significant financial impact?
- Does the employee have authority to waive or deviate from established policies and procedures without prior approval?
- Does the employee have authority to negotiate and bind the company on significant matters?
- Does the employee provide expert advice to management?

- Is the employee involved in planning long- or short-term business objectives?
- Does the employee investigate and resolve important matters for management?
- Does the employee handle complaints, arbitrate disputes or resolve grievances?

The more “yes” answers to the above questions, the more likely the employee would be considered exempt under the administrative exemption. An employee can still qualify for the administrative exemption even if their decisions or recommendations are reviewed at a higher level and occasionally revised or reversed.

I would recommend conducting a Job Analysis (attached) in order to accurately make this determination.

To eliminate the emotional aspect of the process and mitigate risk of discrimination, it is recommended to **establish a standardize process for sourcing, screening and extending an offer to a candidate.** Implement a modified voluntary Affirmative Action Plan to identify hiring practices, including specific methods for posting open positions, goals in hiring, and a standardized process. **Create standard forms** for each department head to use during interviews, including a few “standard questions” with an area for notes.

Interviews should be “standardized” within each department, meaning that ALL applicants for that particular position are asked the same questions and notes are taken to show why one candidate would be chosen over another. These notes should be kept on file for at least one (1) year (for candidates not hired). All applicants should be notified in writing (via email and/or mail) letting them know of the decision to hire another candidate. A more standardized “orientation” should be designed for new employees to ensure a consistent experience.

In addition, the screening process should include pre-employment behavioral assessments, reference and background checks, license and education verification, and formal offer letter, or where appropriate an employment agreement.

Promotion

The areas reviewed regarding promotion or advancement opportunities in the audit include:

- Voluntary and involuntary transfer policies and practices;
- Employee relations; and
- Workforce planning.

Article C. Recruitment and Promotion; states that it is “the policy of the City to fill vacancies for supervisory, skilled and upper-level positions from within the ranks of present employees whenever possible”. While the policy is unclear as to the application process, it is evident the City followed this policy in reviewing the offer of City Administrator position to the Police Chief.

At the time of the audit, no other positions were vacant or being recruited. Specific tangible documentation of two (2) week postings was not obtained. The City Clerk stated all publications of career opportunities are posted for minimum of two (2) weeks.

Consideration may be given into developing as part of a Voluntary Affirmative Action Plan, specific sites and methods to be used in announcing an opportunity with the city to ensure all segments of the workforce are properly notified, thus mitigating exposure to allegations of discrimination in hiring practices.

City of Basehor

PERSONNEL POLICIES AND GUIDELINES

ARTICLE C. RECRUITMENT AND PROMOTION

C-1 Definitions.

- (a) Full-time Employee - one employed to work a normal week of at least 40 hours on a regular and continuing basis. The work week shall begin on Saturday and end on Friday except as otherwise provided in Section E-1.
- (b) Part-time with benefits employee - one employed to work 20 hours or more per week, but less than 40 hours per week, on a regular and continuing basis.
- (c) Part-time without benefits employee - one employed to work less than 40 hours per week on an "as-needed" or "irregular" basis.
- (d) Seasonal employee - one employed to work on a regular and/or recurring basis during a specific season or portion of a year.
- (e) Volunteer or Reserve - a non-paid individual in the position he or she holds. When acting as a volunteer an individual is not an employee regardless of other city employment.
- (f) Stand-By status is separate from On-Call status; all employees are subject to (Stand-By) being called in, in the event of an emergency or disaster.

Note: Classifications will be determined at time of hire.

C-2. Recruitment.

It shall be the policy of the city to provide fair and equal opportunity to all qualified persons to enter city employment on the basis of demonstrated merit and fitness determined by fair and practical methods of selection, without regard to race, color, sex, disability, religion, age, national origin, or ancestry.

C-3. Qualifications for Employment.

All applicants for any position with the city shall meet the minimum qualifications established for that position. Each applicant shall complete a job application form. A medical examination or other testing, including drug testing, may be required after an offer of employment has been made, provided that such exams or testing are required of all such applicants who are offered employment in similar positions or position classifications. Background check shall include checking applicant's references, criminal history, and education information. The offer of employment is contingent upon applicant passing required tests.

Job Descriptions

By the date on the descriptions, these were provided by the League of Kansas Municipalities and adopted by the City in 2007.

Job Descriptions exist for each position. A copy is given to each employee upon hire, and a copy of the description is placed in the individual's personnel file. Each of the files audited included a job description as part of the new hire paper work.

Outstanding questions include, are job descriptions reviewed with the employee during performance appraisals to ensure an understanding of the expectation and areas the individual is evaluated in.

Job descriptions were reviewed and found to be complete with the customary sections:

- General Information about the Position;
- Title;
- Essential Functions;
- Education Requirements;
- Skills;
- Supervision;
- Working Conditions; and
- Physical Requirements.

It is recommended that job descriptions be updated annually to ensure compliance with any legislative changes; specifically the 2008 reform to the Americans with Disabilities Act, and reviewed with the employee during their performance review. This creates the opportunity to discuss; if applicable, needed changes to the description.

In addition, include at the end of the description, a place for signature and date as acknowledgement and confirmation of receipt. Also, remove the introductory period statement or include "at will" statement.

It is also recommended as part of the annual evaluation process to administer a Job Analysis Questionnaire, to be completed by the employee. From this questionnaire, gaps in expectations may be addressed, and the job descriptions may be updated with a focus on "Essential" vs "Marginal" functions of each position as well as the physical and mental abilities required.

Prior to the next review, the City Administrator, City Clerk, and Department Heads should receive training on the 2008 ADA changes and how the reform may effect the various positions within the City.

ADMINISTRATION**CITY ADMINISTRATOR**

(created 2/9/04/Ord. 434)

Immediate Supervisor: Mayor

Department: Administrative

FLSA Classification: Exempt

Status Classification: Full-time (40 hrs. per week, flexible w/ some weekends and evenings)

Education: Degree from an accredited College or University with major course work in Business and Administration. Working knowledge and experience in budgeting, planning, supervising personnel, and other fields related to administration.

Out-of-Town Travel: Required to attend out-of-town training and meetings.

Contract Period: One (1) year or as stipulated in contract.

POSITION SUMMARY

Under the supervision of the Mayor and City Council, the City Administrator is an exempt position under FLSA. Managing all city departments and overseeing the finances, personnel, and short and long-range planning of the City of Basehor are the primary responsibilities of this position. This employee should possess strong communication, supervisory, and organizational skills.

ESSENTIAL FUNCTIONS

- Responsible for personnel management;
- Responsible for the City's financial management and investments;
- Setting goals and objectives for City Programs;
- Writes grants for the City;
- Develops and implements policies and recommendations for the City of Basehor;
- Performs public relations for the City of Basehor;
- Responsible for short and long-range planning;
- Responsible for preparing and planning the annual budget;
- Recommends the salaries to be paid each employee under the City Administrator's supervision;
- Works with local organizations regarding City activities, developments and concerns;
- Fields questions, concerns, and complaints from the general public;
- Prepares necessary reports;
- Coordinates activities between city departments;
- Attends City Council meetings;
- Enforces city policies and procedures.

MARGINAL FUNCTIONS

- Makes presentations to organizations;

Correct forms are attached as **Addendum A**

Employee Handbook (personnel policies and guidelines)

The review of this material included;

- Review of the content of the Handbook for accuracy, compliance, and best practices; and
- Recommendation of updates as needed.

The City of Basehor has in place a “personnel policies and guidelines” Handbook with various ordinance revision dated 2007 and 2008. The document appears to be in part the generic guidelines as developed and provided by the League of Kansas Municipalities for communities throughout the State of Kansas.

While the Handbook addresses an inclusive list of human resource management areas typically found in an employment handbook, it is our recommendation to **update the manual to address recent legislative changes and then review any applicable changes on an annual basis.**

Policy updates needed currently include:

Article B. Position Classifications

B-4: Reference is to department heads recommending position classification and the Governing Body to approve. Without expertise in this area, the Body should not be approving a classification with a process to evaluate and following FLSA (Fair Labor Standards Act) in determining the appropriate status. In addition, reclassification or expansion in position coincides with the budget process.

Article C. Recruitment and Promotion

C-1: The “Definitions” section has no reference to Exempt or Non-Exempt classifications. Section D-5 references FLSA - Exempt status for non-participation overtime calculations.

C-5 The “Promotion” should include FLSA non-discriminatory language providing equal opportunity to any candidate, and reference to the job description for the positions minimum qualifications and requirements.

Article D. Compensation

D-3 Performance Evaluations

Section (a) states that performance appraisals will be considered in determining an increase or decrease. The disclosed practice and documents found in the employee files indicate that

H-6 Record of a Sexual Harassment Complaint

Update formatting.

Article E. Outside Employment

Add a conflict of interest policy and procedure for addressing.

Article K, Section K-3, Substance Abuse Policy

Within the policy, any employee failing a drug test is awarded a second chance as described in the Disciplinary Action section of the policy, yet substance abuse is listed a cause for termination; Article Y, Section Y-6 (j); after second chance. This is not a recommended practice.

In addition, the Employee Assistance Program and Pre-employment Information Form should be in separate Articles, removing them from Article K, Section K-3.

Eliminate the Last Chance Agreement, also referenced as Article K, Section K-3.

Article L. Telecommunications

Update the language and incorporate a Social Computing and Monitoring Policy. Misuse of technology is listed as a violation of policy; however, there is not an established policy for monitoring the use of the Internet, e-mail, or other technologies.

Article Z. Grievance and Hearings

Kansas is an "at will" state. Grievance and Hearing are for Unions or Collective Bargaining's labor agreement. Eliminate this Article in its entirety.

As stated, regularly scheduled review of the policies and procedures is strongly recommended. Employment law changes frequently to address economic and labor market conditions.

Compensation

For this section, the review of this material included;

- Internal equity analysis;
- External competitiveness comparison;
- Merit pay;
- Bonus plans;

City of Basehor

PERSONNEL POLICIES AND GUIDELINES

ARTICLE B. POSITION CLASSIFICATIONS

B-1. Objectives and Purpose.

Position classification is a system of identifying and describing different kinds of work in the organization in order to permit equal treatment in employment practices and compensation. Each city position shall, on the basis of the duties, responsibilities, skills, experience, education and training required of the position, be allocated to an appropriate class, which may include either a single position or two or more positions.

B-2. Job Descriptions.

Each position shall have a concise descriptive title, a description of the essential and marginal functions (tasks) of the position and statement of the qualifications for filling such positions. Such descriptions (See Appendix A) shall be approved by the Governing Body and shall be kept on file in the office of the city clerk and shall be open for inspection by any interested party during regular office hours.

B-3. Pay Range Plan.

The Governing Body shall adopt a pay plan, with minimum and maximum amounts of pay for each class of positions. The pay ranges assigned to each class of positions shall be periodically reviewed and revised by the Governing Body.

B-4. Maintenance of the Classification Plan.

It shall be the duty of each department head to report to the City Administrator any and all organization changes, which will significantly alter or affect changes in existing positions or proposed positions. In the absence of the City Administrator, department heads are to report to the Mayor. The Governing Body shall approve all new or revised job descriptions and pay ranges for such positions.

City of Basehor

PERSONNEL POLICIES AND GUIDELINES

ARTICLE C. RECRUITMENT AND PROMOTION

C-1 Definitions.

- (a) Full-time Employee - one employed to work a normal week of at least 40 hours on a regular and continuing basis. The work week shall begin on Saturday and end on Friday except as otherwise provided in Section E-1.
- (b) Part-time with benefits employee - one employed to work 20 hours or more per week, but less than 40 hours per week, on a regular and continuing basis.
- (c) Part-time without benefits employee - one employed to work less than 40 hours per week on an "as-needed" or "irregular" basis.
- (d) Seasonal employee - one employed to work on a regular and/or recurring basis during a specific season or portion of a year.
- (e) Volunteer or Reserve - a non-paid individual in the position he or she holds. When acting as a volunteer an individual is not an employee regardless of other city employment.
- (f) Stand-By status is separate from On-Call status; all employees are subject to (Stand-By) being called in, in the event of an emergency or disaster.

Note: Classifications will be determined at time of hire.

C-2. Recruitment.

It shall be the policy of the city to provide fair and equal opportunity to all qualified persons to enter city employment on the basis of demonstrated merit and fitness determined by fair and practical methods of selection, without regard to race, color, sex, disability, religion, age, national origin, or ancestry.

C-3. Qualifications for Employment.

All applicants for any position with the city shall meet the minimum qualifications established for that position. Each applicant shall complete a job application form. A medical examination or other testing, including drug testing, may be required after an offer of employment has been made, provided that such exams or testing are required of all such applicants who are offered employment in similar positions or position classifications. Background check shall include checking applicant's references, criminal history, and education information. The offer of employment is contingent upon applicant passing required tests.

C-4. Medical Examinations and Requirements.

Employment with the City of Basehor involves various job duties, and the employee may be subjected to adverse working conditions, to include disaster relief assistance. In an effort to protect its employees and elected officials, the following vaccinations may be required:

- (a) The City of Basehor will provide annual influenza vaccinations, administered by a designated medical facility, to all elected and staff members. The cost of the influenza vaccination shall be borne by the City. By offering this benefit, the City of Basehor expects reduction in work absenteeism during flu season.
- (b) Any employee receiving the IS700, National Incident Management System (NIMS) certification shall be required to have a tetanus vaccination. The City of Basehor shall pay the cost for this vaccination and any other vaccination required by State or Federal mandate.
- (c) All police and public works employees shall receive Hepatitis B Series vaccinations and blood testing. Employees may be exempt from this requirement if they produce a letter from their attending physician stating the required vaccination would be hazardous to their health.
- (d) Police Officers shall be required to take a physical and psychological examination in accordance with departmental policy and/or KLETC requirements.

C-5. Promotion.

It is the policy of the city to fill vacancies for supervisory, skilled and upper-level positions from within the ranks of present employees whenever possible. All employees seeking promotion shall be expected to meet the minimum qualifications for the class to which they seek promotion. A medical examination or other testing, including drug testing, may be required only after an offer of promotion has been made, provided that, such exams or testing are required of all such employees are offered promotions in similar positions or position classifications. The offer of promotion is contingent upon applicant passing required tests, when deemed necessary by the City Administrator.

C-6. Citizenship Verification.

All employees, for any position with the City, shall complete an employment eligibility verification statement (I-9 Form) in compliance with the federal Immigration Reform and Control Act of 1986.

C-7. Advertisement of Job Openings.

When a job position is to be filled, the position may be advertised to the general public, where deemed necessary. Positions for city employment should be advertised for a minimum of two weeks. In an urgent situation, the City Administrator may hire someone on a temporary basis during the advertising period.

City of Basehor

PERSONNEL POLICIES AND GUIDELINES

ARTICLE D. COMPENSATION

D-1. Pay Plan.

- (a) The salary of each employee of the city, shall, at least annually, be set at an amount within the pay range of the position class the employee is assigned. An employee's continued employment at the salary rate within the class assigned to him or her shall be contingent upon performance evaluations, supervisory recommendations and city administrator or governing body approval.
- (b) Employees working on a part-time basis shall receive that portion of the salary assigned to their position to be determined by the actual time they work. The hourly wage for persons employed on a monthly salary basis is computed as follows: Monthly wage times 12 divided by (hours worked per week x 52) equals wage per hour for full-time employees.

D-2. Pay Increases.

- (a) Pay increases shall not be routine nor automatic and are subject to approval by the Governing Body.
- (b) Subject to the approval of the Governing Body, the City Administrator may award a pay increase to an employee based on an annual performance evaluation submitted by the employee's immediate supervisor.
- (c) The Governing Body shall establish all employee positions for the city. The Governing Body shall at the time a position is established set a base salary for that position. The City Administrator shall write a job description for each such position established by the Governing Body. The City Administrator shall have authority to hire and fire any non-exempt employee except department heads. Recommendations for changes in department head positions require formal approval by the city council.

D-3. Performance Evaluations.

- (a) Employee performance evaluations will be considered in determining salary increases and decreases within the limits established in the pay plan, as a factor in promotions, as a factor in determining the order of layoffs, and as a means of identifying employees who should be promoted or transferred, or who, because of their low performance, should be demoted or dismissed.
- (b) An evaluation of the performance of each full-time and part-time employee based on his or her duties and responsibilities shall be prepared by the employee's immediate supervisor at least annually. The evaluation shall be in writing on forms approved by the

City Administrator. The supervisor shall evaluate at least quarterly, any employee who has received a poor performance rating.

- (c) Evaluations, upon review by the supervisor and after the employee has had an opportunity to respond, shall be included in the employee's personnel file. The deadline for evaluations to be completed and submitted shall be designated by the city administrator on an annual basis.

D-4. Pay on Termination.

- (a) An employee, who is terminated from city employment, shall receive his or her final paycheck on the first regularly scheduled payday following his or her termination.
- (b) Employees discharged for cause, and those who voluntarily terminate without giving a minimum of two weeks notice, shall not be eligible to receive pay for any accrued benefits other than unused vacation and any accumulated comp time.

D-5. Overtime Work.

- (a) Compensation for authorized overtime work shall be at the rate of one and one-half times the employee's regular rate of pay, and shall be given in the form of compensatory time off or payment of overtime. An employee's acceptance of employment with the City shall be deemed to be their agreement that they will accept compensatory time in lieu of overtime pay. The City Administrator may compel the use of compensatory time off at the City's discretion. No employee shall accrue more than 80 hours of compensatory time off. Overtime and compensatory time off shall be based on a 40 hour work week, excluding leave hours. Compensatory time balance will be zeroed out before the end of each year.
- (b) No person employed in an administrative, executive or professional position, as defined by the federal Fair Labor Standards Act, shall be eligible for overtime pay. These positions are defined as "FLSA – Exempt".
- (c) All "FLSA – Non-Exempt" employees, including law enforcement employees who have specific exemptions applicable to them under the Fair Labor Standards Act, shall be eligible to receive overtime compensation for all hours worked in excess of the normal city work week (as defined in C-1).
- (d) All overtime work must have prior authorization by the employee's department head and city administrator. The department head shall maintain records of any overtime worked.
- (e) Upon termination of employment, any accrued compensatory time off will be paid to the employee at the final regular rate of pay received.

D-6. Call-Out/On-Call Policy.

- (a.) Any employee who is "called-out" and reports to work outside regular work hours is awarded 2 hours minimum work time (defined in Section D-5), plus time worked beyond

- (g) Sick leave is intended for use by the employee in cases of illness, injury, accidents or other physical incapacity or doctor appointments for the employee, employee's spouse or other immediate family members (as described in E7) cared for by the employee.
- (h) Upon termination, no compensation for accumulative sick leave will be paid.

E-6. Maternity Leave.

An employee who becomes pregnant may claim and receive maternity leave in the same manner as provided for sick leave; provided, however, that the employee may elect to utilize any accrued vacation leave if, and to the extent, such leave is available. An employee may also take leave without pay in the same manner as any other employee on leave without pay status. Maternity leave with or without pay, following termination of pregnancy, shall not exceed a reasonable period of time normally thirty (30) days. If medical complications related to the pregnancy exist, the employee may, with the approval of the department head or City Administrator remain on maternity leave until release by the employee's physician. The provisions of the Family and Medical Leave Act may apply in some circumstances, please see E-11 below.

E-7. Funeral Leave.

In the case of death of a member of an employee's immediate family (to include only the spouse, children, mother, father, sibling, or grandparents of employee), full-time and part-time employees shall be granted funeral leave not to exceed five consecutive work days.

E-8. Injury Leave (Workers Compensation).

- (a) All injuries occurring on the job shall be reported as soon as possible to the employee's immediate supervisor. Employee must follow workers' compensation guidelines.
- (b) Any employee injured on the job shall be eligible to receive injury leave with pay during the seven-day waiting period for workers' compensation claims.
- (c) When an employee receives compensation under the workers' compensation act, the pay he or she receives from the city, while an employee of the city, shall be the difference between his or her regular rate of pay and the amount he or she receives from workers' compensation.
- (d) Return to Work Policy. "It is the responsibility of the physician to determine what restrictions apply to employees who are injured. It is NOT the physician's responsibility to determine whether or not an injured employee is able to work."

It is the policy of the City of Basehor to proactively return employees to work, within the restrictions provided by the physician. Department heads, managers, and/or supervisors will be responsible, to the extent possible, for finding productive work for each injured employee. Assistance for this effort is available through our work comp carrier, KMIT, and its contracted representatives, Insurance Management Associates (IMA).

Temporary restricted duty work reassignment need not be confined to the current department in which the employee is ordinarily employed. The pay grade for injured employees will be based upon temporary work assignments.

Returning injured employees to work as soon as possible benefits both the employee and the City of Basehor; therefore, this policy will be enforced. Any questions concerning this policy should be addressed to the city clerk or city administrator.

The City of Basehor has identified and created alternative or modified work-duty tasks, and matching a worker's impaired physical capability from an injury to these tasks can control accident costs and, improve employee morale productivity, and enhance our "bottom line".

(Referenced from IMA Training booklet, March 2007)

E-9. Military Leave.

The City of Basehor recognizes and adheres to all applicable state and federal laws regarding leaves for uniformed service to the State of Kansas as well as the United States. Any employee who needs time off for uniformed service is to immediately notify his or her supervisor and the City Administrator, both of whom will provide a detailed explanation to the employee of his or her reemployment rights under K.S.A. 48-517 (governing members of the Kansas national guard, Kansas air national guard, and the Kansas state guard that are 'called or ordered to duty') and 38 U.S.C. 4301 et seq. the Uniformed Services Employment and Reemployment Rights Act (USERRA) covering persons performing duty, voluntarily and/or involuntarily in the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, Army National Guard, Air National Guard, and Public Health Service commissioned corps.

E-10. Civil Leave.

(a) *Civil Leave With Pay.* Any employee shall be given necessary time off with pay (1) when performing jury duty, not to exceed 10 work days, (2) when appearing in court as a witness in answer to a subpoena or as an expert witness when acting in an official capacity in connection with the city, (3) when performing emergency civilian duty in connection with national defense, or (4) for the purpose of voting when the polls are not open at least two hours before or after the employee's scheduled hours of work.

(b) *Civil Leave Without Pay.* If an employee is involved in a personal lawsuit either as a plaintiff or as defendant in an action not related to his or her duties with the city, the employee may take leave without pay unless he or she elects to utilize any accumulated vacation leave.

E-11. Family and Medical Leave. *(only available to employees if the City of Basehor has 50 or more employees)*

(a) Upon request, any employee will be granted up to 12 weeks of unpaid family and medical leave during any 12-month period. Such leave will be available as the result of the birth, adoption or placement of a child for foster care, to care for a spouse, child or parent with a serious health condition or due to the disabling illness of the employee. Where possible, employees are required to provide at least 30 days notice before beginning to take leave.

The employer may require that any accrued paid vacation, sick, or personal leave of the employee be substituted for the 12 weeks of leave provided under this law.

- (b) *Eligibility.* An employee must have worked for the city at least 12 months for a minimum of 1,250 hours during the previous year. In cases where both parents are employed by the City and the leave requested is for the birth, adoption or foster care of a child, the City will not grant more than twelve work weeks total of family/medical leave. Where leave is requested as a result of a serious health condition, the employee will provide the city a certification statement issued by a health care provider. Should there be a question of validity of the certification provided by the employee the city may, at its own expense, require an opinion from a second health care provider. Where there is a conflict between the two opinions, the city may pay for the opinion of a third provider. The opinion of the third provider is binding on both the employee and employer.
- (c) *Restoration.* An employee returning from family leave will be entitled to return to their position or to a position with equivalent benefits, pay and other terms and conditions of employment.
- (d) *Vacation and Sick Leave.* Employees on family leave will not accrue any seniority, vacation or sick leave benefits.
- (e) *Health Insurance Coverage.* The city will continue to provide health care coverage under the same provisions as prior to the leave. Where the employee fails to return from leave, the city can recover the premium(s) that have been paid on behalf of the employee to maintain health care coverage. If failure to return to work is due to the continuation, recurrence, or onset of a serious health condition beyond the employee's control, the employee will not be liable for health care premiums paid while on family leave. In such cases, a certification issued by a health care provider will be required.

E-12 Other Leave.

- (a) *Meetings, Seminars.* Any employee on duty may be granted leave with pay to attend meetings, seminars and conventions related to the employee's work for the city when such attendance is authorized by the department head or City Administrator.
- (b) *Leave of Absence.* An employee, upon written request, and with the recommendation of his or her department head, may be granted a leave of absence without pay and accrual of benefits for a period of up to six months, subject to the approval of the City Administrator.
- (c) *Compensatory Time.* Compensatory time off that is accrued by an employee for overtime worked must be taken within 90 days following the pay period in which it was earned. (Also reference Section D-5(a)).

E-13. Request for Leave.

Except as provided in Section E-5 (e) as to sick leave, and Section E-11 as to family leave, all leave must be authorized in writing by the employee's department head or City Administrator prior to leave time being taken. A copy of each leave record, including

F-8. Deferred Compensation.

All eligible employees, with the exception of police officers, are covered under the city's deferred compensation program (457). The program offered by the city is with ING Insurance Company and is under the state deferred compensation program. Under this plan, the employer's share is determined by KPF Retirement System, and varies annually. The employee may contribute to their individual fund through payroll deduction, which contribution will be deducted each pay period. The amount selected is invested for the employee and is not subject to federal income tax until withdrawn.

F-9. Health Care Program.

- (a) All permanent Full-time employees shall be eligible for the city's group health insurance program. A Part-time employee shall be eligible for group health care insurance as of the date the employee becomes a full-time employee.
- (b) When an individual employee is required to contribute because of participation in the city's group health care program, the amount of such contribution shall be a payroll deduction.
- (c) All costs for health care insurance shall be paid by the employee during any period the employee is on leave without pay; is on suspension without pay; is on unauthorized leave; or is participating in any unlawful work stoppage.
- (d) Health care insurance coverage shall be extended to an individual who is temporarily disabled and drawing workers' compensation while serving as a city employee. The employee's share of the cost shall be deducted from any compensation payments. In the event no additional compensation is due, insurance may be extended at the option of the city.
- (e) No employee shall be entitled to cash payment in lieu of health care insurance coverage.
- (f) The city complies with those provisions of the federal Consolidated Omnibus reconciliation Act of 1986 (COBRA) relating to the extension of group health care plan coverage upon termination of city employment.
- (g) The employer contributes one-hundred percent (100%) of the employees health care insurance premium and fifty (50%) percent of dependent health care insurance premium. Dependent health care insurance premium shall be payroll deducted the first two pay periods of the month. Part-time employees working a continuous 20 hrs or more per week shall be eligible to purchase health care insurance at the rate of one-hundred percent out-of-pocket expense. The employer provides zero percent to part-time health care insurance premium.(entire policy has been added based on current policy)
- (h) The employer allows health care insurance premiums to be covered under the 125 Cafeteria Plan which allows the premium to be a pre-taxed benefit.

F-13. Witness Duty.

The City of Basehor encourages employees to appear in court for witness duty when subpoenaed to do so. If employees have been subpoenaed or otherwise requested to testify as witnesses by the City of Basehor, they will receive regular pay for the entire period of witness duty.

The subpoena should be shown to the employee's supervisor immediately after it is received so that operating requirements can be adjusted, where necessary, to accommodate the employee's absence. The employee is expected to report for work whenever the court schedule permits.

Employees will be granted unpaid time off to appear in court as a witness when requested by a party other than the City of Basehor. Employees are free to use any available paid leave benefit (such as vacation or compensatory time-off) to receive compensation for the period of this absence. The employee may not use sick leave toward paid leave.

F-14. Disability Benefits.

The City of Basehor at this time does not offer additional short or long term disability benefits. Refer to F (h) (i) for more information.

F-15. 125 Cafeteria Plan.

The City of Basehor has entered into an agreement with the State of Kansas to allow certain forms of insurance plans to be considered pre-taxed for payroll purposes.

Applicable insurance deductions covered under the 125 Cafeteria Plan:

- Health care
- Dental
- Supplemental Insurance (i.e. Aflac)

Note: Disability insurance is not considered pre-taxed insurance by state law.)

F-16. Supplemental Insurance.

The City of Basehor has entered into a contract with AFLAC insurance to offer supplemental insurance to eligible employees. Employees shall pay 100% of the cost of supplemental insurance through payroll deduction. Supplemental insurance is considered a pre-taxed insurance, with the exception of disability insurance.

H-5. Investigation Procedure.

It is the responsibility of the City Administrator or his or her designee (hereinafter referred to as "the investigator") to coordinate the investigation of discrimination and harassment complaints. If the City Administrator is the subject of the complaint, the Mayor shall conduct or appoint an investigator to conduct the investigation. The following procedures shall apply to the handling of such complaints;

- (a) The person to whom the complaint is made shall immediately present it to the investigator;
- (b) An investigation of the alleged incident shall be promptly started by the investigator;
- (c) The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of discrimination or harassment, witnesses interviewed during the investigation, the person against whom the complaint of discrimination or harassment was made, and any other person contacted by the investigator in connection with the investigation.
- (d) The investigator shall notify the employee accused of the discrimination or harassment as promptly as possible of the complaint and the severity of the allegations (immediate notification is not necessary if such notification would jeopardize the investigation).
- (e) The employee accused of the discrimination or harassment shall be given an appropriate opportunity to refute the allegation and present information and/or witnesses on their behalf.
- (f) Based upon the investigator's report, the investigator shall determine whether the conduct of the person against whom a complaint has been made constitutes discrimination or harassment. In making that determination, the investigator shall look at the record as a whole and the totality of circumstances, including the nature of the conduct in question, and the context in which the conduct, if any, occurred. Determination of whether discrimination or harassment occurred will be made on a case-by-case basis.
- (g) If the City Administrator, upon review of his/her, or the investigator's report determines the complaint of discrimination or harassment is founded, appropriate disciplinary action shall be taken against the employee guilty of discrimination or harassment.
- (h) The disciplinary action shall be consistent with the nature and severity of the offense. This shall include whether a supervisory relationship exists and any other factors the investigator believes relate to fair and efficient administration of the City, including the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the City. The disciplinary action may include a verbal warning, reprimand, probation, demotion, suspension or termination. A determination of the level of disciplinary action shall also be made on a case-by-case basis.

- (i) If the City Administrator upon review of his/her, or the investigator's report determines the complaint of discrimination or harassment is unfounded, he/she shall notify the employee accused of discrimination or harassment of the determination and advise that no disciplinary action is warranted.
- (j) The employee making the complaint shall be notified of the results of the investigation and the discipline, if any, to be administered.
- (k) If the City Administrator upon review of his/her, or the investigator's report determines that the complaint was intentionally falsified by the employee filing the complaint, appropriate disciplinary action shall be taken against the employee filing

H-5. Appeal of the Decision.

Within ten (10) days of the postmark of the written notification to the employee of the City Administrator's decision, the complainant or respondent may make a written request for a final review of the record by the Governing Body.

The Governing Body members, in response to a timely appeal, will either;

- (a) Review the record and provide a final decision within five (5) working days of the receipt of the appeal; or
- (b) Schedule an executive session with the appealing party to hear his/her appeal, within ten (1) days following the receipt of the appeal;

The meeting date can be scheduled on any date, convenient to all parties, with mutual consent (including beyond the ten (10) day period).

A final decision will be made by the Governing Body.

Copies of the decision shall be sent to the complainant and respondent by certified mail, return receipt requested, and a copy will be given to the City Administrator.

H-6. Record of a Sexual Harassment Complaint.

All records, except those affected by the Kansas Open Records Act (KORA), concerning a sexual harassment complaint shall be confidential and kept in a separate locked file. Access shall be granted only with the City Administrator's approval and to parties who have a direct and relevant need to know.

City of Basehor**PERSONNEL POLICIES AND GUIDELINES****ARTICLE J. OUTSIDE EMPLOYMENT****J-1. Outside Employment.**

Outside employment constitutes a city employee holding a second job with another employer. Outside employment by a full-time employee is permitted only when such outside employment;

- (a) Considered secondary to service with the city;
- (b) Does not interfere with the performance of duties for the city; and
- (c) No legal, financial or ethical conflict of interest results from such dual employment.
- (d) Police Officers must first receive written permission from the Chief of Police to work in any other capacity where their commission is required (i.e. security work). The city administrator shall approve outside employment for the Chief of Police.

City of Basehor

PERSONNEL POLICIES AND GUIDELINES

ARTICLE K. WORK PLACE SAFETY

K-1. General Safety.

All employees are required to wear appropriate safety equipment and follow appropriate safety precautions according to city and/or departmental policy at all times. Failure to comply with safety policies may result in disciplinary action.

K-2. Workplace Violence.

The City of Basehor has a policy of zero tolerance for violence. If an employee engages in any violence in the workplace, or threatens violence in the workplace, the employee shall be terminated immediately for cause. No talk of violence or joking about violence will be tolerated.

“Violence” includes physically harming another, shoving, pushing, harassing, intimidating, coercing, brandishing weapons, and threatening or talking of engaging in those activities. It is the intent of this policy to ensure that everyone associated with the City, including employees and citizens, never feels threatened by any employee’s actions or conduct.

K-3. Substance Abuse Policy.

The City of Basehor has a responsibility to its employees and citizens to take reasonable steps to assure safety in the workplace and in the services it provides. To this end, the city reaffirms its policy that the following are strictly prohibited.

- (a) Reporting for work under the influence of intoxicants, including alcohol, illegal drugs, or controlled substances; and
- (b) The use, possession, sale, or distribution of such intoxicants, illegal drugs, controlled substances, or related paraphernalia, in any manner during work hours, or while engaged in city business, on city property, or in city vehicles. Further prohibited is use of such drugs and/or alcohol on the employee’s personal time, such that the use, the extent that such use negatively impacts an employee’s work performance.
- (c) In the event, an employee is involved in an accident in a city owned vehicle or during working hours, the employee shall be required to submit to a drug/alcohol test immediately following the accident. The test shall be administered by a qualified medical laboratory designated by the City, at the City’s expense.
- (d) The City reserves the right to perform random drug tests on employees at the City’s expense.

**City of Basehor
Substance Abuse Policy**

ACKNOWLEDGMENT BY EMPLOYEE

I, _____, have received a revised copy (adopted 11/17/08) of the Drug-Free Workplace/Prohibited Substance Abuse Policy. I have read the Policy. I have been given an opportunity to ask questions about any information contained in it. I understand its contents and agree to abide by and be bound by its terms.

Employee's Signature

Date

Witness/Personnel Director

Date

MEMORANDUM

To: All Employees
From: Mary Mogle, City Clerk
Date: November 26, 2008
Re: Revisions to Substance Abuse Policy

Article K, Substance Abuse Policy, has been revised in accordance with new laws. Since the city of Basehor is a government entity, only "safety sensitive" employees can be random drug tested. Therefore, it was necessary to amend our current policy to incorporate the changes. Sign the form acknowledging receipt of the policy and return to Traci or myself by 12/15/08. Replace the old policy with the new policy in your Personnel Guidelines & Policies manual. If you have any questions regarding the revisions or do not feel you should be included in the following list, please do not hesitate to contact me.

The following positions have been deemed "Safety Sensitive" positions:

Administrative Positions

Building Inspector

Any other position deemed necessary by city administrator

Police Department

Police Chief

Lieutenant

Sergeant

Corporal

Full-time and part-time police officers

Reserve officers

Animal Control Officer

Any other position deemed necessary by city administrator

Public Works Department

City Superintendent

Maintenance Workers

Wastewater Treatment Workers

Seasonal and Temporary Workers

Any other positions deemed necessary by city administrator

Note: The aforementioned employees are categorized as "Safety Sensitive" positions based on the fact that they may perform one or more of the following jobs:

- 1. Operate city owned vehicles and/or equipment on a daily basis;*
- 2. Perform public safety duties (i.e. protect public);*
- 3. Climb ladders (i.e. inspect structures, trim trees, etc);*
- 4. Inspect or repair hazardous services such as electrical, gas, plumbing, wastewater;*
- 5. And any other duties that may be deemed as hazardous to both the employee and/or the public.*

MEMORANDUM

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The following positions have been deemed "Safety Sensitive" positions:

Administrative Positions

Mark Lee, Building Inspector

Police Department

JoAnn Brown, Reserve Police Officer

Andrew Burns, Police Officer

Jason Cory, Police Officer

Frank Pflumm, Police Officer

Greg Hallgrimson, Sgt.

Robert Holland, Police Officer

Mike Joslyn, Police Officer

Erik Lynnes, Police Officer

Lloyd, Martley, Police Chief

Matt Merget, Police Officer

Bob Pierce, Police Officer

Bob Van Cleave, Corporal

Frank Robison, Police Officer

Alvin Doty, Police Officer

Dwaine Pant, Police Officer

Dennis Nichols, Police Officer

Jaimie Fahlgren, Police Officer

Public Works Department

Rusty Cockran, Maintenance

Patrick Henry, Maintenance

David Holden, Maintenance Spvr.

Allen Johnson, WWTO Spvr. (CDL)

Gene Myracle, City Superintendent

Steven Wright, WWTO

Note: The aforementioned employees are categorized as "Safety Sensitive" positions based on the fact that they may perform one or more of the following jobs:

- 1. Operate city owned vehicles and/or equipment on a daily basis;*
- 2. Perform public safety duties (i.e. protect public);*
- 3. Climb ladders (i.e. inspect structures, trim trees, etc);*
- 4. Inspect or repair hazardous services such as electrical, gas, plumbing, wastewater;*
- 5. And any other duties that may be deemed as hazardous to both the employee and/or the public.*

City of Basehor Substance Abuse Policy

Introduction

As part of our commitment to safe guard the health of our employees, to provide a safe place for our employees to work, to promote a drug-free community, City of Basehor (here after referred to as "City") establishes this policy on the use or abuse of alcohol and illegal drugs by our employees. Substance abuse, while at work or otherwise, seriously endangers the safety of employees, as well as the general public, and creates a variety of workplace problems, including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity, and a decline in the quality of products and services provided by the City. The City has established this policy to detect users and remove abusers of alcohol and illegal drugs from the workplace. It is also the policy of the City to prevent the use and/or presence of these substances in the workplace and to assist employees in overcoming any dependence on drugs and/or alcohol in accordance with the following guidelines.

Purpose

The purpose of this policy is to communicate the City's position on alcohol and drugs in the workplace and to provide guidance for implementing related programs within the City.

City policies and procedures regarding substance abuse or the employees assistance program, are not intended to create or alter any existing, implied, or express contracts, written or verbal, between the City and its employees, independent contractors, or job applicants. The City reserves the right to alter any of its policies, procedures, or programs, at will and without notice to its employees, independent contractors, or job applicants. The City creates no promises with any of its policies, procedures, and programs, and remains free to change wages and all other working conditions without having to consult employees or anyone else and without anyone's agreement. The City reserves the right with or without good cause to refuse to hire any job applicant as is consistent with existing law.

Scope

All City employees, including management, production, administrative, drivers and temporary employees, are covered by this policy. As a condition of employment, employees are required to abide by the terms of this policy. This substance abuse policy primarily governs actions in the areas of alcohol and drugs. Other City policies may apply in these areas to the extent that they do not conflict with this policy. Certain employees may be subject to additional requirements under state and/or federal regulations.

Substance Abuse Policy Dissemination

- A. All employees are to be informed of the City's substance abuse policy. Employees shall be given a copy of the City's substance abuse policy and shall be required to sign an Acknowledgment of Receipt and Understanding.
- B. All applicants shall be informed in writing of the City's policy of pre-employment testing and shall be required to sign an Applicant Drug/Alcohol Testing Consent Agreement following a conditional offer to hire and prior to referral for a physical or drug and/or alcohol test.

Definitions

A. Illegal Drugs

"Illegal drugs" are drugs or controlled substances (as defined pursuant to 21 U.S.C. 802, including all substances listed on Schedule I through V, 21 C.F.R. Pt. 1308, as they may be revised from time to time) which are (1) not legally obtainable or (2) legally obtainable but not obtained or used in a lawful manner. Examples include, but are not limited to, cocaine and marijuana, as well as prescription drugs which are not lawfully obtained or properly utilized. The term "illegal drugs" also includes mind-altering and/or addictive substances which are not sold as drugs or medicines but are used for the mind -or behavior-altering effect.

B. Legal Drugs

"Legal drugs" are those prescribed or over-the-counter drugs that are legally obtained by the employee and used for the purpose for which they were prescribed and sold.

C. Safety Sensitive Position

A "safety sensitive position" or safety sensitive function is any position that requires the performance of physical or supervisory tasks directly affecting operations which, if performed improperly, could result in injury or death to employees or others or could result in significant property damage. A position may also be classified as sensitive if it requires responsibilities with a high degree of trust and confidence.

D. City Property

The term "city property" includes work sites, parking lots, vehicles, offices owned, rented, utilized, or serviced by the City or by any customer of the City, employee owned or employee-rented vehicles on the property of the City or of any customer of the City while on City business, and locations where the employee represents the City in any capacity.

E. On Duty

The term "on duty", for purposes of this Substance Abuse Policy only, includes all working hours, as well as meal periods and break periods, regardless of whether on premises, and all hours when the employee represents the City in any capacity.

F. Non-Department of Transportation (here after referred to as "DOT") Employees

All employees of the City, permanent, and part-time, including management, production, and administrative, excluding those defined as "DOT Employees".

G. DOT Employees

Employees of the City who have a commercial drivers license and/or drive commercial motor vehicles with a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds, as defined by 49 C.F.R. 382.107.

Drug/Alcohol Use Prohibitions

A. The use, sale, purchase, possession, manufacture, distribution, or dispensing of illegal drugs on City property or during working time is against City policy and is cause for discipline, up to and including immediate termination.

B. It is also against City policy for any employee to report to work or be on duty with the presence of illegal drugs in the employee's body. Employees who violate this policy are subject to disciplinary action, up to and including termination.

C. Legal drugs may also affect the safety of the employee, fellow employees or the members of the public. Therefore, any employee who is taking any legal drug that might impair safety, performance, or any motor functions must advise his or her supervisor before reporting to work under such medication. A failure to do so will result in disciplinary action. Improper use of "legal drugs" is prohibited and will result in disciplinary action, up to and including termination.

D. Refusal to submit to, efforts to tamper with, or failure to pass a drug test will result in disciplinary action, up to and including termination.

E. The consumption, possession or being under the influence of alcohol while on duty is prohibited and will result in disciplinary action, up to and including termination. There may be occasions, however, removed from the usual work setting, at which it is permissible to consume alcohol in moderation (e.g., City picnics, receptions, civic activities, City sporting events).

F. Notwithstanding the exception mentioned above, it is against City policy to report to work or to work under the influence of alcohol.

G. An alcohol test result of .02 or higher will be considered positive under the DOT Guidelines.

H. Refusal to submit to, efforts to tamper with, or failure to pass an alcohol test will result in a disciplinary action, up to and including termination.

Testing**A. Pre-Employment Test**

1. All applicants considered final candidates and who have received a conditional offer for a position will be tested for the presence of illegal drugs and alcohol as a part of the application process.
2. Applicants will be advised of the City's pre-employment testing requirements in writing following an offer of hire and prior to referral for a drug and alcohol test. Applicants will be asked to sign the Applicant Drug/Alcohol Testing Consent Agreement.
3. Any applicant who refused to submit to, tampers with, or fails to pass the pre-employment drug and alcohol test shall be ineligible for hire for a period of one year.

B. Reasonable Suspicion Testing

1. DOT employees and Non-DOT employees will be asked to submit to a drug and/or alcohol test based on a reasonable suspicion that their ability to perform work safely or effectively may be impaired. Factors that individually or in combination could result in reasonable suspicion include, but are not limited to, the following:
 - a. direct observation of an individual engaged in drug and/or alcohol-related activity;
 - b. a pattern of abnormal conduct;
 - c. unusual, irrational, or erratic behavior;
 - e. sudden changes in work performance;
 - f. repeated failure to follow instructions or operating procedures;
 - g. violation of City safety policies or failure to follow safe work practices;
 - h. unexplained or excessive negligence or carelessness;
 - i. discovery or presence of drugs in an employee's possession or near an employee's workplace;
 - j. odor or residual odor peculiar to some drugs;
 - k. arrest or conviction for a drug-related crime;
 - l. information provided either by reliable and credible sources or independently corroborated; or
 - m. evidence that an employee has tampered with a prior drug and/or alcohol test.
2. If feasible, the conduct of an employee which raises reasonable suspicion shall be witnessed by two (2) supervisors or city officials. If not feasible, only one (1) supervisor or city official need witness the employee's conduct.
3. If a supervisor(s) believes reasonable suspicion exists, the supervisor(s) should report his or her findings and observations to the manager of personnel or city administrator immediately.

C. Post-Accident Testing

1. DOT employees, as required by 49CFR 382.303, and Non-DOT employees will be tested for the presence of drugs and/or alcohol as soon as possible following a vehicle accident or other occurrence that involves either of the following:

- a. Bodily injury requiring immediate medical treatment
 - b. Property damage requiring significant repair work in excess of \$1,000
 - c. The city administrator , in certain circumstances, may waive drug/alcohol testing.
2. An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the City to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

D. Random Testing

1. As required pursuant to 49 C.F.R. 382.305, all DOT employees will be required to submit to drug and/or alcohol testing on a random basis.
 - a. Selection of DOT employees for random testing shall be conducted through the use of a random number generator or other neutral selection process.
 - b. Random testing of DOT employees will occur while the driver is performing safety sensitive functions, or just before or just after the driver performs such functions.
2. All City police officers shall be subject to random drug testing. Selection of police officers for random drug testing shall be conducted through the use of a random number generated by an outside agency other than City staff.
3. Supervisors that suspect an employee may be under the influence of drugs or alcohol may request that employee be tested.
4. The city administrator, in certain circumstances, may require or waive drug/alcohol testing.

E. Follow-Up Testing

Any employees who have participated in a substance abuse counseling or rehabilitation program, either voluntarily or as a result of violation of this Drug, Alcohol, and Substance Abuse Policy, will be subject to unannounced follow-up tests for a twelve month period after returning to work or completion of any rehabilitation program, whichever is later.

F. Additional Testing

Additional testing may also be conducted as required by applicable state or federal laws, rules, or regulations or as deemed necessary by the City.

G. Testing Procedure

1. The City will determine the drug and/or alcohol testing to be performed.
2. If the employee refuses to consent to testing, fails to appear for testing, tampers with the test, or fails to cooperate with the testing procedures, the action will be considered a positive result, and he or she may be disciplined up to and including termination.
3. Test samples will be analyzed by a qualified laboratory or technician selected by the City that complies with DOT regulations.
 - a. All urine samples will be tested according to the following sequence: (1) All urine samples will be subjected to an initial screening process to detect the presence of controlled substances; (2) Those samples having a

negative screen (no illegal or illicitly used substances present) will be considered to have tested negative, and no further testing will be done on that sample; and (3) Those samples that test positive on the first screen will be tested more extensively by means of Gas Chromatography/Mass Spectrometry (GC/MS) to eliminate any false-positive tests and confirm the presence of illegal drugs.

- b. All breath samples will be tested according to the following sequence: (1) All breath samples will be subjected to all initial screening tests to detect the presence of alcohol; (2) For those tests with a result of 0.02 or greater, a second test will be conducted that also provides quantitative data of alcohol concentration to ensure an accurate result; and (3) Any DOT employee tested under these provisions with an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform safety-sensitive functions, including driving a commercial motor vehicle. Likewise, the employee will not perform or continue to perform safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
- c. On an annual basis, the personnel director shall provide the qualified laboratory with a list of police officers and DOT employees.

From the list provided, the laboratory shall randomly select two individuals per month to be tested. The laboratory shall notify the personnel director prior to 9:00 a.m. of the randomly chosen individuals. The personnel director or their designee shall contact the designated individuals. The individual has up to two hours, after notification, to arrive at the designated testing laboratory and be tested. For those individuals performing shift work, additional time may be necessary. No more than twenty-four hours shall past after notification for shift workers.
4. Employees who consent to testing will be informed of the results by the personnel director or city administrator. This information will be handled with the degree of care and confidentiality necessary to safeguard the employee's interests and to ensure the results are attributed to the correct person. As set forth within, a positive test will result in disciplinary action, up to and including termination and/or referral of the employee to the Employee Assistance Program (here after referred to as "EAP")
5. Any employee who adulterates a specimen or who otherwise attempts to invalidate a test will be subject to discipline, up to and including termination.

Disciplinary Action

- A. In the case of a first-time violation of the City's Substance Abuse Policy, including a positive drug or alcohol test result or other evidence of use, sale, possession, distribution, dispensation, or purchase of drugs or alcohol while on duty, the employee will be disciplined, up to and including termination, and/or the following may apply:
 1. The employee will be subject to discipline and referred to the EAP
 2. The employee must contact the City's EAP within 24 hours and participate in professional drug and/or alcohol evaluation, counseling, and/or rehabilitation as prescribed by the EAP. The employee must cooperate with the EAP staff in carrying out its responsibility to coordinate the evaluation, counseling, treatment, and follow-up process.
 3. Employees who: (1) do not cooperate with the EAP; or (2) refuse to participate in or do not satisfactorily complete a drug or alcohol abuse assistance or rehabilitation program; or (3) subsequently violate this policy, will be terminated.
 4. The employee may require inpatient or outpatient treatment and/or an educational program. The employee will be placed on leave without pay during the absence, or may use accrued existing leave benefits (medical, vacation) if needed.
 5. Any employee referred to the EAP for drug and/or alcohol use must sign a Last Chance Acknowledgment prior to returning to work and agree to submit to unannounced drug testing for a period of up to 12 months.

6. After signing the Last Chance Acknowledgment and before returning to work, the employee must submit to a drug and/or alcohol test, and the results of the test must be negative.
 7. A first-time violator of this policy may be subject to immediate discipline, up to and including termination, if the conduct of the violator is deemed by management to warrant such action without referral to the EAP.
 8. The employee shall be responsible for all costs associated with treatment. The employee may contact the State of Kansas Employee Assistance Program, group health insurance plan, or EAP facility for treatment options.
- B. The City may suspend employees without pay under this policy pending the results of a drug and/or alcohol test or investigation.
- C. Except for first-time violators of this policy as set forth above, or as required in an employee's regular employment responsibilities, any employee engaging in the use, sale, purchase, possession, or distribution of drugs or alcohol on duty, or who otherwise violates this policy, is subject to disciplinary action, up to and including termination, without referral to the City's EAP.

Employee Assistance Program

- A. The City regards its employees as its most important asset. Accordingly, the City maintains an EAP which provides help to employees who suffer from alcohol or drug abuse and/or other personal or emotional problems. No employee will be subject to discipline for voluntarily seeking EAP assistance. An employee may not, however, avoid discipline for violating the substance abuse policy by seeking this assistance after the employee is referred for testing pursuant to this policy.
- B. Any work-related performance, attendance or behavioral problems may result in discipline, up to and including termination, even if an employee is voluntarily participating in the EAP.
- C. Employees referred to the EAP as a result of a violation of the City's substance abuse policy may continue their employment with the approval of the City, provided that:
1. They contact the EAP and strictly adhere to all the terms of treatment and counseling prescribed by the EAP;
 2. Immediately cease any and all use of alcohol and /or drugs; and
 3. Consent in writing to periodic unannounced testing for a period of up to two years after returning to work or completion of any rehabilitation program, whichever is later.
- D. In keeping with the City's need for safety and security, management will determine whether the City should grant a leave of absence or reassign an employee following a positive test or during the period of evaluation, treatment, or counseling.
- E. Participation in any evaluation, treatment, or counseling program will be at the employee's expense unless the employee is entitled to such benefits under the terms of the City's group health plan or by other available benefits.

Investigation

- A. To ensure that illegal drugs and alcohol do not enter or affect the workplace, the City reserves the right upon reasonable suspicion or belief to search all vehicles, containers, lockers, or other items on City property in furtherance of this policy. Individuals may also be requested to display personal property for visual inspection upon request by the City based on a reasonable belief or suspicion.
- B. Failure to consent to a search or to display personal property for visual inspection will be grounds for termination or denial of access to City premises.
- C. The City will turn over all confiscated drugs to the proper law enforcement authorities. Further, the City will cooperate with and may enlist the services of the proper law enforcement authorities in the course of any investigation.

Arrest Or Conviction For Alcohol/Drug Related Crime

A. If an employee is arrested for or convicted of a drug-related crime, the City may investigate the circumstances, and City officials may utilize the drug-testing procedure.

B. As a condition of employment, an employee shall notify a member of management of any criminal drug statute conviction or for any plea of guilty, nolo contendere, or suspended imposition of sentence that has been entered on a criminal drug statute charge. The employee must give notice in writing to the City within five (5) days of such conviction, plea, or imposition.

Confidentiality

Results of an applicant's or employee's test for the use of illegal drugs or alcohol shall be transmitted from the certified technician or representative of the lab to the City's manager of personnel. In order to effectively address the drug or alcohol problems of employees, it may be necessary for the manager of personnel to consult with other City personnel in the process. The test results and identity of the employee shall be treated with the appropriate degree of confidentiality and shall be disseminated only on a need-to-know basis.

Drug Free Awareness Program

A. The City will conduct drug-free awareness programs. These programs will inform employees about the following:

1. The dangers of drug and alcohol abuse in the workplace;
2. The City's policy of maintaining a drug and alcohol free workplace;
3. Available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
4. The sanctions that may be imposed for alcohol and drug abuse violations.

B. Employees are encouraged to approach their supervisor or the manager of personnel at anytime with any questions they have about the City's Substance Abuse Policy as stated herein.

City of Basehor
Last Chance Agreement

Any employee who violates the City of Basehor's Substance Abuse Policy will be subject to disciplinary action, up to and including discharge, at the City of Basehor's sole and exclusive discretion.

An individual who violates this policy may, at the City of Basehor's sole discretion and without precedent, be offered the opportunity to enter into a "Last Chance Agreement." The primary objective of a Last Chance Agreement is to offer rehabilitation to an employee who has or may develop drug or alcohol problems or other health or behavioral problems. A Last Chance Agreement shall provide that an employee who violates this policy may return to employment at City of Basehor under the following conditions:

- (a) The employee must sign a written acknowledgment admitting that he/she has a substance abuse problem.
- (b) The employee must successfully complete a licensed rehabilitation program approved by the Company. A written statement of successful completion must be provided from the licensed rehabilitation program.
- (c) The employee must agree to submit to unannounced random testing for the duration of the treatment plus one year.
- (d) An employee returned to work under a Last Chance Agreement will be subject to immediate discharge for any violation of this policy including, but not limited to, a positive test result for the use of any prohibited substance as defined by this policy.

ACKNOWLEDGMENT BY EMPLOYEE

I, _____, have received a copy of the Drug-Free Workplace/Prohibited Substance Abuse Policy. I have read the Policy. I have been given an opportunity to ask questions about any information contained in it. I understand its contents and agree to abide by and be bound by its terms.

Employee's Signature

Date

Witness/Personnel Director

Date

- (e) If the employee is found to have intoxicants, including alcohol, illegal drugs, or controlled substances in their system, the City Administrator has the authority to place the employee on immediate suspension without pay pending an investigation.
- (f) Based on the investigation, disciplinary action shall be consistent with the nature and severity of the offense. The disciplinary action may include demotion and/or additional suspension, dismissal, warning, or reprimand. A determination of the level of disciplinary action shall be made on a case-by-case basis.

K-4. Appeal of the Decision.

Within ten (10) days of the postmark of the written notification to the employee by the City Administrator, the complainant or respondent may make a written request for a final review of the record by the Governing Body.

The Governing Body members, in response to a timely appeal, will either;

- (a) Review the record and provide a final decision within five (5) working days of the receipt of the appeal; or,
- (b) Schedule an executive session with the appealing party to hear his/her appeal, within ten (10) days following the receipt of the appeal;

The meeting date can be scheduled on any date, convenient to all parties, with mutual consent (including beyond the ten (10) day period).

A final decision will be made by the Governing Body.

Copies of the decision shall be sent to the complainant and respondent by certified mail, return receipt requested, and a copy will be given to the City Administrator.

K-5. Record of Action.

All records, except those affected by the Kansas Open Records Act (KORA), concerning a Substance Abuse shall be confidential and kept in a separate locked file. Access shall be granted only with the City Administrator's approval and to parties who have a direct and relevant need to know.

An employee may be suspended with or without pay or terminated when he or she has been arrested for a crime and is awaiting legal adjudication, depending upon the situation. An employee may be suspended with pay when he or she has been charged with misconduct while on the job and an internal investigation is being conducted.

Y-6. Causes for Termination.

Examples of serious misconduct for which an employee maybe terminated, following notice and an opportunity for a hearing, are listed below. The following list is not exclusive and is only a representative of the types of misconduct, which subject an employee to termination. Causes for termination under this section also constitute misconduct for which an employee may be subjected to disciplinary action other than termination.

- (a) Commission of a felony or conviction of driving under the influence while operation a city owned vehicle or any other vehicle within the scope of duties for the City.
- (b) Willful or continued violation of city or departmental safety policies and procedures or willful or negligent creation of unsafe conditions in the workplace.
- (c) Willful or continued violation of personnel policies and guidelines or departmental guidelines.
- (d) Negligent or willful damage to public property or waste of public supplies or equipment.
- (e) Taking or using any funds or property of the city for personal use or for sale or gift to others or the making of any false claim against the city.
- (f) Gross incompetence, neglect of duty or willful or continued failure to render satisfactory service.
- (g) Refusal to abide by any lawful official regulation or order; failure to obey any proper direction made by a supervisor or department head or knowingly making a false statement to any employee or officer of the city.
- (h) Claiming leave time under false pretenses or falsifying attendance records of oneself or another employee.
- (i) Absence without leave.
- (j) Possession or use of alcohol or drugs, except where prescribed by a physician, after being afforded the opportunity to seek professional attention, or use of alcohol or drugs, except where prescribed by a physician, while on duty. Sale of or offering for sale or giving away alcohol or drugs while on duty or at the workplace.
- (k) Unlawful harassment.

- (l) Disclosing confidential records or information unless directed to do so by his or her department head or supervisor.
- (m) Revocation or suspension of a certification or license, including a driver's license, when such is required as a condition of city employment.
- (n) Material falsification application for city employment or making a false statement or report in regard to any test, certification or appointment or any attempt to commit any fraud that violates the merit principles of personnel administration.
- (o) Giving or attempting to give any monetary consideration or the delivery of undeserved service to or from any person or organization for, or in connection with, any test or appointment.
- (p) Taking or offering to take from any person for the employee's personal use, any fee, gift of other thing or service of value, in the course of his or her work or in connection with it, when such gift or other valuable thing or service is given in the hope or expectation of receiving a favor or better treatment than that accorded any other person; accepting a bribe, fit, money or other thing of service or value intended to perform or refrain from performing any official act; engaging in any act of extortion or other means of obtaining money or other things or service of value through his or her position in the service of the city.
- (q) Discharge of duties in a manner which results in discrimination to any person on the basis of race, creed, color, sex, physical or mental disability or national origin.

Y-7. At-Will Employees. All part-time (with or without benefits), seasonal, and reserve positions are considered "at-will" employees. Termination can be carried out with or without cause. Actions that may lead to disciplinary actions other than termination are self-evident.

City of Basehor

PERSONNEL POLICIES AND GUIDELINES

ARTICLE L. TELECOMMUNICATIONS

L-1. Telecommunications Policy.

The city's e-mail, computer, Internet, and voice mail systems are city property. These systems are in place to facilitate the employee's ability to do their jobs efficiently and productively. To that end, these systems are solely for city purposes, and gross abuse of these systems for personal use is prohibited. The city may intercept, monitor, copy review, and download any communications or files employees create or maintain on their systems. When using the Internet, exercise discretion. Sending materials of a sensitive nature or materials that constitute "confidential information" is prohibited unless the information is properly encrypted to prevent interception by third parties.

Employee communications and use of city e-mail, computer, Internet, and voice mail systems will be held to the same standard as all other business communications, including compliance with anti-discrimination and anti-harassment policies. It is expected that employees will use good judgment in the use of the city's system. Management should be notified of unsolicited, offensive materials received by any employee on any of these systems.

Employee consent and compliance with e-mail, computer, Internet, and voice mail policies is a term and condition of employment. Failure to abide by these rules or to consent to any interception, monitoring, copying, reviewing, and downloading of any communications or files is grounds for discipline, up to and including termination.

City of Basehor

PERSONNEL POLICIES AND GUIDELINES

ARTICLE Z. GRIEVANCES AND HEARINGS

Z-1. General Policy.

Any employee who has been disciplined in any manner has the right to present a complaint or grievance concerning his or her job, working conditions, salary, relationship between employees and co-workers, supervisor, or department head, the application of equal employment opportunity policies, or as an appeal of any disciplinary action taken pursuant to these policies. Each employee and supervisor should make a sincere attempt to resolve any grievance before it becomes necessary to resort to the grievance procedure.

Z-2. Grievance Procedure.

The following grievance procedure is established:

- (a) The employee shall initially file any complaint or grievance with his or her supervisor within seven (7) calendar days of the challenged employment action. The supervisor shall provide an answer to the grievance to the employee in writing within *seven* calendar days. If the employee disagrees with the decision of the supervisor, the employee may forward the complaint or grievance in writing to his or her department head within seven (7) calendar days of the supervisor's decision. The department head shall provide an answer to the employee within *seven* calendar days.
- (b) If the complaint or grievance cannot be satisfied by the department head, the employee, within seven (7) calendar days of the department head's decision, may forward his or her written complaint or grievance to the City Administrator, specifying the nature of the complaint or grievance, provided he or she has informed the department head of his or her intentions to do so, and request a hearing thereon.

Z-3. Hearing Procedure.

The City Administrator may conduct hearings in accordance with the following procedures.

- (a) The hearing shall be held within 30 calendar days from receipt of the employee's request for such a hearing.
- (b) At the hearing, all concerned parties shall be given an opportunity to present their respective side of the grievance together with any pertinent evidence or witnesses as deemed relevant by the City Administrator. All parties shall have the right to cross-examine adverse witnesses and evidence.
- (c) All parties shall be allowed the right to have legal counsel present.
- (d) The City Administrator may call for additional evidence, as he or she deems proper.

- (e) The City Administrator shall not be bound by any legal rules of evidence.
- (f) No city employees, serving as a witness, shall be subject to any restraint, interference, discrimination or reprisal for any of his or her testimony in such hearing.
- (g) The City Administrator shall render a decision in writing within five business days of the hearing's conclusion and the evidence shall support such decision. A copy of the findings shall be provided to the employee and the department head and filed in the employee's personnel file.
- (h) The hearing shall not be open to the public unless the employee and city both agree in writing to a public hearing.
- (i) The City Administrator's decision shall be binding and final and subject to no further appeal.

Z-4. Suspension or Termination.

Suspension or termination of employees covered under Charter Ordinance No. 5 shall be brought before the governing body if the employee so desires. The employee shall follow the same guidelines as aforementioned in S-3, Hearing Procedure.

The governing body's decision shall be binding and final and subject to no further appeal.

- Benefits;
- Retirement; and
- Payroll processes, timekeeping, and reporting.

The City of Basehor adapted on January 24, 2008, a Pay Plan & Policy. Review of the post January 2008 hires; all of which were police officers, excluding seasonal hires or rehires, reflects starting compensation at the established rate and compliance with the Plan.

The audit did not include a review of payroll tax deductions, benefit withholdings, or garnishments. During the personal interview, the City Clerk addressed specific questions indicating competency in this function.

The audit included a review of wages to ensure no violation of the Fair Pay Act. The recently signed Lilly Ledbetter Fair Pay Act requires businesses to meticulously document pay decisions and retain detailed employment records to ward off discrimination suits.

Payroll was noted by the City Clerk as becoming time burdensome, now taking as much as fifty (50) percent of her time some weeks. To maximize the Clerk's efficiencies in performing her administrative duties, please see Addendum B for **outsourced payroll processing proposal.**

Also for consideration and future monitoring is the H.R. 12, S. 182 (111th Congress) Paycheck Fairness Act, introduced in both the House (H.R. 12) and the Senate (S. 182) and passed by the House on Jan. 9, 2009, once passed will update and strengthen the Equal Pay Act (EPA) of 1963. The Act would further deter wage discrimination by closing loopholes in the EPA and barring retaliation against workers who disclose their wages. The bill also allows women to receive the same remedies for sex-based pay discrimination that are currently available to those subject to discrimination based on race and national origin.

The Plan, Section 2. Pay Plan; references Department Heads recommending increases in conjunction to individual performance appraisals as Merit and Cost of Living adjustments. As conveyed; the City Administrator recommends to the Governing Body a rate for approval, which is awarded to everyone with a satisfactory or above rating on their individual appraisal. In addition to this practice, several were recommended for Merit increases based on a citizen satisfaction survey.

In determining competitive posturing, the Key Staff Position were benchmarked against three (3) other area communities. The Key positions are:

- City Administrator;
- Chief of Police;
- City Superintendent;
- City Planner; and
- City Clerk.

Addendum B

Payroll Processing

The following fee and services are provided in a Payroll Service Agreement.

Setup / New Hire Processing ⁽¹⁾ (includes I-9 electronic)

Payroll Processing ⁽²⁾

Certified Payroll Reports ⁽³⁾

Quarterly Payroll Tax Filing ⁽⁴⁾

Quarterly Federal & State Wage Reporting ⁽⁵⁾

W2 Preparation / 1099

For 26 to 50 employees paid on a semi-monthly basis -- \$211.04 per pay period.

1. *Employee processing for contractors includes social security number verification through E-Verify for Form I9 compliance under new state statutes, and state required new-hire registration where applicable. A one-time \$275.00 account set up fee applies.*
2. *Direct deposit, pay advise.*
3. *Electronic copy of payroll reports include hour and wage summary including year-to-date; health and welfare, vacation, holiday, sick or PTO time tracking, contributions and payroll taxes. Payroll services also include compliance with all state orders for wage garnishment and payment.*
4. *Electronic submission for EFTPS Federal and State Forms 940.*
5. *Preparation and submission of Federal and State Forms 941.*

I9 Advantage / E-Verify

The payroll fees above include the use of our i9 Advantage system. Federal legislation mandates that state and federal contractors utilize the Federal E-Verify system to verify the employment eligibility of all newly hired employees. Using this system now will keep you in compliance and position you to bid on these projects without any unnecessary delays.

This system includes electronic storage of all of your form i-9's (no paper filing necessary), registration with the E-Verify system with People Wise as your designate agent, automatic submission to the Federal E-Verify database, assistance in handling any no-match letters, assistance with any audits, and representation as your E-Verify designate.

CITY CLERK

Immediate Supervisor: City Administrator

Department: Clerical

FLSA Classification: Non-Exempt

Status Classification: Full-time (40 hrs. per week, flexible w/ some weekends and evenings)

Education: High school Diploma/GED, Degree in Business, Public Administration or a related field is required. Council has the option to waive degree requirements or hire within department if employee has three years of service and possesses necessary office skills.

Out-of-Town Travel: Required

Introductory Period: 183 days

POSITION SUMMARY

The City Clerk position is under the daily supervision of the Mayor, but ultimately answers to the City Council. Currently the City Clerk is a non-exempt position. This position is responsible for maintaining official city records, ordinances, resolutions, and contracts. This employee should possess excellent communication, organizational, supervisory, and public relation skills.

ESSENTIAL FUNCTIONS

- Prepares monthly City Council agendas;
- Attends all council meetings, records and transcribes minutes;
- Prepares packets for council meetings;
- Records and maintains files of ordinances, resolutions, contracts, and committees;
- Appointed as Local Freedom Information Officer;
- Attests mayor's signature on official documents;
- Tracks all proceedings and transactions of internal improvement projects;
- Prepares accounts payable vouchers for city treasurer to process and issue checks;
- Provides citizen assistance by fielding questions, concerns, and complaints from the general public;
- Receives money and prepares receipts for all types of permits and fees;
- Performs research for mayor and council members and other city department supervisors;
- Publishes ordinances, charter ordinances and resolutions;
- Records special assessment resolutions and deeds at the Register of Deeds office;
- Certifies special assessments to the county;
- Assists with the preparation of the budget document;
- Registers voters and performs oaths of office;
- Prepares payroll, tax reports and year end reports for annual audit;

- Acts as Human Resource director;
- Updates city policies and handbook as the need arises;
- May act as the official Municipal Court Clerk (appointed by judge);
- Update employee security bonds, liability, worker's compensation and automobile insurance;
- Accepts petitions and rezoning requests;
- Prepares and takes miscellaneous, municipal court and utility billing deposits to designated bank;
- Oversees petty cash and postal permit fund;
- Prepares documents for Mayor and Council members as directed;
- Reconciles receipts, deposits and interest for month ending reports;
- Performs other duties as deemed necessary or assigned.

City Clerk Position Requirements:

Experience: Three years of similar or related experience is required. Employee is expected to have acquired the necessary information and skills to perform the job reasonably well within one year of employment.

Education: High school Diploma/GED, Degree in Business, Public Administration or a related field may be required. Council has the option to hire within department if employee has three years of service and possesses necessary office skills. Employee may be requested to obtain their Certified Municipal Clerk certification. A valid Kansas Driver's License is required in this position.

Technical Skills: A thorough knowledge of computers, city regulations and a working knowledge of accounting is required. This employee must be able to operate computers, printers, calculators, telephone systems, fax and other office equipment. The ability to prepare reports, memos, agendas, and other documents, to interpret data, to understand and anticipate problems, and to read and interpret ordinances, agendas, and other written instructions are required. This employee should possess excellent supervisory, public relation, organizational, and oral and written communication skills.

Problem Solving: Problem solving is a factor in this position. This employee encounters problems with citizen concerns, personnel matters and lack of time.

Decision Making: Decision making is a factor in this position. This employee makes decisions about issuing bonds, prioritizing daily work assignments and performing daily duties in the most efficient manner.

Supervision: This employee is subject to daily supervision from the city administrator and occasional supervision from the Mayor. This employee exercises supervision over subordinate personnel.

Financial Accountability: This employee is responsible for department equipment and resources, and does participate in the annual budget process.

Personal Relations: Daily contact with the general public, supervisory personnel, co-workers, the Mayor and occasional contact with the organization's governing body is expected.

Working Conditions: No adverse working conditions exist within this position. Working in an office setting with a computer is the primary aspect of this position. Will occasionally come in contact with angry citizens.

Physical Requirements: Physical activity associated with working in an office setting is required to perform the daily duties of this position.

City Planner

This position is currently classified as hourly non-exempt. It is our finding that this position is a paraprofessional level, which is a learned profession fulfilling the qualifications for a Salaried Exempt position. This modification should be made in conjunction to the Fiscal 2010 budget development and approval process, or should there be position replacement prior to yearend.

City Superintendent

While this position is customarily Salaried Exempt, qualifying as Learned Professional or Executive Duties, the reported hours worked and duties performed during the work day do not meet the criteria or qualify for exempt status. Please see Addendum C for further details.

City Clerk

While this position is customarily Salaried Exempt, the size of the department and/or the current assigned duties do not meet the criteria or qualify for exempt status. Please see Addendum D for further detail.

Please Note – Police Chief

While classification corrections are in order at the City's Key Staff positions, a greater concern exists from a Key Staff member retention and welfare perspective. Resulting from the Chief's functioning as the Police Chief and Interim City Administrator, his morale and job satisfaction has been impacted. While the opportunity was offered to him to become the City Administrator and receive higher compensation, it is not his interest to accept the position.

With this understood, consideration should be given to a salary adjustment for this period of additional duties to recognize the efforts to manage both positions. During the initial discussion, Lloyd disclosed that during the absence of a City Administrator he is working approximately twenty (20) hours of overtime per week.

It is up to the Governing Body to determine the value of his service. It is not unreasonable to provide incentive pay of at minimum time and a-half for the hours worked above forty-five standard weekly scheduled hours for an Exempt position.

Posted Schedules

Weekly schedules are posted for certain positions. Office support personnel work a set schedule. Schedules are posted and verified for payroll for maintenance and police officers. Schedules are not kept as suggested by the Department of Labor.

PLANNING***PLANNING & CODES DIRECTOR***

Immediate Supervisor: City Administrator
 Department: Planning and Zoning
 FLSA Classification: **Non-Exempt**
 Status Classification: Full-time (40 hrs. per week, flexible w/ some weekends and evenings)
 Education: Degree from an accredited College or University with major course work in Planning, Architecture, Civil Engineering, Construction Technology or a related field or any combination of experience and training that would provide the required knowledge and abilities.
 Out-of-Town Travel: Required to attend out-of-town training and meetings.
 Introductory Period: 365 calendar days

POSITION SUMMARY

The position of Planning & Codes Director shall be under the supervision of the City Administrator. This employee will provide responsible and complex administrative support to the Mayor, City Administrator, City Council and Planning Commission on issues relating to City Planning, Zoning, Land Use, Building Codes and City Codes, coordinate activities with other City Departments and outside agencies, enforce codes related to the construction, repair and maintenance of buildings, structure and properties, enforce all applicable codes, ordinances and regulations related to site plan, zoning and land use within the City; may perform field inspections of properties to ensure compliance with applicable codes, and review, issue and inspect permit applications for code compliance.

ESSENTIAL FUNCTIONS**Planning & Zoning**

Assume management responsibility for all services and activities of the Planning Department.

- Manage and participate in the development and implementation of goals, objectives, policies and priorities for programs
- Manage and participate in the development and administration of the Planning Department annual budget.
- Coordinate Planning Department activities with other Departments and outside agencies and organizations. Provide responsible staff assistance to the Mayor, City Council, Planning Commission, prepare and present staff reports and other necessary correspondence.

- Provide staff support to a variety of Boards and Commissions; stay abreast of new trends and innovations in the field of Planning, Zoning, and Economic and Community Development.
- Advise elected and appointed officials, developers and the general public on Planning and Development laws, codes, regulations, procedures policies and standards; schedule and organize meetings with elected, appointed and private individuals for planning and development projects.
- Attend and participate in some meetings of the City Council, Board of Zoning Appeals, Planning Commission, provide information and advice regarding Planning and Development activities.
- Service as a resource to other City Departments regarding zoning and other code requirements.
- Conduct research; recommend modifications to Planning and Development programs, policies and procedures as appropriate.
- Research, analyze and interpret social, economic and land use data and trends; prepare written reports on current and long range planning matters.
- Prepare text amendments to existing Zoning Ordinances, Subdivision Regulations, and Development Regulations.
- Write legal notices, create property owner notification letters, prepare agendas and write minutes for Planning Commission and Board of Zoning Appeals.
- Review development proposals and applications for compliance with appropriate regulations and policies; prepare reports on recommendations.
- Attend and participate in professional group meetings, seminars and conferences.
- Inspect land, property, housing and structures to ensure compliance with applicable zoning, municipal, building, sign and applicable codes, ordinances and regulations; perform follow-up inspections as necessary; issue notices of violations as necessary.
- Perform inspections of properties and improvements to determine compliance with zoning, property maintenance, building or health and safety requirements; issue notices of violation as necessary.
- Respond to and resolve citizen inquiries and complaints.
- Respond to inquiries and concerns on zoning and code enforcement activities with architects, builders, attorneys, contractors, engineers and the general public.
- Respond to all complaints received regarding all codes and ordinances pertaining to zoning, site use, signage, and other assigned areas of responsibility; make inspections; issue notices of violations; make follow up inspections as necessary; work with violators to identify solutions.
- Maintain records and reports of inspections and enforcement activities
- Enter and retrieve data on zoning and code enforcement activities; process and acquire data relative to inspection sites and effective code enforcement.

PUBLIC WORKS**CITY SUPERINTENDENT**

Immediate Supervisor: City Administrator

Department: Public Works

FLSA Classification: Non-Exempt

Status Classification: Full-time (40 hrs. per week, flexible w/ some weekends and evenings)

Education: High school Diploma/GED, Degree in Environmental Water Technology, Engineering, or a related field or five years related experience is required. Council has the option to waive degree requirements or hire within department if employee has three years of service and possesses necessary administrative skills.

Out-of-Town Travel: Required

Introductory Period: 183 days

POSITION SUMMARY

Under the daily supervision of the Mayor or City Administrator, the City Superintendent is a non-exempt position under FLSA. The employee in this position is responsible for supervising and managing the operations of the wastewater, streets, parks, facility and other public works departments. Investigating complaints and recommending new projects is expected. This employee should possess good organizational, supervisory, communication, public relation, and strong mechanical skills.

ESSENTIAL FUNCTIONS

- Investigates complaints about the wastewater, streets, parks, facilities and other public works departments;
- Supervises subordinate personnel;
- Verifies and inspects work done by each department;
- Recommends new projects and improvements;
- Advises all departments of new regulations and statutes;
- Maintains and orders necessary supplies;
- Fields questions, concerns, and complaints from the general public;
- Prepares the annual departmental budget;
- Maintains departmental records;
- Prepares weekly written reports for the Mayor;
- Prepares monthly report for Council packets;
- Assists engineers with assigned projects;
- Prepares and sends State and Federal reports;
- Attends City Council meetings;
- Performs building and sewer line inspections;
- Maintains records on departmental vehicles and equipment;
- Performs other duties as deemed necessary or assigned.

City Superintendent Position Requirements...

Experience: Five years of similar or related experience with supervisory experience is required. If applicant does not possess degree, the employee is expected to have acquired the necessary information and skills to perform the job reasonably well within six months of employment.

Education: A high school diploma or GED is required. A degree in Environmental Water Technology, Engineering, or a related field is required. Council has the option to waive degree requirements or hire within department if employee has three years of service and possesses necessary skills. Must possess a minimum of Class II Wastewater Operators Certification.

Technical Skills: Able to acquire a thorough knowledge of City policies and procedures, possess a through knowledge of construction techniques, and a working knowledge of mathematics and equipment maintenance is required. This employee must be able to operate vehicles, heavy equipment, computers, typewriters, phones and other departmental equipment with a high degree of efficiency. This employee must have the ability to read and interpret maps, schematics, manuals, reports, and written instructions. They should possess strong communication, public relation, supervisory, organizational and mechanical skills.

Problem Solving: Problem solving is a factor in this position. This employee encounters problems with the electric, water, sewer, utilities, other City departments including personnel issues and citizen complaints.

Decision Making: Decision making is a factor in this position. Decisions include resolving citizen complaints, prioritizing work assignments and performing daily duties in the most efficient manner.

Supervision: This employee works directly with the Mayor or City Administrator, and exercises daily supervision over subordinate personnel.

Financial Accountability: This employee is responsible for departmental equipment and resources. They have limited authority to purchase and does participate in the annual budget process.

Personal Relations: Daily contact with the Mayor, general public, co-workers, subordinate personnel, supervisory personnel and occasional contact with the City Council is expected. Will also have occasional contact with angry citizens.

Working Conditions: Adverse working conditions exist within this position. Working in a maintenance setting is the primary aspect of this position with frequent exposure to heavy equipment and excessive noise.

Physical Requirements: Some physical activity including extensive walking is required frequently in this position.

(revised 12/03/07)

Addendum C

City Superintendent

The Exemption in question for the City Superintendent is an Executive Exemption. The Duties Test under this exemption is:

1. Is the PRIMARY duty managing the City or a customarily recognized “department or subdivision” of the City;
2. Does he regularly supervise two or more employees (at least 80 hours worth of employee work per week); and
3. Has the authority to hire or fire other employees or have their recommendations on hiring/firing, advancement, promotion or other change of status decisions be given “particular weight”.

“Managing” includes: spending approximately 50% of work time on management activities like interviewing, selecting and training employees; setting and adjusting employee rates of pay and hours of work; evaluating employee performance; handling employee complaints/grievances; disciplining employees; planning work and determining techniques; determining materials, supplies, equipment and tools to be used; planning and controlling the budget; and providing for employee safety.

“Particular weight” refers to the requirement that a certain amount of consideration be given to an employee’s recommendations if that employee’s position is to meet the executive exemption. The following questions are used to determine “particular weight”:

- Is it part of the employee’s job duties to make hiring/firing/job change recommendations?
- How often does the employee make such recommendations? • How often are the employee’s recommendations taken (vs. overridden) by the Council or higher management?

An employee can still meet the executive exemption duties test if he or she sometimes performs nonexempt work (e.g., the labor or production work of the employees he or she supervises). However, the employee’s “primary duty” (see “General Definitions and Guidelines” section below) must be management.

Primary duty

To qualify for any of the above exemptions, an employee’s primary duty must be executive, administrative, professional, or computer work. Primary duty means the principal, main, major or most important duty that an employee performs. Factors to consider include:

- What is the relative importance of the exempt duties compared with other types of duties? (If the job exists mainly for the purpose of performing the exempt duties, it is likely to be considered exempt.)
- How much time does the employee spend performing exempt work? (Ideally it should be 50% or more of the time but this is not an absolute requirement.)

- How much supervision does the employee receive? How free is the employee to determine how to spend her time? (The more independence and freedom, the more likely it is to be considered exempt.)
- What is the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee? (If the employee's pay is relatively close to the level of nonexempt workers, this may harm the employee's chance of being considered exempt).

In this case the "big question" is how much time is spent on manual work and how much is spent on Managerial work. At first glance it seems that more than 50% of time is spent on more non-exempt type work. However, if he truly is spending an additional 20 hours per week doing work at home (statement made during personal interview), this might not be an accurate representation.

I would recommend doing a true Job Analysis, which includes all time spent in the role including the time spent after regular work hours.

CITY CLERK

Immediate Supervisor: City Administrator

Department: Clerical

FLSA Classification: Non-Exempt

Status Classification: Full-time (40 hrs. per week, flexible w/ some weekends and evenings)

Education: High school Diploma/GED, Degree in Business, Public Administration or a related field is required. Council has the option to waive degree requirements or hire within department if employee has three years of service and possesses necessary office skills.

Out-of-Town Travel: Required

Introductory Period: 183 days

POSITION SUMMARY

The City Clerk position is under the daily supervision of the Mayor, but ultimately answers to the City Council. Currently the City Clerk is a non-exempt position. This position is responsible for maintaining official city records, ordinances, resolutions, and contracts. This employee should possess excellent communication, organizational, supervisory, and public relation skills.

ESSENTIAL FUNCTIONS

- Prepares monthly City Council agendas;
- Attends all council meetings, records and transcribes minutes;
- Prepares packets for council meetings;
- Records and maintains files of ordinances, resolutions, contracts, and committees;
- Appointed as Local Freedom Information Officer;
- Attests mayor's signature on official documents;
- Tracks all proceedings and transactions of internal improvement projects;
- Prepares accounts payable vouchers for city treasurer to process and issue checks;
- Provides citizen assistance by fielding questions, concerns, and complaints from the general public;
- Receives money and prepares receipts for all types of permits and fees;
- Performs research for mayor and council members and other city department supervisors;
- Publishes ordinances, charter ordinances and resolutions;
- Records special assessment resolutions and deeds at the Register of Deeds office;
- Certifies special assessments to the county;
- Assists with the preparation of the budget document;
- Registers voters and performs oaths of office;
- Prepares payroll, tax reports and year end reports for annual audit;

- Acts as Human Resource director;
- Updates city policies and handbook as the need arises;
- May act as the official Municipal Court Clerk (appointed by judge);
- Update employee security bonds, liability, worker's compensation and automobile insurance;
- Accepts petitions and rezoning requests;
- Prepares and takes miscellaneous, municipal court and utility billing deposits to designated bank;
- Oversees petty cash and postal permit fund;
- Prepares documents for Mayor and Council members as directed;
- Reconciles receipts, deposits and interest for month ending reports;
- Performs other duties as deemed necessary or assigned.

City Clerk Position Requirements:

Experience: Three years of similar or related experience is required. Employee is expected to have acquired the necessary information and skills to perform the job reasonably well within one year of employment.

Education: High school Diploma/GED, Degree in Business, Public Administration or a related field may be required. Council has the option to hire within department if employee has three years of service and possesses necessary office skills. Employee may be requested to obtain their Certified Municipal Clerk certification. A valid Kansas Driver's License is required in this position.

Technical Skills: A thorough knowledge of computers, city regulations and a working knowledge of accounting is required. This employee must be able to operate computers, printers, calculators, telephone systems, fax and other office equipment. The ability to prepare reports, memos, agendas, and other documents, to interpret data, to understand and anticipate problems, and to read and interpret ordinances, agendas, and other written instructions are required. This employee should possess excellent supervisory, public relation, organizational, and oral and written communication skills.

Problem Solving: Problem solving is a factor in this position. This employee encounters problems with citizen concerns, personnel matters and lack of time.

Decision Making: Decision making is a factor in this position. This employee makes decisions about issuing bonds, prioritizing daily work assignments and performing daily duties in the most efficient manner.

Supervision: This employee is subject to daily supervision from the city administrator and occasional supervision from the Mayor. This employee exercises supervision over subordinate personnel.

Financial Accountability: This employee is responsible for department equipment and resources, and does participate in the annual budget process.

Personal Relations: Daily contact with the general public, supervisory personnel, co-workers, the Mayor and occasional contact with the organization's governing body is expected.

Working Conditions: No adverse working conditions exist within this position. Working in an office setting with a computer is the primary aspect of this position. Will occasionally come in contact with angry citizens.

Physical Requirements: Physical activity associated with working in an office setting is required to perform the daily duties of this position.

Addendum D

City Clerk

The exemption in question for the City Clerk is an “Administrative” Exemption.

The Duties test under this exemption includes:

1. Does she have the primary duty of performing office or non-manual work directly related to the management or general business operations of the city.
2. This non-manual or office work must require the exercise of discretion and independent judgment on significant matters.

If the employee’s primary duty is to administer the business affairs of a city, the employee is likely an “administrator.” If the employee’s primary duty is providing the goods/services of the organization, the employee is likely a “production” employee. Work performed in areas such as finance, accounting, insurance, purchasing, human resources, computer network, Internet and database administration is likely to be seen as administering the business affairs of the city.

According to the current job description (assuming it is an accurate description of the current duties) the essential functions of the role include both Administrative Functions such as Accounts Payable, Performing Research, Assists with budget, Prepares Payroll, Acts as HR Director, Making Bank Deposits, and prepares documents for the Mayor and others.

However, she also performs production functions such as Providing Citizens assistance, preparing receipts for permits and fees, publishes ordinances, registers voters, acts as court clerk, and accepts petitions and rezoning requests.

In order to meet the exemption a determination would have to be made as to where she spends the majority of her. Is it in Administration or Production?

To determine whether an employee exercises discretion and independent judgment on significant matters, the city should ask these questions:

- ✓ ■ Does the employee have authority to formulate, interpret or implement management policies?
- ✓ ■ Does the employee carry out major assignments and perform work that affects business operations to a substantial degree?
- ✓ ■ Does the employee have authority to commit the city in matters with a significant financial impact?
 - Does the employee have authority to waive or deviate from established policies and procedures without prior approval?
 - Does the employee have authority to negotiate and bind the company on significant matters?
 - Does the employee provide expert advice to management?

- Is the employee involved in planning long- or short-term business objectives?
- Does the employee investigate and resolve important matters for management?
- Does the employee handle complaints, arbitrate disputes or resolve grievances?

The more “yes” answers to the above questions, the more likely the employee would be considered exempt under the administrative exemption. An employee can still qualify for the administrative exemption even if their decisions or recommendations are reviewed at a higher level and occasionally revised or reversed.

I would recommend conducting a Job Analysis (attached) in order to accurately make this determination.

ADA Policy

In this section, the audit measures the understanding and compliance with the American's With Disabilities Act, specifically critical areas of reform from the 2008 Addendum Act.

The findings are that the Handbook is outdated, along with current determination of "Essential verse Non-essential" Job Description duties. In addition, the City's substance abuse policy provides for a second chance if a random or post incident test is positive. It is recommended and for consideration in the City's best interest to provide an Employee Assistance Program (EAP), as it does for substance prevention, but not to provide the second chance and take advantage of the shift in liability and denial of workers compensation benefits.

In an older building, there are numerous areas of concern in regards to ADA should any remodel or expansion be considered. The list includes steps without a lift, no automatic door openers, carpet is severely wrinkled; which also causes safety concerns, and some passages are not accessible, and the restrooms are not Handicap assessable. It would be difficult for the City to provide in these conditions, reasonable accommodations to a variety of physical limitations.

Extended Leave Policy

In this section, the audit determines what if any legislative compliance is necessary, and then determines the compliance of the policy. The City of Basehor's existing extended leave policy, except for the "Maternity Policy" is voluntary, and is a benefit of employment, Article E. Attendance and Leave, Section E-11. Family and Medical Leave. This policy is not clear as to the leave policy if the City has less than fifty (50) employees.

In 1993, President Clinton signed the Family & Medical Leave Act (FMLA), which allows eligible employees to take up to 12 weeks of unpaid leave for childbirth, adoption, foster care, to care for a child, parent, or spouse with a serious medical condition, or if the employee themselves has serious medical condition. The Maternity Policy should be eliminated, the guidelines of FMLA followed, and eligible individuals should request leave.

- (g) Sick leave is intended for use by the employee in cases of illness, injury, accidents or other physical incapacity or doctor appointments for the employee, employee's spouse or other immediate family members (as described in E7) cared for by the employee.
- (h) Upon termination, no compensation for accumulative sick leave will be paid.

E-6. Maternity Leave.

An employee who becomes pregnant may claim and receive maternity leave in the same manner as provided for sick leave; provided, however, that the employee may elect to utilize any accrued vacation leave if, and to the extent, such leave is available. An employee may also take leave without pay in the same manner as any other employee on leave without pay status. Maternity leave with or without pay, following termination of pregnancy, shall not exceed a reasonable period of time normally thirty (30) days. If medical complications related to the pregnancy exist, the employee may, with the approval of the department head or City Administrator remain on maternity leave until release by the employee's physician. The provisions of the Family and Medical Leave Act may apply in some circumstances, please see E-11 below.

E-7. Funeral Leave.

In the case of death of a member of an employee's immediate family (to include only the spouse, children, mother, father, sibling, or grandparents of employee), full-time and part-time employees shall be granted funeral leave not to exceed five consecutive work days.

E-8. Injury Leave (Workers Compensation).

- (a) All injuries occurring on the job shall be reported as soon as possible to the employee's immediate supervisor. Employee must follow workers' compensation guidelines.
- (b) Any employee injured on the job shall be eligible to receive injury leave with pay during the seven-day waiting period for workers' compensation claims.
- (c) When an employee receives compensation under the workers' compensation act, the pay he or she receives from the city, while an employee of the city, shall be the difference between his or her regular rate of pay and the amount he or she receives from workers' compensation.
- (d) Return to Work Policy. "It is the responsibility of the physician to determine what restrictions apply to employees who are injured. It is NOT the physician's responsibility to determine whether or not an injured employee is able to work."

It is the policy of the City of Basehor to proactively return employees to work, within the restrictions provided by the physician. Department heads, managers, and/or supervisors will be responsible, to the extent possible, for finding productive work for each injured employee. Assistance for this effort is available through our work comp carrier, KMIT, and its contracted representatives, Insurance Management Associates (IMA).

Temporary restricted duty work reassignment need not be confined to the current department in which the employee is ordinarily employed. The pay grade for injured employees will be based upon temporary work assignments.

Returning injured employees to work as soon as possible benefits both the employee and the City of Basehor; therefore, this policy will be enforced. Any questions concerning this policy should be addressed to the city clerk or city administrator.

The City of Basehor has identified and created alternative or modified work-duty tasks, and matching a worker's impaired physical capability from an injury to these tasks can control accident costs and, improve employee morale productivity, and enhance our "bottom line".

(Referenced from IMA Training booklet, March 2007)

E-9. Military Leave.

The City of Basehor recognizes and adheres to all applicable state and federal laws regarding leaves for uniformed service to the State of Kansas as well as the United States. Any employee who needs time off for uniformed service is to immediately notify his or her supervisor and the City Administrator, both of whom will provide a detailed explanation to the employee of his or her reemployment rights under K.S.A. 48-517 (governing members of the Kansas national guard, Kansas air national guard, and the Kansas state guard that are 'called or ordered to duty') and 38 U.S.C. 4301 et seq. the Uniformed Services Employment and Reemployment Rights Act (USERRA) covering persons performing duty, voluntarily and/or involuntarily in the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, Army National Guard, Air National Guard, and Public Health Service commissioned corps.

E-10. Civil Leave.

(a) *Civil Leave With Pay.* Any employee shall be given necessary time off with pay (1) when performing jury duty, not to exceed 10 work days, (2) when appearing in court as a witness in answer to a subpoena or as an expert witness when acting in an official capacity in connection with the city, (3) when performing emergency civilian duty in connection with national defense, or (4) for the purpose of voting when the polls are not open at least two hours before or after the employee's scheduled hours of work.

(b) *Civil Leave Without Pay.* If an employee is involved in a personal lawsuit either as a plaintiff or as defendant in an action not related to his or her duties with the city, the employee may take leave without pay unless he or she elects to utilize any accumulated vacation leave.

E-11. Family and Medical Leave *(only available to employees if the City of Basehor has 50 or more employees)*

(a) Upon request, any employee will be granted up to 12 weeks of unpaid family and medical leave during any 12-month period. Such leave will be available as the result of the birth, adoption or placement of a child for foster care, to care for a spouse, child or parent with a serious health condition or due to the disabling illness of the employee. Where possible, employees are required to provide at least 30 days notice before beginning to take leave.

The employer may require that any accrued paid vacation, sick, or personal leave of the employee be substituted for the 12 weeks of leave provided under this law.

- (b) *Eligibility.* An employee must have worked for the city at least 12 months for a minimum of 1,250 hours during the previous year. In cases where both parents are employed by the City and the leave requested is for the birth, adoption or foster care of a child, the City will not grant more than twelve work weeks total of family/medical leave. Where leave is requested as a result of a serious health condition, the employee will provide the city a certification statement issued by a health care provider. Should there be a question of validity of the certification provided by the employee the city may, at its own expense, require an opinion from a second health care provider. Where there is a conflict between the two opinions, the city may pay for the opinion of a third provider. The opinion of the third provider is binding on both the employee and employer.
- (c) *Restoration.* An employee returning from family leave will be entitled to return to their position or to a position with equivalent benefits, pay and other terms and conditions of employment.
- (d) *Vacation and Sick Leave.* Employees on family leave will not accrue any seniority, vacation or sick leave benefits.
- (e) *Health Insurance Coverage.* The city will continue to provide health care coverage under the same provisions as prior to the leave. Where the employee fails to return from leave, the city can recover the premium(s) that have been paid on behalf of the employee to maintain health care coverage. If failure to return to work is due to the continuation, recurrence, or onset of a serious health condition beyond the employee's control, the employee will not be liable for health care premiums paid while on family leave. In such cases, a certification issued by a health care provider will be required.

E-12 Other Leave.

- (a) *Meetings, Seminars.* Any employee on duty may be granted leave with pay to attend meetings, seminars and conventions related to the employee's work for the city when such attendance is authorized by the department head or City Administrator.
- (b) *Leave of Absence.* An employee, upon written request, and with the recommendation of his or her department head, may be granted a leave of absence without pay and accrual of benefits for a period of up to six months, subject to the approval of the City Administrator.
- (c) *Compensatory Time.* Compensatory time off that is accrued by an employee for overtime worked must be taken within 90 days following the pay period in which it was earned. (Also reference Section D-5(a)).

E-13. Request for Leave.

Except as provided in Section E-5 (e) as to sick leave, and Section E-11 as to family leave, all leave must be authorized in writing by the employee's department head or City Administrator prior to leave time being taken. A copy of each leave record, including

Memorandum

To: Mark Loughry
CC: Mary Mogle, Mr. Mayor and City Council
From: Mark Lee, Building Official
Date: 10/5/09
Re: Council Meeting/Consider demolition quotes for foundations in Pinehurst October 5, 2009

Mark Lee, Building Official Recommendations

History:

On July 31st 2007 notice was given to Sun Homes that the foundation located at 604 154th Circle was in violation of the City of Basehor Municipal Code. At that time the owners were given ten days to correct the violations, little if any action was taken.

On August 26th 2008 another letter was sent in regards to the above mentioned foundation as well as a foundation located at 807 155th Terrace. They were again given fifteen days to correct the violations and again little or no action was taken.

It was shortly after this that the city was made aware that this company was now being investigated by the FDIC and the properties in question were being foreclosed upon and Sun Homes no longer owned them.

Several notices were given in the time period leading up to the following resolutions being passed on April 6th 2009. Resolution Numbers 2009-07 and 2009-08, these resolutions officially declared the structures unsightly and dangerous and gave the owners 45 days to correct the violations. They listed out that if the violations were not corrected then they could be prosecuted in Municipal Court or the city would abate the violations.

Once staff discovered the properties were under the supervision of a property management company several email communications were made and still no action was taken. I had been in contact with the property management company that was taking over these properties and was told that they were going through the foreclosure process but that it could take up to six months or more to finalize.

We have chosen to abate the violations due to the length of time these violations have existed. The correct process has been followed up to this point in declaring these structures both unsafe and dangerous and we are allowed to proceed with abatement under the resolutions we have passed.

At this time I have collected two quotes for demolition and removal as well as re-grading of the sites. These expenditures were not budgeted for, so we are asking council to approve the expenditures. Staff is expecting at least two more quotes by the time this appears on the Council Agenda for the October 19th meeting.

September 29, 2009

Staff will be recommending that the lowest quote be taken into consideration for the demolition of the foundations in the Pinehurst Subdivisions.