

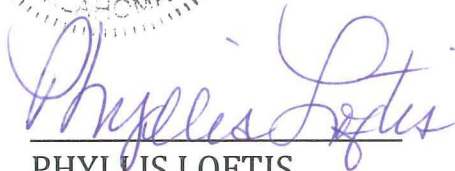
NOTICE OF A CALLED SPECIAL SESSION OF THE BOARD OF CITY
COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA

TO THE BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE,
OKLAHOMA:

You and each of you are hereby notified that by virtue of a call issued by me on this 7th day of February, 2013 a Special Called Session of the City of Shawnee Board of Commissioners will be held at Commission Chambers at City Hall, 16 W. 9th, Shawnee, Oklahoma at 2:00p.m. on February 11, 2013, and you are hereby notified to be present at said meeting. The purpose of the following special call session of the City Commissioners will be for (a)the discussion, consideration and possible action to appoint an insurance committee to consist of three Commissioners and two staff members; and (b) the discussion, consideration and possible action to determine who, other than fulltime city employees and their dependents, should be covered by the City's insurance plan; whether those individuals would also be eligible for life, vision and dental plans; defining when non-employees are "retired"; and determining what retirement benefits would be available.

Witness my hand this 7th day of February, 2013.





PHYLLIS LOFTIS
CITY CLERK



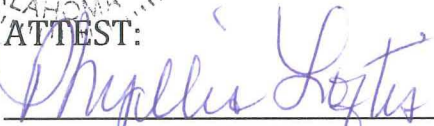
BRIAN MCDUGAL
CITY MANAGER

CALL FOR SPECIAL SESSION OF THE SHAWNEE BOARD OF CITY COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA TO BE HELD ON THE 11TH DAY OF FEBRUARY, 2013 AT 2:00 O'CLOCK P.M. AT THE CITY COMMISSION CHAMBERS AT CITY HALL, 16 W. NINTH, SHAWNEE, OKLAHOMA. THE PURPOSE OF SAID MEETING WILL BE FOR (A)THE DISCUSSION, CONSIDERATION AND POSSIBLE ACTION TO APPOINT AN INSURANCE COMMITTEE TO CONSIST OF THREE COMMISSIONERS AND TWO STAFF MEMBERS; AND (B) THE DISCUSSION, CONSIDERATION AND POSSIBLE ACTION TO DETERMINE WHO, OTHER THAN FULLTIME CITY EMPLOYEES AND THEIR DEPENDENTS, SHOULD BE COVERED BY THE CITY'S INSURANCE PLAN; WHETHER THOSE INDIVIDUALS WOULD ALSO BE ELIGIBLE FOR LIFE, VISION AND DENTAL PLANS; DEFINING WHEN NON-EMPLOYEES ARE "RETIRED"; AND DETERMINING WHAT RETIREMENT BENEFITS WOULD BE AVAILABLE.

By virtue of the authority vested in me by Section 4, Article IV of the Charter of the City of Shawnee, Oklahoma, a Special Session of the Board of City Commissioners of the City of Shawnee, Oklahoma is hereby called to meet at City Commission Chambers at City Hall, 16 W. 9th, Shawnee, Oklahoma at 2:00p.m. on February 11, 2013 for (a)the discussion, consideration and possible action to appoint an insurance committee to consist of three Commissioners and two staff members; and (b) the discussion, consideration and possible action to determine who, other than fulltime city employees and their dependents, should be covered by the City's insurance plan; whether those individuals would also be eligible for life, vision and dental plans; defining when non-employees are "retired"; and determining what retirement benefits would be available.

Witness my hand this 7th day of February 2013.





PHYLLIS LOFTIS, CITY CLERK



BRIAN MCDUGAL
CITY MANAGER

A G E N D A

SPECIAL CALLED MEETING
BOARD OF SHAWNEE CITY COMMISSIONERS
FEBRUARY 11, 2013 at 2:00 p.m.
CITY COMMISSION CHAMBERS, CITY HALL
16 W. 9TH
SHAWNEE, OKLAHOMA

CALL TO ORDER
DECLARATION OF A QUORUM

1. Discussion, consideration and possible action to appoint an insurance committee to consist of three Commissioners and two staff members.
2. Discussion, consideration and possible action to determine who, other than fulltime city employees and their dependents, should be covered by the City's insurance plan; whether those individuals would also be eligible for life, vision and dental plans; defining when non-employees are "retired"; and determining what retirement benefits would be available
3. Adjournment

Respectfully Submitted,



Phyllis Loftis, CMC
City Clerk

To: Shawnee City Council
From: Dustin Brand, INSURICA
Date: May 17, 2012
Re: City of Shawnee – Eligibility for Elected Officials

Blue Cross & Blue Shield has approved a special exception for the City allowing the plan's current eligibility be amended to include elected officials. If approved by the City, Blue Cross will amend the plan to include the following verbiage:

- Elected Officials while in office who have not yet reached the age of 65; and their eligible dependents. Should an official attain age 65 while covered on the plan, their eligible dependents can remain covered until the point at which official is no longer in office or until the spouse turns age 65 whichever is first.

Upon approval by the City the verbiage above will be included with the plan's existing verbiage outlined below:

- An employee whose work schedule is forty (40) hours per week, or those designated as a full-time professional.
- Dependent children to the end of the year after they reach age 26, regardless of full-time student marital status.
- Retirees who are age 55 and have worked for the City of Shawnee for 7 years; or Police/Fire Union members who have worked a minimum of 20-years (there is no minimum age requirement for Police/Fire Union retirees). Disability continuation as defined by the Police Pension or OMRF Pension. Eligible dependents of a retiree are also allowed coverage under the retiree's membership. Retirees or older are not eligible for the regular active and Pre-65 Retiree plan.

With the expansion of this eligibility to include elected officials and their eligible dependents the City may also apply an additional surcharge of 125% to the plan's rates. This surcharge would apply only to elected officials and their qualifying dependents. Blue's exception also does not include coverage for retired elected officials or their dependents, which at this time Blue Cross has not approved for the City's plan. If we are later successful in obtaining approval to add retired elected officials to the City's already large pool of early retirees it could place the City's plan at risk for additional rate loads.

Blue Cross & Blue Shield's offer to extend the City eligibility provision to include elected officials is more lenient than what we would have had with other carriers in the Oklahoma market. When polled on this same request, United Health confirmed they will not cover elected officials unless the City has over 500 active employees participating on

the plan. Aetna confirmed they would take the eligibility under consideration, but that elected officials participating in the plan would certainly require a special exception being granted by their underwriting team due to it being out of the norm.

In summation Blue Cross Blue Shield's leniency with the plan's eligibility may not be granted by other carriers, which limit the City's option when shopping outside Blue Cross for better plan options. This could also result in elected officials who may participate in the plan losing coverage, because of a new carrier denying the exception. If the City does want the amended added we can honor this request and have it effective by July 1, 2012.

Sincerely,

Dustin Brand
Benefits Consultant

Mayor
LINDA PETERSON



The City of Shawnee
Office of the City Manager

PO Box 1448
Shawnee Oklahoma 74802-1448
(405) 878-1601 Fax (405) 878-1571
www.ShawneeOK.org

Commissioners

PAM STEPHENS
FRANK SIMS
JAMES HARROD
BILLY COLLIER
JOHN WINTERRINGER
STEVE SMITH

Date: May 9, 2012

To: Mayor and City Commissioners

From: Brian McDougal, City Manager
Mary Ann Karnes, City Attorney

RE: Health Insurance – Commissioner Eligibility

Today, in organizing the voluminous files taken from John Canavan's office, we located an opinion he wrote on December 3, 1991 in which he advised the Commission it had the authority to provide health insurance benefits for City Commissioners and pay all or any part of the premiums.

Although there is a belief that the Commission took formal action about that time to put this into action, a review of ordinances, resolutions and minutes during that period has not turned up any action.

We lack actual records and institutional knowledge to determine how many commissioners and dependents have been on City insurance over the years. We have identified at least one dependent who stayed with the "old" plan through State of Oklahoma and is still with that plan. In that case, the commissioner is deceased and the individual is a survivor. (For privacy reasons, we will not be discussing names of individuals. HIPPA regulations also limit our ability to determine the precise history of prior insurance coverage.)

The current contract for insurance lists only employees, their spouses and dependents (up to age 26) as eligible for coverage. Under "other" – which is where other city official designations should appear – there is no listing.

Dependents obtain the right to coverage as a part of the employee (commissioner) coverage.. There is not a “dependent only” option.

When an employee retires from the City, he is allowed to maintain City insurance for himself and his dependents with all costs paid by him until he becomes eligible for Medicare. If the employee goes to the Medicare Supplement of our carrier, the dependent can continue (at retired employee’s expense) on our base coverage. If the employee does not opt for that coverage, the dependent’s eligibility is also at an end. COBRA benefits might apply.

Since we do not define a commissioner as eligible, we do not have a definition of a “retired” commissioner. State statute (11 O.S. 23-108) provisions for insurance define a retired commissioner as one who has served eight years and is no longer serving. It has nothing to do with the commissioner’s age or employment status, but status as a commissioner.

Options:

1. Do nothing. (Not recommended)
2. Determine whether commissioners are to be eligible for coverage and, if so, amend the contract(s) of insurance accordingly. (City employees have access to medical, dental and vision insurance.) The recommendation from staff is that if commissioners are not to be covered, the contract should so state, given the existence of the state law on the subject.
 - A. If you determine commissioners are eligible, any commissioner using the plan and dependents should come into conformance with the requirements. You should determine whether the Commissioner can avail himself of the benefits only during his term, or whether he will have COBRA benefits if he serves less than eight years, what to do when he goes on Medicare, etc., just as you do for City employees.
 - B. If you determine commissioners are not to be eligible, any commissioners or dependents on the plan would receive COBRA benefits, which would allow the individual to continue coverage for a period of time as set out in those regulations..

Dustin Brand is our representative with Insurica and is available to come to a commission meeting and walk you through the decisions that you will need to make so that we can get our policy language in place.

Cc: Cindy Sementelli, Treasurer/Finance Director
Tamera Johnson, Human Resource Director
Dustin Brand, Insurica

CHARLES T. HENRY INC. & ASSOCIATES

ATTORNEYS AND COUNSELORS AT LAW
HENRY BUILDING
45TH AT BRYAN
SHAWNEE, OKLAHOMA 74801
405-275-0039

CHARLES T. HENRY
C. BRAD HENRY
JOHN G. CANAVAN, JR.

MEMORANDUM OPINION

FACSIMILE
405-275-0259

MAILING ADDRESS
4419 NORTH BRYAN

TO: Mayor, City Manager and City Commissioners
FROM: John G. Canavan, Jr., City Attorney *J.S.L.*
RE: Payment of Health Insurance Premiums for elected
city officials
DATE: December 3, 1991

QUESTION: Can the City of Shawnee pay for or contribute to the payment of health insurance premiums for elected city officials?

ANSWER: Under present Oklahoma statutory law and the Charter of the City of Shawnee, the City can pay for or contribute to health insurance premiums for elected city officials.

O P I N I O N

The form of government of the City of Shawnee is defined as the statutory council-manager form of city government. 11 O.S. 1981 §10-101. The City operates under a charter first approved by the governor on April 18, 1930 and amended in its entirety and approved by vote of the City's electorate on April 1, 1986, thus making Shawnee a charter city of the first class.

The charter explicitly states the terms of compensation to be paid to the mayor and city commissioners. Article III, Section 5 states in pertinent part:

"The mayor and commissioners shall serve without compensation, but shall be paid their necessary expenses incurred in the performance of their duties."

This section of the Shawnee City Charter states almost verbatim the limitations on compensation set forth in the Oklahoma Statutes at 11 O.S. 1981 §10-111. Therefore, this is not a case of the city charter being in conflict with state law. 11 O.S. 1981 §13-109 sets out the legal principle known as the "Home Rule Doctrine". Said doctrine holds that where a city operates under the authority of a charter that said charter supercedes any conflicting state law on matters of purely municipal concern.

This doctrine has been strictly adhered to by the Oklahoma Supreme Court in a series of cases dealing from early statehood. See Goodwin v. Okla. City, et al., 182 P.2d 762 (1947); City of Ponca City, v. Edwards 460 P.2d 418, (1969); Oliver v. City of Tulsa 654 P.2d 607, (1981); see also Oklahoma Constitution, Article 18 -- Section 3(a).

It is clear by a review of these authorities that in matters of municipal concerns the city charter foremost controls. It is equally clear that compensation and benefits of elected officials are strictly a matter of municipal concern. The Charter of the City of Shawnee does not address the topic of benefits for elected city officials. However, the statutes of the state of Oklahoma do cover the subject of benefits for officers and employees.

11 O. S. (1991) 23-108 states in pertinent part:

"A municipality may provide hospital and medical benefits, accident, health, and life insurance, or any of the aforesaid through any company authorized to do business in Oklahoma, for any or all of its officers or employees and their dependents, whether said officers or employees are engaged in a governmental or non-governmental function of the municipality... The municipality may pay a portion or all of said premiums from any municipal general funds, and may deduct from the wages or salary of any such officer or employee, upon written authority, signed by the officer or employee, amounts for all or any portion of the monthly premium for same."

As the mayor and city commissioners of the City of Shawnee are officers of the City they can receive the benefits set forth in 23-108 providing the City Charter is not in conflict. The fact that the charter is silent as to this issue does not place it in conflict with state law. The Oklahoma Supreme Court has held that there is no conflict if the charter is silent on an issue and the state statutes address the same issue. State of Oklahoma ex rel. William J. Trimble v. City of Moore, Oklahoma and Louis Kindrick 62 O.B.J. 2887 (1991).

In the Trimble case the State Supreme Court addressed the exact issue to be answered in the present opinion. The Court, in an unanimous opinion, stated: "We find no conflict between the statute dealing with insurance benefits and the municipal charter, which speaks to compensation but is silent on the issue of benefits. In the absence of negative charter provisions, the specific statute will control over the charter."

The Court went further and addressed the possible conflict between the general compensation statute at 11 O.S. (1981) §10-111 and the specific benefits statute at 11 O.S. (1991) §23-108. The Court held the general rule that a specific

statute governs over a general statute was applicable and, therefore, that 28-108 was controlling in allowing city officers to receive these benefits.

In addition to these statutes the City of Shawnee by charter provision has the authority to raise revenue, make appropriations, issue bonds, regulate bond elections, issuance of bonds, sinking funds, the refunding of indebtedness, and all other fiscal affairs of the city subject to the provisions of this charter, the Oklahoma Constitution, and state law applicable to cities operating under a charter. Article XII, Section 1. In addition to this charter provision the City of Shawnee in April of 1980 passed and adopted Resolution No. 4855. By this resolution the City elected to comply with and operate under the Municipal Budget Act of the State of Oklahoma cited at 11 O. S. (1981) §17-201 through 17-216. By adopting this resolution the City has agreed to allow this Act to govern its budget procedures and that this Act will take precedence over any other state laws or ordinances applying to municipal budgets that may be in any conflict with the Act. Section 17-213 of the Act provides for the classification of revenues and expenditures. This section provides for one expense category to be personal services which may include related employee benefits paid to any officer or employee for services rendered to or for employment. Employee benefits may include employer contributions to a retirement system, insurance, sick leave, terminal pay or similar benefits. See Trimble id.

The City of Shawnee already contains an expense fund which deals specifically with employee benefits. The General Administration Division of the General Fund of the City of Shawnee contains the employer benefits account. Therefore, should the governing body of the City of Shawnee approve and budget for said health insurance premium expenses they could be paid for from this fund.

In summary, by state law the elected officials of the City of Shawnee can have their health insurance premiums paid for, all or in part, by the City of Shawnee through its General Fund. As the City Charter is silent on the issue of officer or employee benefits, 11 O. S. (1991) §23-108 would control on that subject as well as control over the compensation limits set forth in 11 O.S. (1981) §10-111. The only limitation would be the budgeting of the monies to cover said expense.

Respectfully submitted,



JOHN G. CANAVAN, JR.
CHARLES T. HENRY, INC. & ASSOCIATES
CITY ATTORNEY
CITY OF SHAWNEE, OKLAHOMA