

Sullivan County

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SUITE 101
BLOUNTVILLE, TENNESSEE
37617



BRANCH OFFICES
Tennessee Courthouse — Bristol
Bristol 989-4366
City Hall — Kingsport
Kingsport 224-1790

Jeanie F. Gammon

County Clerk
Phone 323-6428

December 28, 2007

RE: RESOLUTION #2007-10-114 REQUESTING ADOPTION OF PROPOSED AND AMENDED SULLIVAN COUNTY ETHICS POLICY

Please find enclosed a copy of Resolution #2007-10-114 and attached Amended code of ethics approved by the County Commission on December 17, 2007. Each elected official, department head or chairman of any committee or board will be responsible for making sure each employee or member of their specific committee receive a copy of same.

Thank you for your cooperation in this matter.

Sincerely,

Jeanie F. Gammon
Jeanie F. Gammon
County Clerk

Enclosure

RECEIVED
2009 JAN 23 AM 9:07
ETHICS COMMISSION

Sullivan County, Tennessee
Board of County Commissioners

Item 2
Administrative/Executive
No. 2007-10-114
Attachment

To the Honorable Steve M. Godsey, Mayor of Sullivan County, and the Board of Sullivan County Commissioners meeting in Regular Session this 15th day of October, 2007.

RESOLUTION Requesting Adoption of Proposed and Amended Sullivan County Ethics Policy

WHEREAS, Sullivan County adopted an Ethics Policy recommended by CTAS in February 2007, and

WHEREAS, many County Commissioners and other County officials wanted more diverse representation on the Ethics Committee than the original policy called for, and

WHEREAS, The County Commission passed the County Mayor's appointment of a seven member committee in March 2007, and

WHEREAS, the Ethics committee recommends a staggered two-year term on the Ethics Committee, so as to preserve the continuity of the Committee, Section 5, and

WHEREAS, the Ethics Committee wanted more detail into the acceptance of gifts and other things of value, Section 4, and

WHEREAS, the Ethics Committee used many other County and Municipal Ethics Policies as guides and information to recommend these changes to the Sullivan County Ethics Policy, and

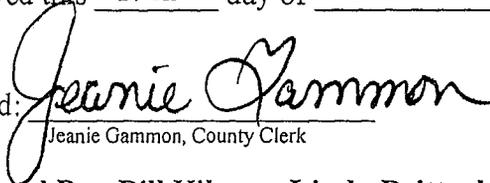
WHEREAS, this amended policy must be filed with the State Ethics Commission as soon as practical after being adopted by the county legislative body, and

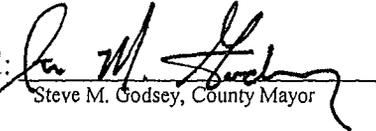
WHEREAS, the recommended, amended, policy is attached to this resolution

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Sullivan County, Tennessee assembled in Regular Session hereby approves the amended Sullivan County Ethics Policy.

This resolution shall take effect from and after its passage. All resolutions in conflict herewith be and the same rescinded insofar as such conflict exists.

Approved this 17th day of December 2007.

Attested: 
Jeanie Gammon, County Clerk

Approved: 
Steve M. Godsey, County Mayor

Sponsored By: Bill Kilgore, Linda Brittenham, Cathy Armstrong, Joe Herron
Prime Co-Sponsor(s): Terry Harkleroad, O.W. Ferguson

2007-10-114	Administrative	Budget	Executive	County Commission
ACTION	Motion to Take No Action 11-5-07 & 12-3-07	No Action 11-8-07; Deferred 12-6-07	No Action 11-7-07 & 12-5-07	Approved 12-17-07 20 Aye, 1 Nay, 2 Pass 1 Absent

Notes: 1st Reading 10-15-07; Deferred 11-19-07;

The following revisions to the Code of Ethics Policy for Sullivan County, Tennessee were recommended by the Ethics Committee.

The grammatical and structural recommendations made by the County Attorney were also adopted.

Acceptance of Gifts and Gratuities:

The following includes acceptable gifts and gratuities but not limited there to:

This statement will replace

Acceptance of Gifts and Gratuities:

The following constitutes acceptable gifts and gratuities:

Section 5. Ethics Complaints. A County Ethics Committee (the "Ethics Committee") shall be established consisting of ~~seven members~~ appointed to ~~staggered two-year terms~~, with four (4) members appointed to a (1) year term and three (3) members appointed to two year terms by the County Mayor with confirmation by the county legislative body, with appointments made annually. Thereafter, four (4) members to a two (2) year term and three (3) members the next year for two (2) year term, at the same time as internal committees of the county legislative body.

This statement will replace

Section 5. Ethics Complaints. A County Ethics Committee (the "Ethics Committee") consisting of ~~seven members~~ shall be appointed to ~~a staggered two-year term~~ by the County Mayor with confirmation by the county legislative body, to be appointed each year at the same time as internal committees of the county legislative body.

*The attached is the policy revised by the Ethics Committee.

CODE OF ETHICS

POLICY

SULLIVAN COUNTY, TENNESSEE

Section 1. Definitions.

(1) "County" means Sullivan County, which includes all boards, committees, commissions, authorities, corporations or other instrumentalities appointed or created by the county or an official of the county, and specifically including the county school board, the county election commission, the county health department, and utility districts in the county.

(2) "Officials and employees" means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation (whether compensated or not), or any officer, employee or servant thereof, of the county.

(3) "Personal interest" means, for the purpose of disclosure of personal interests in accordance with this Code of Ethics, a financial interest of the official or employee, or a financial interest of the official's or employee's spouse or child living in the same household, in the matter to be voted upon, regulated, supervised, or otherwise acted upon in an official capacity.

Section 2. Disclosure of personal interest in voting matters. An official or employee with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and to be included in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's or employee's vote on the measure. In addition, the official or employee may, to the extent allowed by law, recuse himself or herself from voting on the measure.

Section 3. Disclosure of personal interest in non-voting matters; An official or employee who must exercise discretion relative to any matter other than casting a vote and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on the attached disclosure form and file the disclosure form with the county clerk. In addition, the official or employee may, to the extent allowed by law, recuse himself or herself from the exercise of discretion in the matter.

Section 4. Prohibition of Acceptance of Gifts and Gratuities. *An official or employee may not solicit, accept, directly or indirectly, on behalf of themselves or any member of*

their household, any money, gift, gratuity, service, transportation, loan, loan guarantee or other consideration or favor of any kind from any person, other than the county:

(1) For the performance of an act, or refraining from performance of an act, that he or she would be expected to perform, or refrain from performing, in the regular course of duties; or

(2) Who has, or is seeking, to obtain, contractual or other business or financial relations with any department of the county or conducts operations or activities that are regulated by the department of the county where the employee is employed or the official has authority to act;

(3) Who has interests that may be substantially affected by the performance or nonperformance of the official duties of the official or employee;

(4) Who has some mutual understanding that the gift will influence the official's or employee's decision on behalf of the county;

(5) That might reasonably be interpreted as an attempt to influence the action or inaction of the official or employee or reward such official or employee for past action or inaction in executing county business; or

(6) Excepting gifts, gratuities, services or favors, which are specifically allowed in this section.

Acceptance of Gifts and Gratuities:

The following includes acceptable gifts and gratuities but not limited there to:

- (1) A personal gift from a relative or friend; if such gift is unrelated to county matters;*
- (2) Any gift which can be shared by everyone in the work area;*
- (3) A business meal of a type and kind ordinarily associated with normal business activity;*
- (4) Food refreshments, sports activity or transportation when they are part of an official's or employee's participation in a charitable, civic, political or community event;*
- (5) A promotional, business logo or gift item that is given for the primary purpose of advertising the business or industry;*
- (6) Opportunities and benefits made available to all members of the general public, including, but not limited to:
 - (A) Discounts afforded to the general public or specified groups or Occupations under normal business conditions, except that such discounts may not be based on the status of the employee or official,*
 - (B) Prizes and awards given in public contests; and**

- (C) *Benefits of participation in events held within the county or state and sponsored by, or for the benefit of charitable organizations as defined in Tennessee Code Annotated, §48-101-501 (1),*
- (7) *A gift or thing of value provided by the county to an employee in the course of the employer-employee relationship.*

Procedure for return of gifts and gratuities:

A gift, or gratuity prohibited in this Section shall be declined or returned to the donor. If a gift is not easily returned, the gift shall be donated to a local charitable agency or organization in the name of the donor. If possible, said donor shall be notified of such action.

Use of information:

- (a) *An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.*
- (b) *An official or employee may not, directly or indirectly use or disclose information obtained in his official capacity or position of employment, that has not been made available to the general public, with the intent to result in financial gain for such official or employee or any other person or entity or to acquire or aid another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information, or to speculate, or aid another to speculate, on the basis of the information.*

Use of County time, facilities, etc:

- (1) *An official or employee may not use or authorize the use of County time, facilities, equipment, or supplies for private gain or advantage of such official or employee, except to the extent that such are lawfully available to the general public.*
- (2) *An official or employee may not use or authorize the use of County time, facilities, equipment, or supplies for the private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease or that is determined by the board of commissioners to be in the best interest of the county.*

Use of position or authority:

- (1) *An official or employee may not make or attempt to make private purchase, for cash or otherwise, in the name of the county.*
- (2) *An official or employee may not use or attempt to use their position to*

Secure any privilege or exemption for themselves or others that are not authorized by the charter, general law, or ordinance or policy or the county.

Section 5. Ethics Complaints. A County Ethics Committee (the "Ethics Committee") shall be established consisting of seven members appointed to staggered two-year terms, with four (4) members appointed to a (1)year term and three (3) members appointed to two year terms by the County Mayor with confirmation by the county legislative body, with appointments made annually. Thereafter, four (4) members to a two (2) year term and three (3) members the next year for two (2) year term, at the same time as internal committees of the county legislative body. At least four (4) members of the committee shall be members of the county legislative body; (1) one member shall be a constitutional officer or, should no constitutional officer be willing to accept appointment, an additional member of the county legislative body; and the remaining members may be either a member of a board, committee, commission, authority, corporation, constitutional officer, or other instrumentality governed by this policy, or an additional member of the county legislative body. The Ethics Committee shall convene as soon as practical after their appointment and elect a chair, vice chair and a secretary. The records of the Ethics Committee shall be maintained by the secretary and shall be filed in the office of the county clerk, where they shall be open to public inspection.

Questions, interpretations and complaints regarding violations of this Code of Ethics or of any violation of state law governing ethical conduct should be directed to the chair of the Ethics Committee. Complaints shall be in writing and signed by the person making the complaint, and shall set forth in reasonable detail the facts upon which the complaint is based.

The County Ethics Committee shall investigate any credible complaint against an official or employee charging any violation of this Code of Ethics, or may undertake an investigation on its own initiative when it acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the Committee's judgment, constitutes a violation of this Code of Ethics. If a member of the Committee is the subject of a complaint, such member shall recuse himself or herself from all proceedings involving such complaint.

The Committee may:

- (1) refer the matter to the County Attorney for a legal opinion and/or recommendations for action;
- (2) in the case of an official, refer the matter to the county legislative body for possible public censure if the county legislative body finds such action warranted;
- (3) in the case of an employee, refer the matter to the official responsible for supervision of the employee for possible disciplinary action if the official finds discipline warranted;

- (4) in a case involving possible violation of state statutes, refer the matter to the district attorney for possible ouster or criminal prosecution;
- (5) take no action;

The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics. When a violation of this Code of Ethics also constitutes a violation of a personnel policy or a civil service policy, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this Code of Ethics.

Section 6. Applicable State Laws. In addition to the ethical principles set out in this Code of Ethics, state laws also provide a framework for the ethical behavior of county officials and employees in the performance of their duties. Officials and employees should familiarize themselves with the state laws applicable to their office or position and the performance of their duties. To the extent that an issue is addressed by state law (law of general application, public law of local application, local option law, or private act), the provisions of that state law, to the extent they are more restrictive, shall control. Following is a brief summary of selected state laws concerning ethics in county government. For the full text of these statutes, see the Tennessee Code Annotated (T.C.A.) sections indicated.

Campaign finance—T.C.A. Title 2, Chapter 10. Part One (campaign financial disclosure) requires candidates for public office to disclose contributions and contributors to their campaigns. Part Three (campaign contribution limits) limits the total amount of campaign contributions a candidate may receive from an individual and sets limits on the amount a candidate may receive in cash.

Conflict of interest—T.C.A. § 12-4-101 is the general conflict of interest statute that applies in all counties. It prohibits anyone who votes for, lets out, or in any manner supervises any work or contract from having a direct financial interest in that contract, purchase or work, and it requires disclosure of indirect financial interests by public acknowledgment.

Conflict of interest—T.C.A. § 49-6-2003 applies to the department of education in all counties and prohibits direct and indirect conflicts of interest in the sale of supplies for use in public schools.

Conflict of interest—T.C.A. § 5-1-125 applies in all counties and prohibits county officials and employees from purchasing surplus county property except where it is sold by public bid.

Conflict of interest—T.C.A. § 54-7-203 applies in all counties that are governed by the County Uniform Highway Law. It prohibits officials and employees in the highway department and members of the county legislative body from having any personal interest

in purchases of supplies, materials, machinery, and equipment for the highway department.

Conflict of interest—T.C.A. § 5-14-114 applies in counties that have adopted the County Purchasing Law of 1957. It prohibits the purchasing agent, members of the purchasing commission, and all county officials from having any financial or other personal beneficial interest in any contract or purchase of goods or services for any department or agency of the county.

Conflict of interest—T.C.A. § 5-21-121 applies in counties that have adopted the County Financial Management System of 1981. It prohibits all county officials and employees from having any financial or other personal beneficial interest in the purchase of any supplies, materials or equipment for the county.

Conflict of interest—T.C.A. §§ 5-5-102 and 12-4-101 govern disclosures and abstentions from voting due to conflicts of interest of members of county legislative bodies.

Conflict of interest disclosure statements—T.C.A. § 8-50-501 and the following sections require candidates and appointees to local public offices to file a disclosure statement with the state ethics commission listing major sources of income, investments, lobbying activities, professional services provided, bankruptcies, certain loans, and other information, and to keep these statements up to date.

Gifts—T.C.A. § 5-14-114 applies in counties that have adopted the County Purchasing Law of 1957. It prohibits the purchasing agent, members of the purchasing commission, and all county officials from receiving anything of value, directly or indirectly, from anyone who may have or obtain a contract or purchase order with the county.

Gifts—T.C.A. § 5-21-121 applies in counties that have adopted the County Financial Management System of 1981. It prohibits the finance director, purchasing agent, and employees in those departments from accepting anything of value, directly or indirectly, from anyone who furnishes supplies, materials or equipment to the county.

Honoraria—T.C.A. § 2-10-116 prohibits elected officials from accepting an honorarium (including money or anything of value, but not including reimbursement for actual expenses) for an appearance, speech, or article in their official capacity.

Private use of public property—T.C.A. § 54-7-202 applies in counties that are governed by the County Uniform Highway Law. It prohibits the private use of equipment, rock, and other highway materials.

Court sales—T.C.A. § 39-16-405 prohibits judges, clerks of court, court officers, and employees of court, from bidding on or purchasing any property sold through the court for which such person discharges official duties.

Rules of the Supreme Court—Rule 10, Cannon 5 (Code of Judicial Conduct) establishes ethical rules for judges and other court personnel when exercising judicial functions.

Fee statutes—T.C.A. §§ 8-21-101, 8-21-102, and 8-21-103 set out circumstances where fees are authorized, prohibit officials from requiring payment of fees in advance of performance of services except where specifically authorized, and set penalties for charging excessive or unauthorized fees.

Consulting fee prohibition for elected county officials—T.C.A. §§ 2-10-122 and 2-10-124 prohibit officials from receiving compensation for advising or assisting a person or entity in influencing county legislative or administrative action.

Crimes involving public officials—T.C.A. § 39-16-101 and the following sections prohibit bribery, soliciting unlawful compensation, and buying and selling in regard to offices.

Official misconduct—T.C.A. § 39-16-402 applies to public servants and candidates for office and prohibits unauthorized exercise of official power, acting in an official capacity exceeding the servant's power, refusal to perform a duty imposed by law, violating a law relating to the servant's office or employment, and receiving a benefit not provided by law.

Official oppression—T.C.A. § 39-16-403 prohibits abuse of power by a public servant.

Bribery for votes—T.C.A. §§ 2-19-121, 2-19-126, and 2-19-127 prohibit bribery of voters in elections.

Misuse of official information—T.C.A. § 39-16-404 prohibits a public servant from attaining a benefit or aiding another person in attaining a benefit from information which was obtained in an official capacity and is not available to the public.

Ouster law—T.C.A. § 8-47-101 sets out conduct that is punishable by ouster from office, including misconduct in office and neglect of duty.

CONFLICT OF INTEREST DISCLOSURE STATEMENT
CODE OF ETHIC POLICY

SULLIVAN COUNTY, TENNESSEE

Instructions: This form is for reporting personal interests required to be disclosed under Section 3 of the Code of Ethics of this county. Officials and employees are required to disclose personal interests in matters that affect or would lead a reasonable person to infer that it would affect the exercise of discretion of an official or employee.

1. Date of disclosure: _____

2. Name of official or employee: _____

3. Office and position: _____

4. Description of personal interest (describe below in detail):

Signature of official or employee

Witness Signature

Printed name of witness