

**2019 Clerks Certification Institute
Agenda
February 11-15, 2019**

Monday, February 11, 2019

Class Location: Room 2603

- 12:00-1:00 **Registration**
- 1:00-1:30 **Welcome & Course Overview**
Trey Allen, Assistant Professor of Public Law and Government, UNC School of Government
- 1:30-3:00 **Local Government Law**
Frayda Bluestein, David M. Lawrence Distinguished Professor of Public Law and Government, UNC School of Government
Description: The session will introduce fundamental principles of local government law generally and in North Carolina.
Objectives: Clerks will be able to describe:
 1. The sources of law in our legal system, and the source and nature of local governments as legal entities;
 2. The relationship between the state legislature and local governments in North Carolina;
 3. The differences between cities and counties in North Carolina; and
 4. Federal and state legal issues affecting the validity of local government actions.
- 3:00-3:15 Break
- 3:15-5:15 **Basic Board Procedures**
Trey Allen
Description: This session will examine fundamentals of parliamentary procedure and key statutory provisions governing local governing board proceedings.
Objectives: Clerks will be able to:
 1. Describe the fundamental principles of parliamentary procedure;
 2. Determine the order of precedence for common procedural motions;
 3. Calculate the quorum for a local governing board; and
 4. Calculate the votes required for ordinance adoption.

Tuesday, February 12, 2019
Class Location: Room 2603

- 8:30-9:30 **Courts and Jails**
Ann Anderson, Associate Professor of Public Law and Government, UNC School of Government
Description: This session will describe the organization of the North Carolina court system, including how judges and other key court personnel are selected, the jurisdiction of different courts, and how financial support is divided between the state and counties. The session also will briefly cover responsibility for the operation of local jails.
Objectives: Clerks will understand:
1. Which trial courts hear which kinds of cases;
 2. Which court officials are responsible for supervision of the courts;
 3. The state and county's responsibility for financial support of the courts; and
 4. The purpose of the county jail and the sheriff's responsibility for its operation.
- 9:30-10:30 **Election Law**
Robert P. Joyce, Charles Edwin Hinsdale Professor of Public Law and Government, UNC School of Government
Description: The impartial administration of a fair electoral system is the foundation of democracy. This session will look at the fundamentals and quirks of North Carolina's elections law and practice.
Objectives: Clerks will:
1. Understand the basics North Carolina elections law and administration; and
 2. Develop a sense of how North Carolina elections law and administration have changed over time.
- 10:30-10:45 Break
- 10:45-12:00 **North Carolina Constitution**
Paul M. Newby, Senior Associate Justice, Supreme Court of North Carolina
Description: The session will explore the state constitution of North Carolina.
Objectives: Clerks will be able to describe:
1. The basic history of our state constitution; and
 2. The fundamental features of our state constitution.
- 12:00-1:00 Lunch
- 1:00-2:30 **Forms of Government**
Kim Nelson, Associate Professor of Public Administration and Government, UNC School of Government
Description: Overview of form of government in North Carolina cities and counties and how trends in local government affect the governance environment.
Objectives:
1. Understand the form and structure of municipalities and counties in North Carolina.
 2. Understand the roles and responsibilities of key actors in local government and how those roles differ by form of government.

3. Examine some recent trends in local government and how those trends can influence government performance and service provision.
4. Review findings from a managers' survey on the role of the clerk in North Carolina local governments.

2:30-2:45 Break

2:45-4:30 **Public Records Law**
Frayda Bluestein

Description: This session will provide an overview of the requirements under North Carolina law for making public records available.

Objectives: Clerks will be able to:

1. Describe what constitutes a public record under North Carolina law and identify some of the major exceptions;
2. Understand and apply the rules regarding who may obtain records, how much may be charged for copies of records, the forms in which records must be supplied, and how long the unit has to comply with a records request;
3. Describe the responsibilities of custodians of public records within the unit of government, including the clerk's role as custodian of the unit's records; and
4. Comply with records retention requirements.

Wednesday, February 13, 2019
Classroom 2603

8:00-10:30 **Legislative Process**

Norma Houston, Lecturer in Public Law and Government, UNC School of Government

Description: This session provides an overview of the process by which the North Carolina General Assembly enacts legislation, including the constitutional requirements for enactment, veto, types of bills, and legislative procedures, with special emphasis on local acts.

Objectives: Clerks will understand:

1. The process by which the General Assembly enacts laws; and
2. What a local act is and the importance of local acts to local governments.

10:30-10:45 Break

10:45-12:15 **Charter Amendments**

John Phelps, Associate General Counsel, North Carolina League of Municipalities

Description: This session will tackle the difficult subject of amending a city charter at the local level.

Objectives: Clerks will:

1. Examine the types of charter amendments a local governing board can adopt under current law;
2. Understand the procedures that must be followed to make such amendments.

12:15-1:15 Lunch

1:15-3:15 **Conflicts of Interest**
Norma Houston
Description: This session will provide an overview of legal prohibitions against conflicts of interest in public contracting, gifts and favors, and misuse of confidential information.
Objectives: Clerks will:
 1. Understand legal prohibitions against conflicts of interest; and
 2. Be aware of special conflicts of interest issues relevant to clerks and their governing board members.

3:15-3:30 Break

3:30-5:30 **General Ordinance Authority**
Trey Allen
Description: This session will examine the general ordinance authority delegated by state law to cities and counties in North Carolina.
Objectives: Clerks will be able to describe:
 1. The scope of the general ordinance authority;
 2. The manner in which that authority may be exercised;
 3. The substantive and jurisdictional limits on of that authority; and
 4. The legal mechanisms available to enforce local government ordinances.

Thursday, February 14, 2019
Classroom 2603

8:00-10:00 **Local Government Liability**
Trey Allen
Description: This session will cover the rules used to determine when local governments, public officials, and public employees may be liable for personal injury and property damage.
Objectives: Clerks will be able to describe:
 1. The scope of local government liability for the wrongful or careless actions of public officials and employees;
 2. Local governments' immunity from tort claims arising from governmental functions;
 3. The difference between official capacity and individual capacity claims;
 4. The protection that public official immunity offers to public officials; and
 5. The potential liability of public employees for on-the-job actions.

10:00-10:15 Break

- 10:15-12:15 **Citizen Participation**
John B. Stephens, Associate Professor of Public Administration and Government, UNC School of Government
Description: Enhancing understanding and identify practical actions for clerks to assist in effective citizen participation.
Objectives:
1. Assess the costs and benefits of citizen participation for your jurisdiction
 2. Prioritize the barriers to broad, effective citizen participation
 6. Identify best practices for supporting Advisory Boards
 7. Choose one new or enhanced way to involve the public through your current responsibilities
- 12:15-1:15 Lunch
- 1:15-3:45 **Open Meetings Law**
Frayda Bluestein
Description: This session provides an introduction to North Carolina's Open Meetings Law, including the coverage of the statute, meeting notices, closed sessions, minutes and general accounts, and recording of official meetings.
Objectives: Clerks will be able to:
1. Identify the scope and basic requirements under the North Carolina open meetings law;
 2. Analyze whether particular discussions are allowed in closed session;
 3. Identify best practices in providing notice of and preparing minutes for official meetings;
 4. Use School of Government resources, including blog posts, to find answers to specific questions about the open meetings law.
- 3:45-4:00 Break
- 4:00-5:00 **Ordinance, Resolution, or Policy?**
Trey Allen
Description: This session will cover the essential features of ordinances, resolutions, and policies.
Objectives: Clerks will be able to:
8. Describe the distinguishing attributes of ordinances, resolutions, and policies; and
 9. Identify the proper form of action for various local government undertakings.

Friday, February 15, 2019
Classroom 2603

- 9:00-10:30 **Employment Law**
Diane Juffras, Professor of Public Law and Government, UNC School of Government
Description: This session will present an overview of public employment law, with emphasis on topics of particular relevance to local governments and to clerks.
Objectives: As a result of attending this session, clerks:
1. Will understand the structure of personnel authority in city and county government and where their own positions fit within that structure;

2. Will be able to advise the mayor, manager and/or governing board as to which personnel policies need to be adopted or amended by the board and which are administrative and may be adopted by the mayor, manager, clerk or HR director;
3. Will be able to determine whether their own positions are correctly categorized as exempt or nonexempt and if nonexempt, whether they are being correctly compensated for after-hours board meetings, and whether comp time is being calculated correctly; and
4. Will be able to allow access to employee personnel files as permitted by law (if the keeper of the records) or will understand how to access their own personnel records and know who else is allowed access and will understand how confidentiality works with respect to applicants for positions.

10:30-10:45

Break

10:45-12:00

Employment Law (continued)

Diane Juffras

12:00-1:00

Lunch

1:00-2:30

Planning and Zoning

David Owens, Gladys H. Coates Professor of Public Law and Government, UNC School of Government

Description: This session will provide an overview of the laws governing planning and zoning in North Carolina.

2:30-2:45

Break

2:45-3:45

Planning and Zoning (continued)

David Owens

**2019 Clerks Certification Institute
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Faculty/Speaker Biographies**

Trey Allen joined the faculty at the University of North Carolina School of Government as Assistant Professor of Public Law and Government in 2013. He researches and writes about the general regulatory and enforcement powers of local governments, local government liability, and local government board procedures. Trey also serves as the School of Government's advisor to municipal and county clerks. He was previously an attorney at Tharrington Smith LLP in Raleigh, where he represented local school boards. Prior to that Trey served as a law clerk for Justice Paul M. Newby of the North Carolina Supreme Court and as a judge advocate in the United States Marine Corps. Trey earned a bachelor's degree from the University of North Carolina at Pembroke and a law degree from the University of North Carolina at Chapel Hill, where he was a published staff member of the *North Carolina Law Review*. T

Ann Anderson joined the School of Government faculty in 2007. Prior to that, she was an associate for six years with the law firm of Kennedy Covington in Raleigh and Durham, where she specialized in real-estate litigation and quasi-judicial proceedings. Anderson earned a BA in history with highest distinction from the University of North Carolina at Chapel Hill and a law degree with honors from the University of North Carolina at Chapel Hill School of Law, where she was a member of the *North Carolina Law Review*.

Frayda Bluestein joined the School of Government (then the Institute of Government) in 1991. Prior to that time, she worked in private law practice, focusing primarily on municipal and land use law, and for one year in the Legislative Drafting Division of the North Carolina General Assembly. Her publications include books and articles about local government structure³ and authority, public contracting, conflicts of interest and transparency laws. She is a frequent contributor to the School's Coates' Cannons Local Government Law Blog, writing on topics including North Carolina local government authority, annexation, public records, open meetings, conflicts of interest, and First Amendment issues affecting local government. She was awarded the School of Government's two-year professorship for outstanding junior faculty achievement in 1998, the two-year professorship for teaching excellence in 2004, and the David M. Lawrence Distinguished Professorship in 2014. Bluestein earned a BA from the University of California at Berkeley and a JD from the University of California at Davis.

Norma Houston joined the School of Government in 2006. Prior to that, she served as chief of staff and general counsel to State Senate President Pro Tempore Marc Basnight. She has also served as Dare County attorney, assistant attorney general in the NC Department of Justice, and staff attorney for NC Prisoners Legal Services. Houston earned a BS in criminal justice and psychology and a JD from the University of North Carolina at Chapel Hill. She is a member of the North Carolina State Bar and serves on the boards of several organizations. Houston is an adjunct faculty member at the UNC-Chapel Hill School of Law and also teaches state government in the School's graduate program in public administration.

Bob Joyce joined the School of Government (then the Institute of Government) in 1980. He previously practiced law with Chadbourne & Parke in New York and with Barber & Joyce in Pittsboro, NC. He is a past member of the executive committees of the Education Law Section of the North Carolina Bar Association and

the North Carolina Council of School Attorneys. He has served as editor of the School of Government's Legislative Reporting Service, School Law Bulletin, and Popular Government. His publications include *The Law of Employment in North Carolina's Public Schools*, *The Precinct Manual*, and chapters in *Education Law in North Carolina*. Joyce earned a BA from the University of North Carolina at Chapel Hill and a JD from Harvard Law School.

Diane Juffras joined the School of Government in 2001. Prior to that, she was an attorney in private practice in Connecticut, where she specialized in the areas of employment, health care, and business law and litigation. Juffras received an AB from Dartmouth College and a J.D. from New York University School of Law. Before attending law school, she received an MA and PhD in classics from the University of Michigan, and she taught in the Classics Departments at Princeton University, University of Virginia, and Ohio State University.

Kim Nelson joined the School of Government in August 2013. She taught for seven years in the MPA program at Northern Illinois University, where she received the 2010 Professor of the Year award from the students of the Division of Public Administration. Her research and teaching interests include local government management, form of government, and innovation in local government. Previously, she taught at Southern Illinois University, the University of North Carolina Wilmington, and North Carolina State University. Nelson received an MPA from the University of Texas at San Antonio, and a PhD from North Carolina State University.

The Honorable Paul M. Newby received his BA degree in Public Policy Studies from Duke University and law degree from UNC-Chapel Hill School of Law. Justice Newby has served on the Supreme Court of North Carolina since 2004. Justice Newby is an Adjunct Professor of Law at Campbell University, where he teaches courses on state constitutional law and appellate practice. He is the co-author, along with John V. Orth, of *The North Carolina State Constitution* (2d ed. 2013). The North Carolina Bar Association honored Justice Newby in 2011 with its Citizen Lawyer Award and in 2012 he received its John McNeill Smith, Jr. Award, recognizing his work in the area of constitutional rights and responsibilities. Justice Newby is an Eagle Scout and actively serves the Boy Scouts. He is the recipient of the Heroism Award for rescuing nine people from a riptide, the God and Service Award, the Silver Beaver Award, and the Scouter of the Year Award.

David Owens joined the Institute of Government in 1989. Prior to that, he was an attorney and senior planner for the Wisconsin State Planning Office and spent 10 years with the NC Division of Coastal Management. His publications include numerous books and articles on zoning law, including the basic legal reference, *Land Use Law in North Carolina*, and the widely used guide for citizen boards, *Introduction to Zoning*. He has also written on a variety of land use law topics (variances, special use permits, extraterritorial jurisdiction), the scope of local government authority, urban growth management, regulation of religious land uses and adult businesses, conflicts of interest, planning legislation, and various aspects of coastal management law and policy. Owens received a graduate planning degree and law degree from the University of North Carolina at Chapel Hill.

John M. Phelps II has been on the staff of the League of Municipalities since 1995 and is now in the position of Associate General Counsel. Prior to joining the League he was in private law practice in Lillington for 11 years where he served as local counsel for the County of Harnett public utility enterprises. He also spent 2 years as vice president for public finance with J. Lee Peeler and Company in Durham where he specialized in financing local government projects. John is a native of Harnett County and received his undergraduate degree from Campbell University and his law degree from Campbell University School of Law. As a key member of the League's legal inquiry service, John has worked closely with many clerks and other municipal officials

throughout the state. He has presented educational sessions at NCAMC regional schools and annual conferences and has been the League's liaison to the Association since 2010.

John Stephens joined the School of Government in 1996. Previously, he was research director of the Ohio Commission on Dispute Resolution and Conflict Management. His publications include *Guidebook to Public Dispute Resolution in North Carolina* and *Public Management Bulletin: Using a Mediator in Public Disputes*. He is co-author of *Reaching for Higher Ground: Tools for Powerful Groups and Communities* and *School Funding Disputes: Mediate, Don't Litigate*. Stephens also teaches in the Natural Resources Leadership Institute at North Carolina State University. He is chair of the steering committee of the University Network for Collaborative Governance. Stephens earned a BA from Earlham College, a Master of Philosophy from The City University, London, and a PhD from George Mason University's Institute for Conflict Analysis and Resolution.