

benefits of the trust. This means that public trust operations other than hospitals are vulnerable to the "illusory trust" conundrum.

#### 4. Accountability

In *Burkhardt v. City of Enid*, 771 P.2d 608 (Okla. 1989), the Court allowed a municipality to use its public trust to develop new ways to promote economic development in conjunction with private entities. Although the negotiated arrangements between the private and public sectors was complex and nontraditional, the Court held that it furthered a public purpose.

Contrast this with *Roberts/Fowler's* refusal to see a public purpose in those hospital trusts. Operating a hospital is just as much a traditional function of municipal government as economic development. See *Ruth v. Oklahoma City*, 143 Okl.62, 287 P. 406 (1930). So why the different results?

Perhaps the answer lies in *Burkhardt's* teaching that accountability is an essential key to establishing that a particular use of public resources is a public rather than a private enterprise. Accountability necessarily implies some degree of control, at least through legally-enforceable obligations to the public body. *Id.* at page 611.

The desire for accountability is the common thread in the recent developments affecting public trusts. More to the point, the issues discussed in this paper reveal a fear that municipalities do not secure sufficient accountability from their public trusts.

This fear led in part to the 1990 addition of §27B to Article 10 of the Oklahoma Constitution. The amendment authorizes cities and towns, for the first time, to issue revenue bonds directly under certain circumstances. See the implementing legislation at 11 O.S.Supp.1992 §22-150. It was the stated hope if the amendment's principal author that public trusts would eventually become obsolete.