

# THE ROLE OF ELECTED OFFICIALS WITH EMPLOYEES AND EMPLOYMENT ISSUES

2015

# ROLE OF ELECTED OFFICIALS

1. Hiring and Firing
2. Collective Bargaining
3. Interaction with Employees
  - social media
  - chain of command
  - public meetings

# HIRING AND FIRING

The Role of the elected officials  
depends on the form of  
government!

# HIRING AND FIRING EMPLOYEES

## ALDERMANIC FORM: 9-105

The mayor shall be chief executive officer of the administrative branch of the government of the city. The mayor shall be recognized as the head of the city government for all ceremonial purposes and by the Governor for purposes of military law. The mayor shall:

1. appoint, subject to confirmation by the city council, a city attorney and all heads or directors of administrative departments including members of boards and commissions and shall appoint all other administrative officers and employees of the city;

# ALDERMANIC FORM:

Except as otherwise provided in this article, all powers of a statutory aldermanic city, including the determination of matters of policy, shall be vested in the council. Without limitation of the foregoing, the council may:

1. Enact municipal legislation subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;
2. Raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the city, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;
3. Inquire into the conduct of any office, department or agency of the city, and investigate municipal affairs, or authorize and provide for such inquiries; and
4. Create, change and abolish offices, departments and agencies other than those established by law; assign additional functions and duties to offices, departments and agencies established by this article; and define the duties, powers and privileges of all officers which are not defined by this article. (9-108)

# COUNCIL MANAGER FORM

10-107

Except for the purposes of inquiry, the council and its members shall deal with the administrative service of the city solely through the city manager. The council and its members may not:

1. Direct or request the city manager or other authority to appoint or remove officers or employees;
2. Participate in any manner in the appointment or removal of officers and employees of the city, except as provided by law; or
3. Give orders on ordinary administrative matters to any subordinate of the city manager either publicly or privately.

# COUNCIL MANAGER FORM

The elected officials have no role in the hiring or firing of employees and are precluded by state law from being involved!

# STRONG MAYOR FORM

11-106

The mayor shall be chief executive officer and head of the administrative branch of the city government. He shall execute the laws and ordinances, and administer the government of the city. He shall be recognized as the head of the city government for all ceremonial purposes and by the Governor for purposes of military law. He shall:

1. Appoint, and when necessary for the good of the service, remove, demote, lay off, or suspend all heads or directors of administrative departments and all other administrative officers and employees of the city in the manner provided by law. The mayor or the council by ordinance may authorize the head of a department, office or agency to appoint and remove subordinates in such department, office or agency;
2. Supervise and control, directly or indirectly, all administrative departments, agencies, officers and employees;

# STRONG MAYOR FORM

The powers of a strong mayor are similar to those of a city manager, with the Mayor having the authority to direct, supervise, hire and fire employees of the City.

# TOWN TRUSTEE FORM

All powers of a statutory town board of trustees town, including the determination of matters of policy, shall be vested in the board of trustees.

Without limitation of the foregoing, the board may:

1. Appoint and remove, and confirm appointments of, designated town officers and employees as provided by law or ordinance;
2. Enact municipal legislation etc.;
3. Raise revenue, establish rates for services and taxes, make appropriations, regulate salaries and wages and all other fiscal affairs of the town, etc.;
4. Inspect the books and accounts maintained by the town treasurer;
5. Inquire into the conduct of any office, department or agency of the town, and investigate municipal affairs, or authorize and provide for such inquiries;
6. Create, change and abolish offices, departments or agencies, other than those established by law; assign additional functions and duties to offices, departments and agencies established by this article; and define the duties, powers and privileges of all officers which are not defined by this article;

# TOWN TRUSTEE FORM

1. Allows the greatest flexibility; if you have a town administrator, or if you want to delegate to department heads of the Town, the elected officials can delegate a great deal of authority in dealing with employees;
2. Clear rules should exist, for the benefit of the employees and the supervisors;
3. It is difficult to deal with employee issues in a public meeting, even with executive session available.

# CHARTER CITIES

It depends entirely on the language  
of the charter!

# SUMMARY FOR HIRING AND FIRING DECISIONS

**ALDERMANIC:** Mayor has the greatest authority.

**COUNCIL MANAGER:** City Manager has exclusive authority.

**STRONG MAYOR:** Similar to city manager form with the Mayor having exclusive authority.

**TOWN TRUSTEE:** Flexibility for the elected officials to decide how they want to handle it, and they should have clear rules.

**CHARTER:** Depends on the language of the charter.

# COLLECTIVE BARGAINING

What is and what should be the role of the elected officials with collective bargaining issues?

1. In City Manager cities, and those cities with charters that are modeled after the CM form of government, the elected officials should have a very limited role.
2. The legislature has limited the role by the passage of a statute that limits council power in regard to collective bargaining agreements, instead giving that power to the bargaining agent for the City.

# COLLECTIVE BARGAINING

11-51-108: “Corporate Authorities” may submit the LBO’s of the parties to the voters.

The act defines the parties to the arbitration proceeding as the “corporate authorities” and the bargaining agents (the unions).

“Corporate Authorities” are defined in 11-51-102:

“the proper officials, singly or collectively, within any municipality whose duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions and other terms and conditions of employment of fire fighters or police officers, whether they be the mayor, city manager, town manager, town administrator, city council, town council, director of personnel, personnel board or commission, or by whatever other name the same may be designated, or any combination thereof. It is not the intent of this paragraph that the above-named officials shall in any way be exclusive or limiting.”

# COLLECTIVE BARGAINING

A city has the ability to determine who the “corporate authority” is for collective bargaining purposes (unless already determined by charter or in a city manager form of government).

By doing so, the “corporate authority” as defined has the authority to reject a decision by an arbitrator and request an election.

The role of the elected officials becomes solely the mandatory duty to set an election date by resolution, without any input into the question of whether an election should be held – that discretionary act is solely with the “corporate authority” and would have already been exercised, resulting in a rejection of the arbitrator’s decision.

# COLLECTIVE BARGAINING

Basic rules we should follow:

**Never** proceed to arbitration unless the city is willing to conduct an election.

The decision to have an election about the terms of a collective bargaining agreement should not be political with the elected officials, as the legislature limited their role to that of a citizen voter, the same as the public.

Elections are not a bad thing, and they may be necessary year after year for collective bargaining issues, because that is what the legislature has mandated.

# INTERACTION WITH EMPLOYEES

Social Media

Chain of Command

Public Meetings

# CONDUCT FOR ELECTED OFFICIALS

## **IN PUBLIC MEETINGS:**

Practice civility and decorum in discussions and debate.

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, Council members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions will be tolerated.

Honor the role of the Chair in maintaining order.

It is the responsibility of the Chair to keep the comments of Council members on track during public meetings. Council members should honor efforts by the Chair to focus discussion on current agenda items. If there is disagreement about the agenda or the Chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

Avoid personal comments that could offend other Council Members. Nothing good will result from personal attacks.

Demonstrate effective problem-solving approaches. Council members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

# CONDUCT FOR ELECTED OFFICIALS

## **Council Conduct with The Public IN PUBLIC MEETINGS**

**Making the public feel welcome** is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual Council members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

**Be welcoming to speakers and treat them with care and gentleness.**

The way that Council treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity."

### **Actively Listen**

It is disconcerting to speakers to have Council members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom. If speakers become flustered or defensive by Council questions, it is the responsibility of the Chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by Council members to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Council members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

**No personal attacks of any kind, under any circumstance.**

Council members should be aware that their body language and tone of voice, as well as, the words they use, can appear to be intimidating or aggressive.

**Follow parliamentary procedure in conducting public meetings.**

# QUESTIONS AND ANSWERS