

RESOLUTION NO. 6817

A RESOLUTION SETTING FORTH THE POLICY OF THE CITY OF LAWRENCE, KANSAS, WITH REGARD TO EMPLOYEE ORGANIZATIONS AND AMENDING RESOLUTION 6690.

WHEREAS, it is the policy of the Governing Body of the City of Lawrence, Kansas, not to come under the provisions of K.S.A. 75-4321 et. seq., generally known as the Kansas Public Employee Employer Relations law, and;

WHEREAS, the Governing Body of the City of Lawrence fully subscribes to the precept of Home Rule as delineated in Article XII, Section 5 of the Kansas Constitution, in that employee relations are most suitably conducted at the local level, and;

WHEREAS, the Governing Body of the City of Lawrence, Kansas, does not intend to formally recognize any employee union, group or organization as the exclusive bargaining agent of its members, and;

WHEREAS, the Governing Body of the City of Lawrence, Kansas, believes that the interests of both the City of Lawrence and its employees are best served by maintaining the two party relationship of individual employee and employer, and;

WHEREAS, representatives of employee groups and the City's administration have in the past held discussions arriving at mutually agreed upon memoranda of understanding on work related issues;

NOW, THEREFORE, be it resolved by the Governing Body of the City of Lawrence, Kansas.

SECTION I. Definitions. For the purpose of this resolution, the following definitions shall apply:

- a. **"City"** is the City of Lawrence, Kansas, a municipal corporation.
- b. **"Classification"** is a formally titled collection of duties and responsibilities which distinctly describes the work of employees.
- c. **"Employee"** is a person working in the service of the City, holding a classification in a regular, full-time position, not of a supervisory, management, professional or confidential nature.
 1. **"Supervisory employee"** means any individual who through use of independent judgment normally performs different work from his or her subordinates, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend a preponderance of such actions.
 2. **"Confidential employee"** means any employee whose unrestricted access to confidential personnel files or other information concerning the administrative operations of a public agency, or whose functional responsibilities or knowledge in connection with the issues involved in the meet and confer process would make his or her membership in the same employee organization as other employees incompatible with his or her official duties.
 3. **"Professional employee"** includes any employee: (1) whose work is predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; involves the consistent exercise of discretion and judgment; requires knowledge of an advanced type in a field of science or learning customarily acquired by prolonged study in an institution of higher learning; or (2) who has completed courses of prolonged study as

described in paragraph (1) of this subsection, and is performing related work under the supervision of a professional person in order to qualify as a professional employee, or (3) attorneys at law or any other person registered as a qualified professional by a board of registration or other public body established for such purposes under the laws of the State of Kansas.

4. **"Management employee"** is a person appointed with major administrative and management responsibilities.
- d. **"Employee Organization"** is an identifiable group of employees which has as one of its purposes representation of employees in discussion of wages, fringe benefits, and working conditions.
- e. **"Fringe benefit"** is any other form of compensation other than direct wages.
- f. **"Impasse"** is the state that exists when neither party can make positive movement toward the resolution of an issue.
- g. **"Job action/strike"** is any action taken for the purpose of coercing a change in wages, fringe benefits or working conditions through refusal, in concerted action with others, to report to duty or to willfully absent from work or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment.
- h. **"Mediation"** is the efforts of a neutral third party employed by the Federal Mediation and Conciliation Service to assist the parties in the resolution of the differing proposals concerning wages, fringe benefits and working conditions through good office advice and interpretation.
- i. **"Parties"** - the City of Lawrence and the employee organization.
- j. **"Proposal"** - the resolution of an issue a party seeks and finds acceptable.
- k. **"Working conditions"** are those conditions of employment that can reasonably be changed through good faith discussion, but which are not management rights nor fixed by ordinance, statute or Constitution.

SECTION II. Employee Groups. For purposes of this resolution, City employees shall be divided into four (4) separate and distinct groups:

1. Police officers and detectives.
2. Firefighters, Fire Engineers and Fire Lieutenants employed by the Lawrence – Douglas County Fire and Medical Department.
3. Clerical, technical and administrative support personnel.
4. Service, maintenance and skilled labor.

Except as specified in this section, any full time, regular employee of the City of Lawrence may join, pay dues to, or be a member of an appropriate employee organization. Those employees designated as management, supervisory, confidential or professional may not be represented by any such organization.

SECTION III. Discussions. The City Commission shall permit group discussions between its administrative staff and representative(s) of any of the four (4) designated employee groups provided that any employee purporting to represent an employee organization shall be able to demonstrate such representative authority in the manner set forth by this resolution. An individual employee may exercise the right to speak to or consult with members of the City Commission on any subject without fear of reprisal.

SECTION IV. Representation Election. Any full time, regular employee who desires to demonstrate the representative authority to act on behalf of a designated employee organization may establish that he or she is the representative of such an organization in the following manner:

1. The employee shall, between January 1 and February 1 of any year, present to the Director of Administrative Services/City Clerk a petition signed by at least thirty percent (30%) of the full time, regular employees in the designated employee organization requesting that he or she be designated as representative of the organization. Such petition shall name the chief representative and up to two (2) associate representatives.

2. Upon receipt of such a petition, the Director of Administrative Services/City Clerk shall check all signatures against the roster of full time, regular employees and declare such petition either sufficient or insufficient.
3. Upon declaration of sufficiency by the Director of Administrative Services/City Clerk, the City Commission may direct that an election by employees in the designated employee organization be conducted. Such election shall be held prior to February 15.
4. Elections by secret ballot shall be held at times and places convenient to the employees who hold the appropriate classifications.
5. Polling places shall be named by the Director of Administrative Services/City Clerk and a representative of the employee organization.
6. The Director of Administrative Services/City Clerk shall be responsible for conducting the election; placing the question on the ballot offering the employee a choice between each of the certified candidates and no representative.
7. The Director of Administrative Services/City Clerk shall tabulate the ballots and certify the results of the election.
8. To win the right to represent employee organization, a candidate must receive the votes of more than fifty percent (50%) of those employees eligible to vote.

SECTION V. Scope of Discussion. Upon certification by the Director of Administrative Services/City Clerk that a representative has received the votes of a majority of those eligible to vote, he or she shall be declared sole representative of that employee organization and shall enter into discussions with the City's representative in the manner set forth by this resolution. However, the following topics are considered management rights and are not subject to discussion. Management may:

- a. Direct the work of its employees.
- b. Hire, promote, transfer, assign and retain employees.
- c. Reprimand, suspend and/or discharge employees for proper cause.
- d. Maintain the efficiency of governmental operations.
- e. Relieve employees from duty for lack of funds or lack of work.
- f. Determine the methods, means, materials, assignments and personnel by which City operations are to be conducted.
- g. Take any actions necessary to carry out the mission of the City.
- h. Initiate, prepare, certify and administer its budget, and,
- i. Exercise all powers and duties granted to the City by law.

SECTION VI. A. Discussion Procedures. On or about ~~May~~ April fifteenth (15th), the Employee Organization shall submit a letter of request to conduct discussions with the City toward the resolution of issues concerning wages and/or fringe benefits and/or working conditions to the Director of Administrative Services/City Clerk. The letter shall contain a specific list of issues and proposals to address and resolve those issues. Failure to submit the letter in accordance with the above shall result in the forfeiture of discussion for that year.

Discussions shall then commence on or about ~~April~~ May 20th. Discussion shall be held at reasonable and convenient times and places.

These discussions will be open to the public unless it is mutually agreed to have them closed to the public.

All proposals shall be reduced to writing and exchanged between the parties.

Impasse. If the parties have failed to resolve, remove, or agree to an issue of discussion by ~~July~~ August 1st, that issue shall be declared at impasse.

The parties shall, on ~~July~~ August 1st, exchange their respective proposals on the issues in writing.

If impasse continues to exist on ~~July~~ August 3rd, the parties shall jointly request the services of the Federal Mediation and Conciliation Service.

Should impasse still exist seven (7) days after the initial discussion session held with and under the auspices of the mediator, the parties shall exchange their last proposals in writing on those unresolved issues.

If an impasse continues to exist three (3) days after exchange of the last proposals of the parties, each party will submit its proposal in writing to the City Commission.

The City Commission shall, within seven (7) days of receipt of the proposals, schedule public hearings for the purpose of receiving explanation and supporting documentation for each party's proposal.

The City Commission shall render its decision by accepting one party's proposal. The Commission shall select the proposal which it determines is more fair and equitable on the basis of:

1. Evidence supplied in support of the proposals.
2. The financial situation of the City.
3. Comparison with similar comparable municipal employers in the area labor market, and
4. Other relevant considerations.

The City Commission's decision shall be final and binding.

Memorandum of Understanding. Agreements reached shall be reduced to writing and signed by the Mayor on behalf of the City Commission and the employee group representative for a specific time period of one (1) or more years, subject to provisions of the state cash basis law.

SECTION VII. Job Actions/Strikes and Lockouts Prohibited. The employee group representative or its members shall not participate in, call for, condone, or support any job action or strike intended to disrupt or interfere with the operations of the City. Employees shall be subject to disciplinary action for violation of the above. Discussion will cease during any such job action.

The City shall not lock out its employees.

SECTION VIII. Prohibited Practices. It shall be a prohibited practice, evidence of bad faith, and a violation of this resolution for either party to:

1. Interfere with, coerce, or circumvent the other party's exercise of its rights as defined under this resolution;
2. Discourage or coerce an employee's personal election to membership in an employee organization, or any committee formed by the City;
3. Discriminate against any employee as a result of his or her personal membership election, or their conduct of legitimate allowable employee organization activities;
4. Refuse to meet and confer in good faith;
5. Declare impasse prior to exhaustion of all good faith efforts of discussion;
6. Delay or refuse to participate in good faith or to circumvent mediation or fact finding efforts;
7. Delay or refuse to accept the City Commission's decision as final and binding;
8. Refuse or delay the signing of the memorandum of understanding; or
9. Engage in a job action or strike.

The City Manager, under this resolution, retains all of the rights to discipline any employee in violation of this resolution, including the right to terminate those who participate in any job or work action against the City of Lawrence.

ADOPTED by the Governing Body of the City of Lawrence, Kansas, this 13th day of January, 2009.



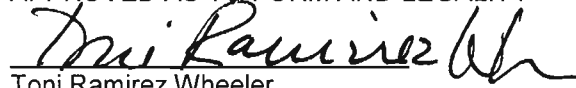
Michael Dever, Mayor

ATTEST:



Frank S. Reeb, City Clerk

APPROVED AS TO FORM AND LEGALITY



Toni Ramirez Wheeler
Director of Legal Services