

# ARKANSAS MUNICIPAL LEAGUE



## City Government 101 Who Does What at City Hall? (5 Hours Core Certification Course)

January, 2015



# ARKANSAS LOCAL GOVERNMENT WHO WE ARE...

---

PRESENTED BY: DON ZIMMERMAN  
EXECUTIVE DIRECTOR  
ARKANSAS MUNICIPAL LEAGUE

# I. Now that you are elected.

---

- a. Oath & Bond required § 14-42-106, Art 19, Sec. 20
- b. Council may declare office vacant if oath is not taken within 10 days ACA 14-42-106 (d)
- c. Administration of Oath § 21-2-105 (a)(3)
- d. Mayor's Commission § 21-2-101

# II. City/Town Classes

---

## Arkansas Constitution: Art. 12, Sec. 3

The General Assembly shall provide, by general laws, for the organization of cities (which may be classified) and incorporated towns; and restrict their power of taxation, assessment, borrowing money and contracting debts, so as to prevent the abuse of such power.

ACA § 14-37-101 et seq. provides for:

- Cities of the First Class
- Cities of the Second Class
- Incorporated Towns

# III. Municipalities are not static

---

They can:

- Annex Territory – ACA 14-40-302-608
- Consolidate – ACA 14-40-1201 et seq.
- Detach Territory – ACA 14-40-1801 et seq.

# IV. Forms of Government

---

a. **Mayor-Council Form**

- Sometimes referred to as Aldermanic form
- Sometimes referred to as “Strong Mayor” form

b. **City-Manager Form** - § 14-47-101 et seq. (Cities over 2,500 population)

c. **City Administrator Form** - § 14-48-101 et seq. (Authorized for cities of the first class or those over 2,500 population)

# V: Organization of City Council

---

14-43-501 – First Council meeting each year – Assemble & Organize

- Majority of Alderman Constitutes Quorum
- Judges of Member Qualifications
- Determine Rules of Proceedings
- May Compel Attendance
- May consider rules on:
  - Agenda;
  - Filing of Resolutions & Ordinances;
  - Citizen Commentary

# VI: Residency

---

- a. § 14-42-201
  - Residency is required when official files and while serving
- b. § 14-43-310 – Alderman must reside in the ward
- c. § 14-44-103 – Election of Alderman



# VII: Municipal Powers Generally

---

- a. Many, but not all, powers granted to cities and towns are listed in ACA 14-54-101 through 14-54-1710.
- b. Other legislation granting powers to municipalities may be found in the *AML Handbook* under specific topics such as Streets (ACA 14-301-101 et seq.) and Taxation (Title 26), as examples.

# VIII: Home Rule Powers/Dillon's Rule

---

Arkansas municipalities are creatures of the state.

As creatures of the state, cities and towns only have powers granted to them by the Arkansas constitution and statutes passed by the Arkansas General Assembly.

Municipalities for many years operated under *Dillon's Rule*.

# Legislature has granted statutory *Home Rule* to all Municipalities

---

- a. First Class Cities were granted *Home Rule* authority in 1971.
- b. In 2011 the General Assembly expanded that authority to Cities of the Second Class and Towns
- c. Codified as 14-43-601 et seq.

ACA 14-43-602 provides:

- a. A Municipality is authorized to perform any function and exercise full legislative power in any and all matters of whatsoever nature pertaining to its municipal affairs including, but not limited to, the power to tax.
- b. The rule of decision known as *Dillon's Rule* is inapplicable to the municipal affairs of municipalities.

# IX: Tort Liability/Immunity

---

ACA 21-9-301 et seq.

**(a)** It is declared to be the public policy of the State of Arkansas that all counties, municipal corporations, school districts, public charter schools, special improvement districts, and all other political subdivisions of the state and any of their boards, commissions, agencies, authorities, or other governing bodies shall be immune from liability and from suit for damages except to the extent that they may be covered by liability insurance.

**(b)** No tort action shall lie against any such political subdivision because of the acts of its agents and employees.

- ACA 21-9-302
- Authorization to settle tort claims

---

ACA 21-9-303

- **21-9-303. Motor vehicle liability insurance required - Minimum amounts**

**(a)** All political subdivisions shall carry liability insurance on their motor vehicles or shall become self-insurers, individually or collectively, for their vehicles, or both, in the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act, 27-19-101 et seq.



FORMS OF CITY GOVERNMENT,  
EVERYONE'S ROLE, PROCEDURAL  
RULES...AND A FEW OTHER THINGS

January 14, 2015  
4:30 to 5:30

Mark R. Hayes  
Director of Legal Services  
Arkansas Municipal League  
[mhayes@arml.org](mailto:mhayes@arml.org)  
501.978.6102

# You Are...

- A provider of good government.
- A provider of police and fire protection.
- A provider of parks and recreation.
- A provider of water and sewer systems.
- A provider of streets.
- A provider of...community.

# The Three R's

- Roles
- Rules
- Relax



# Roles

- Where do you fit?
- Why is your role significant?
- Rely on the other parts of the “machine.”

# Rules

- Keep order.
- Simplify meetings and issues.
- Focus the debate.
- Basic law, including your ordinances!

# Types of Municipal Government

- Three types
  - Mayor/Council
  - City Manager
  - City Administrator

# Mayor Council...

- There is a:
  - Mayor
  - And a
  - Council
- Redundant, but it's the critical distinction
- Also there is either a
  - Clerk
  - Recorder
  - Clerk/Treasurer OR
  - Recorder/Treasurer

# Quick Reference

- League Publications:
  - *Guide for Municipal Officials/Mayoral Cities:*
    - [http://www.arml.org/pdfs/publications/MayorCouncil\\_Guidebook2013WEB.pdf](http://www.arml.org/pdfs/publications/MayorCouncil_Guidebook2013WEB.pdf) (revised 2013)
  - *Guide for Municipal Officials/Manager Cities:*
    - [http://www.arml.org/pdfs/publications/Guidebook\\_City\\_Managers\\_2013.pdf](http://www.arml.org/pdfs/publications/Guidebook_City_Managers_2013.pdf) (revised 2013)
  - *Municipal Law in Arkansas – Questions and Answers:*
    - [http://www.arml.org/documents/MunicipalLawinArkansasFAQ\\_2013\\_WEB.pdf](http://www.arml.org/documents/MunicipalLawinArkansasFAQ_2013_WEB.pdf) (revised 2013)
  - *City and Town:*
    - [http://www.arml.org/publications\\_city\\_town.html](http://www.arml.org/publications_city_town.html) (full issues available online)

# City Manager and Administrator Cities

- City Manager Cities:
  - Arkadelphia
  - Hope
  - Hot Springs
  - Little Rock
  - Texarkana
- City Administrator Cities
  - Barling
  - Ft. Smith
  - Siloam Springs
- 8 out of 500 Cities and Towns

# City Manager Form of Government (Highlights)

- Only permitted in cities of the first or second class with populations over 2,500.
  - *See A.C.A. § 14-47-101 et seq.*
- Features
  - *See A.C.A. § 14-47-109*
  - Board of Directors; not Council-Members
    - Generally, 7 Board Members unless reorganized under the “enabling act.”
    - Directors choose a mayor from amongst themselves (no veto unless bestowed by vote of the people).
  - The Board then hires a City Manager
  - The City Manager preps the budget, day to day operations, hiring/firing (unless contrary to state law), etc.

# City Administrator Form of Government (Highlights)

- Any city of 2,500 or more.
  - *See A.C.A. § 14-48-101 et seq.*
- Board of Directors
  - *See A.C.A. § 14-48-110*
  - 7 generally-elected Directors
    - Directors can override the Mayor's veto with 5 votes
  - 1 generally-elected Mayor from all wards
    - Mayor is ceremonial head of city, presides over meetings, signs contracts and the like, and can veto except for personnel decisions
  - The Directors hire a City Administrator
  - Administrator supervises city employees, departments, agencies and offices



# General Rules...Know Your Role

- Let us hearken back to 9<sup>th</sup> Grade Civics...
- Three branches of government:
  - Legislative
  - Judicial
  - Executive/ Administrative

# Know Your Role...

- Legislative...
  - Some similar words: legislate, legislature, legislator.
- City Council or City Board
  - Some similar words: council-member, alderperson, board-member.
- Operate lawfully in a lawfully called meeting with a quorum.
  - Typically, a majority of the city council or board of directors. *See, e.g.,* A.C.A. §§ 14-43-501(a)(2)(A); 14-47-123(a)(1).

# Know Your Role...

- Judicial...
  - Some similar words:
  - Justice
  - Judiciary.
  - Judge
  - Judgment...

# Know Your Role...

- Executive/ Administrative...
  - Some similar words: oh forget it!
- Mayor! (City Manager or Administrator)
  - 24/7 job
  - Day-to-day operations as opposed to council members (board members) holding a lawfully called and attended meeting

# Know Your Role

- Legislators/ Council-Members (Board): legislate by setting policy.
- **Policy** comes in all forms: ordinances, resolutions, motions etc.
  - Examples: budget, employee handbook, record maintenance/ retention etc.
- **Mayors** (Managers/ Administrators): run the day to day operations and implement policy.
- **Mayors** (Managers/ Administrators): supervise department heads and officers.
  - Examples: spending within the confines of the budget, counseling employees etc..

# Role of the Mayor

- CEO of city or town (sort of legislative and sort of executive)
- Ex-Officio member of council
- Presides over council meetings
- Mayor can vote sometimes (Cover later)
- Mayor can make up the quorum (A.C.A. §§ 14-43-501; 14-44-107; & 14-45-101(b))
- Mayor can call for a special meeting (yes, 3 council members can, too, and, yes, there must be an ordinance. A.C.A. § 14-43-502)
- Mayor signs ordinances along with Clerk/Recorder
- Mayor can veto (more on this later)

# ROLES (rules): THE MAYOR SHALL SUBMIT...

- **Ark. Code Ann. § 14-58-201. Annual submission.**
  - On or before December 1 of each year, the mayor of *all cities and incorporated towns* having the mayor-council form of government *shall submit* to the governing body of the city or town, for its approval or disapproval, a proposed *budget* for operation of the city or town from January 1 to December 31 of the forthcoming year.

# ROLES (rules): GOVERNING BODY SHALL PASS... (council, board)

- **Ark. Code Ann. § 14-58-202. Adoption.**
  - . . . [T]he governing body of the municipality shall, on or before February 1 of each year, adopt a budget for operation of the city or town.



# RULES: YOU SHALL SPEND; BUT ONLY WHAT'S IN THE BUDGET

- Ark. Code Ann. § 14-58-203.  
Appropriations and changes.
  - (a) The approval by the municipal governing body of the budget under this subchapter shall, for the purposes of the budget from time to time amount to an appropriation of funds which are lawfully applicable to the items therein contained.

# RULES: BUDGET MAY'S VERSUS BUDGET SHALLS...

- **Ark. Code Ann. § 14-58-203.**  
**Appropriations and changes.**
  - (b) The governing body may alter or revise the budget and unpledged funds appropriated by the governing body for any purpose may be subsequently, by action of the governing body, appropriated to another purpose, subject to the following exceptions:

# BE CAREFUL

- EXCEPTIONS

- (1) Funds resulting from taxes levied under statutes or ordinances for specific purposes may not be diverted to another purpose;
  - (ILLEGAL EXACTIONS)
- (2) Appropriated funds may not be diverted to another purpose where any creditor of the municipality would be prejudiced thereby.
  - (CONTRACT LAWSUITS)

# RULES: THE SHALLS CONTINUE

- **14-43-313. City clerks and attorneys generally.**
  - “The city clerks and the city attorneys in cities of the first class shall . . . receive such salary as is prescribed by ordinance in each of these cities.”
- **14-43-316. City clerk, treasurer, or clerk-treasurer in mayor-council cities of fewer than 50,000. Only allowed in cities of the first class (see A.C.A. § 14-43-316(a))**
  - (c) The city clerk and city treasurer, or city clerk-treasurer shall . . . receive a salary as is prescribed by ordinance in each of these cities.
- **Cities of the second class and incorporated towns...lucky you!**

# Roles (Rules): More Mayor Stuff...

- Report, report, report:
  - Within the first 90 days of the year, to the council the municipal affairs of the city; recommending such measures as may be advisable. *See* ACA §§ 14-43-504, 14-58-302.
    - I suggest monthly financial reports. (14-59-115 Treasurer is required to do a monthly report)
      - What do you do? Monthly, weekly...
    - The better informed the council is, the better the budget.
- (and don't forget the shalls: submit, submit, submit)
  - Submit the budget, approve the budget, and spend within the budget! A.C.A. §§ 14-58-201; 14-58-202; 14-58-203

# Roles (Rules): Council

- **COUNCIL:**
  - PASS THE BUDGET! SHALL, SHALL, SHALL!!
  - What to Do:
    - Be well informed: read the financial statements *early and often*.
    - Ask the mayor for specific department needs.
    - Look at your long term plans and needs.
    - Meet and study *long before* the date of passage.

# Roles: Legislative... Council Duties

- **POLICY**
  - Management/Control money, property and policy
  - Finances
  - Property (real/personal)
  - Set Policy (written and by practice)
- **PROCEDURE**
  - Set procedures for purchases up to twenty-thousand (\$20,000) (or over \$20,000 for 2<sup>nd</sup> Class cities and Inc. Towns, *see* A.C.A. § 14-58-303(b)(1)(A)-(B)).
  - Set time/ place for meetings and rules (**January meeting**)
  - Know the FOIA, public meetings etc.
  - Set salaries for everyone: Mayor, Council, Employees, etc. (Ark. Const. amend. 56, § 4; A.C.A. § 14-43-409).
  - Salary may be increased during your term, but may not be reduced unless requested by official (A.C.A. § 14-42-113)

# Roles (Rules): Vacancies...and it's only January

- **Hold over –**
  - Ark. Const. Art. 19, § 5: All officers *shall* continue in office after the expiration of their official terms, *until their successors are elected and qualified.*
  - January 1 . . . who was there on December 31<sup>st</sup>?!
- **Mayor's vacancy –**
  - Cities of the 1<sup>st</sup> class (A.C.A. § 14-43-401)
    - Less than 6 months - Council appoints the Mayor's successor
    - More than 6 months - Special Election to fill the vacancy
  - Cities of the 2<sup>nd</sup> class (A.C.A. § 14-44-106)
    - Council fills or special election – your choice.
  - Incorporated towns (A.C.A. § 14-45-103)
    - Council fills – no need for a special election
- **Alderman's vacancies –**
  - Cities of the 1<sup>st</sup> class (A.C.A. § 14-43-411)
    - Under 20K? City council appoints.
    - Over 20K w/ward and more than 1 year? Special Election
  - Cities of the 2<sup>nd</sup> class & Incorporated Towns (A.C.A. §§ 14-44-103, 14-45-104)
    - Council appoints – no need for a special election.



# THE ROLE OF...

- CLERK,
- RECORDER,
- TREASURER,
- CLERK-TREASURER, and
- RECORDER-TREASURER

# THE ROLE OF CLERK/RECORDER/TREASURER

- SUPPORT, RECORD-KEEPING AND CHECKS AND BALANCES!
- Clerks/Recorders Handbook
- The AML Handbook.
- Oh, and another one...two...
  - [http://www.arml.org/pdfs/publications/MayorCouncil\\_Guidebook2013WEB.pdf](http://www.arml.org/pdfs/publications/MayorCouncil_Guidebook2013WEB.pdf) (revised 2013)
  - [http://www.arml.org/pdfs/publications/Guidebook\\_City\\_Managers\\_2013.pdf](http://www.arml.org/pdfs/publications/Guidebook_City_Managers_2013.pdf) (revised 2013)

# Roles: Who Appoints...Who Removes...

- Who's Who?
  - Department Heads vs. Non-Department Heads
  - Non-Department Heads are those who aren't department heads
- State Law dictates who appoints and removes department heads.
  - No State Law for non-department heads.
  - Non-department heads are a matter of *local policy* – it's up to you!

# Department Heads; Appoint...Remove

- **Department Heads:**
  - What It Means:
    - Appoint = Hire
    - Remove = Fire
  - A.C.A. § 14-42-110
    - Department heads are *appointed and removed by the mayor*
    - But... the council can over-ride with a two thirds vote
    - But... the council **CANNOT** appoint and remove department heads

# Appointment and Removal; Non-department head employees

- **Non-Department Head Employees**
  - Non-department head employees are a matter of local policy
    - What does your policy say?
  - No policy:
    - What's your practice? And let's carefully take a look...
    - Recommendations versus decisions...
  - Who's actually hiring and firing?!

# Appoint and Remove... Some More

- **Non-Department Head, continued**
  - Non-department policy or practice...be careful
    - Council, legislative policy maker and legislative immunity
  - Mayor, elected to run the day to day operations
    - Mayor makes contracts
    - Employment is a contract
    - Maybe only the mayor is entitled to hire/fire
    - MAYBE means maybe!
  - 9<sup>th</sup> Grade civics...

# Roles: Final Word on Appoint and Remove

- **Mayors may appoint:**
  - Building Officials (A.C.A. § 14-56-202)
  - Library Board (A.C.A. § 13-2-502)
  - Director of Public Safety (A.C.A. § 14-42-422)
  - Health Officers (A.C.A. § 14-262-102)
  - Airport Commission (w/ council approval) (A.C.A. § 14-359-101 *et seq.*)
  - Parks/Recreation Commission (w/ council approval) (A.C.A. § 14-269-302)
  - Marshall (A.C.A. § 14-44-111)

# Rules to keep your Roles...

- A.C.A. § 14-42-106 – Oath of Office
  - Within 10 days of January 1. Within, as in, before or after January 1.
  - Vacancy declared if oath not taken
  - Alderman may be sworn in by the mayor.
- Others who may administer the oath are:
  - Judge
  - County Judge
  - Circuit or County Court Clerk
  - Justice of the Peace



# Role of the Department Head

- Some duties or roles are the same for all department heads.
- Some, however, change depending upon the department in question.
- Some change from city to city.
  - Hint/Suggestion: read your ordinances, policies, handbooks, notes, memos, gum wrappers etc..
  - You just might learn what your role is and ISN'T.

# All Department Heads

- City budget/ department budget.
- Bidding and purchasing laws.
- Employee handbook and related policies and ordinances.
- “At Will Employment Doctrine”
- Working knowledge of labor laws (FLSA, FMLA, ADAAA, etc.).
- Specific laws, rules and regulations related to their department.
- Day to day operations.
- Managerial skills and education.

# Police Chief

- A.C.A. §§ 14-52-101 through 102.
  - Covers how the department was created, general powers, holiday pay, vacation, sick leave, fees etc.
- Commission on Law Enforcement Standards and Training:  
<http://www.clest.org/oles/Pages/default.aspx>.
  - Various certification requirements and standards.
  - *See also* A.C.A. § 12-9-101 and following, commission powers, duties etc.
- A.C.A. § 12-2-209: Training Cost Reimbursement.
- A.C.A. §§ 12-9-301 through 308: Auxiliary Officers.
- A.C.A. §§ 12-9-601 through 603: Officer employment, appointment, or separation.

# Police Chief, Continued

- A.C.A. §§ 12-10-301 through 324: The Arkansas Public Safety Communications Act of 1985.
- A.C.A. § 12-12-103: Pawn Shop Reporting.
- A.C.A. §§ 12-12-901 through 922: Sexual Offender Registration Act of 1997.
- A.C.A. §§ 12-12-1401 through 1405: Racial Profiling Act of 2003.
  - Note that the League has a publication and policy and that many of the training and reporting requirements are yearly.
- A.C.A. §§ 12-13-101 through 116: The Fire Prevention Act.
- General working knowledge of policing and arrest practices, policies, customs, weapons, etc.

# Fire Chief

- A.C.A. §§ 14-53-101 through 112.
  - Covers how the department was created,
  - General powers,
  - Hours,
  - Holiday pay,
  - Vacation,
  - Sick leave, etc.
- A.C.A. §§ 12-13-101 through 116: The Fire Prevention Act.
- General working knowledge of fire fighting practices, policies, customs, equipment, etc.

# Water Superintendant

- Certification requirements.
- Working knowledge of state and federal health and safety regulations and laws.
- Working knowledge of storm water laws and regulations.
- Working knowledge of state and federal pollution and ecology laws, policies and regulatory entities.

# Public Works (Streets/Sanitation) Director

- Working knowledge of local, state and federal law on weed lots, clean up, condemnation, etc..
- Working knowledge of local court system including but not limited to city citation authority.
- Code enforcement officers.
- Animal control.
- Working knowledge of bidding and purchasing laws.

# Commissions and Committees: The Great Unknown

- The major difference is as follows:
  - **Commissions** are creatures of state law that cities or towns create under the confines of that state law (AKA: a statute).
  - **Committees** are created locally and are not found in state law.



# Commissions

- How are they created?
  - By your city, using a state statute.
- Examples:
  - Airport commission (A.C.A. § 14-359-104)
  - Parks and Recreation commission (A.C.A. § 14-269-104)
  - Water commission (A.C.A. § 14-199-402)
  - Wastewater commission (A.C.A. § 14-230-103)
  - Civil Service commission (A.C.A. § 14-51-201 *et seq.*)

# Creating a Commission, Example 1

- Municipal Airport Commission
  - Enact by majority vote of the council;
  - Creating a commission;
  - Of 7 citizens;
  - Who are qualified electors in the state.
- Requirements
  - 1 must be fully experienced in aviation
    - Means: Holding a pilot's license
    - BUT: City may waive, if no pilot is willing or able to serve.
  - Only 1 may have a financial interest in an aeronautical enterprise while serving.

# Creating a Commission, Example 2

- Parks & Recreation Commission
  - Can consist of 3, 6, or 9 members
    - 1/3 must serve for a term of 1 year
    - Another 1/3 must serve for a term of 2 years
    - The last 1/3 must serve for a term of 3 years
  - BUT, replacement members serve 3 year terms
- Initial appointees are named by the council
  - BUT, successor members are selected *by the remaining members of the commission.*
  - Members only need to be a qualified elector
    - They do not have to be a resident of the municipality
  - They cannot be paid for their service.

# Creating a Commission, Example 3

- **Civil Service Commission**
  - By ordinance, “name five (5) upright and intelligent citizens of [your city].”
  - Terms of Office:
    - 1 until first Monday in April of 2<sup>nd</sup> year
    - 1 until first Monday in April of 4<sup>th</sup> year
    - 1 until first Monday in April of 6<sup>th</sup> year
    - 1 until first Monday in April of 8<sup>th</sup> year
    - AND, 1 until first Monday in April of 10<sup>th</sup> year
  - Can add two more, *see* ACA § 14-51-201
- **Requirements**
  - Must be citizens of Arkansas
  - Residents of the city for more than 3 years
  - Qualified electors of the city at all times during service
  - Cannot hold, or be a candidate for, political office

# Committees (and departments)

- Cities of the First Class (ACA § 14-58-301)
  - City council may appoint 1 or more committees, to be composed from its membership
  - May also create 1 or more departments, fixing compensation and manner of employment
    - BUT, watch out: ultimately departments & compensation are only within the mayor or the council's authority.
    - NOT a committee's.
- City Administrator Cities (ACA § 14-48-117(5)(B))
  - Board may appoint 1 or more committees to be selected from its membership
  - Can also create any new office or department
  - Appointed person to the new office or department reports to city administrator.
    - AGAIN, watch out: Some departments can only be created by the Board.
    - NOT a committee.

# Committees

- Remember, these are created locally.
  - Find the writings that created them.
  - If there aren't any,
  - draft some!
- Several AG's opinions that you should read:
  - 95-195: Creation of committees is a legislative function
  - 95-248: In a city manager form of government, service of a board member on a committee is generally disfavored; they cannot serve on a committee that exercises ministerial or administrative powers (which almost all committees do).
  - 2004-198: Committee cannot be used to hire Chief of Police, or to determine the Chief's salary – those responsibilities are left to the mayor and the city council, respectively.
  - 2009-138: Mayor may veto council's creation of a commission by ordinance.

# Committees

- Committees are advisory only.
  - Cannot vest them with powers contra to state law (i.e.: council sets budget, can't vest that power in a committee).
  - Also, in all likelihood your committees have been subject to the home rule issue previously discussed.
- Must keep the legislative thread and not go outside that scope, regardless of home rule.
  - Again, it's critical that the council/board have established the make up and duties of the committee system.


# Procedural Rules...

- A.C.A. 14-43-501
- First meeting in January; ORGANIZE!
- AML Procedural Rules
- Regular Meeting Dates and Times
- Agenda Setting
- Quorum
- Voting



# The End!

- Thanks for your attendance...
  - And good questions.
  - We're honored to represent you!
- 
- Mark R. Hayes
  - [mhayes@arml.org](mailto:mhayes@arml.org)
  - 501-978-6102



# WHO DOES WHAT IN CITY MANAGER AND CITY ADMINISTRATOR FORMS OF GOVERNMENT

January 15, 2015  
5:45pm to 6:15pm

Mark R. Hayes  
Director of Legal Services  
Arkansas Municipal League  
[mhayes@arml.org](mailto:mhayes@arml.org)  
501.978.6102

# Roles

- Where do you fit?
- Why is your role significant?
- Rely on the other parts of the “machine?”
- Rely on the rules.

# Rules

- Keep order.
- Simplify meetings and issues.
- Focus debate.

# General Rules...Know Your Role

- Three branches of government:
  - Legislative
  - Judicial
  - Executive/ Administrative

# Know Your Role...

- Legislative...
- City Board.
- Operate lawfully in a lawfully called meeting with a quorum.
- Legislators (city board): legislate by setting policy.
- Policy comes in all forms: ordinances, resolutions, motions etc..
- Examples: budget, employee handbook, record maintenance/retention etc..

# Know Your Role...

- Executive/ Administrative...
- City Manager/ Administrator.
- CEO
- 24/7; day to day operations as opposed to board members (holding a lawfully called and attended meeting)
- Run the day to day operations and implement policy.
- Supervise department heads and employees.
- Examples: spending within the confines of the budget, counseling employees etc..

# Know the Basic Rules

- General manager statutes, ACA 14-47-101 through 140.
- Enabling Act, ACA 14-61-101 through 120.
- General administrator statutes, ACA 14-48-101 through 131.



# Know the Basic Rules

- Your rules.
- City Ordinances / Code.
- Applicable resolutions.
- Other regulatory schemes that your city has adopted.

# Know the Statutes

- CM; penalties for election violations, ACA 14-47-104.
- Your city is called: The city management form of city government, 14-47-105; or, The city administrator form of government, 14-48-103.
- A city must be over 2500 in population to have a management/administrator form of government, ACA 14-47-101 and 106, 14-48-101.
- CM: become an aldermanic form of government by popular vote, ACA 14-47-107.  
CA: change form ACA 14-48-105.

# Know the Statutes

- CM and CA; generally 7 board members including the mayor. 14-47-109; 14-48-108 and 110
- However, under CM enabling statute the number of board members can be increased or decreased. 14-61-105
- Removal (recall) from office, CM ACA 14-47-112 and/or ACA 14-61-119; CA 14-48-114.

# Know the Statutes

- You can be paid, CM ACA 14-47-114 and ACA 14-61-110; CA 14-48-120.
- CM: You, and your employees/officers, can contract with the city in your private business but ONLY with an ordinance, ACA 14-47-115 and ACA 14-47-137.
- CA: Such actions prohibited, ACA 14-48-128
- Can't take a frank. ACA 14-47-137, 14-48-128

# Know the Statutes

- Director vacancies are filled by the board, CM ACA 14-47-113; CA 14-48-115 (if within 6 months otherwise, election).
- City must competitively bid, CM ACA 14-47-138; CA 14-48-129.
- Much better statute than the ones governing mayor/council. Lots of latitude on all purchases.
- Must have an annual audit, CM ACA 14-47-126; CA 14-48-123.
- Board may create departments, offices, employment positions, boards, authorities, commissions or agencies and the rules related thereto, CM ACA 14-47-131, 132, 133 and 134; CA 14-48-124, 125 and 126.
- CM: nepotism prohibition, ACA 14-47-135 (CA, none)
- CM: wards must be configured by the county board of election commissioners and must be of equal population, ACA 14-61-109.
- CA: wards are done by board. ACA 14-48-107

# City Manager “Powers and Duties”

- ACA 14-47-120
- By ordinance, supervise and control all administrative functions of the city.
- Represent the board in enforcing obligations of the city.
- May make inquiry in to all city operations and have access to all city records.
- May remove officials and employees (not board members) with and sometimes without board approval.

# City Manager “Powers and Duties”

- Via ordinance: May contract on behalf of city and make payment, sell or exchange, transfer with departments or offices etc.. (Board can install committees to oversee many of these operations.)
- Prepare an annual budget.
- Submit financial reports.
- Same general powers as mayors in mayor/council form of government.
- Whatever else the board dictates by ordinance.

# City Administrator “Powers and Duties”

- ACA 14-48-117
- By ordinance supervise and control administrative departments, agencies, offices and employees.
- Represent the board in enforcing obligations of the city.
- May make inquiry in to all city operations and have access to all city records.
- May remove officials and employees (not board members) with and some times without board approval.



# City Administrator “Powers and Duties”

- Via ordinance: May contract on behalf of city and make payment, sell or exchange, transfer with departments or offices etc.. (Board can install committees to oversee many of these operations.)
- Prepare an annual budget.
- Submit financial reports.
- Same general powers as mayors in mayor/council form of government.
- Whatever else the board dictates by ordinance.

# City Manager: Duties of the Mayor

- ACA 14-47-116(b):
- Shall preside at all meetings of the board;
- Shall be recognized as the head of the city government for all ceremonial purposes and by the
- Governor for the purposes of military law;
- Shall sign, on behalf of the city, all written agreements, contracts, bonds, mortgages, pledges, indentures, conveyances, and other written instruments, the execution of which has been approved by the board;
- May vote on all matters coming before the board but shall have no veto power.
- However, pursuant to the City Manager Enabling Act of 1989 (ACA § 14-61-101 et seq.):
- a mayor may obtain veto power by an ordinance referred to the electors and approved by a majority of the qualified electors voting on the issue (ACA § 14-61-114).

# City Administrator: Duties of the Mayor

- ACA 14-48-111:
- Is recognized as the head of the city government for all ceremonial purposes.
- Presides at regular and special board meetings, but does not have a vote on any matters that come
- before the board.
- Has the authority to sign on behalf of the city all written agreements, contracts, bonds, mortgages, pledges, indentures, conveyances, and other written instruments that have been approved by the board of directors.
- Has the power to veto all decisions made by the board except personnel decisions. The mayor's veto may be overridden by the affirmative vote of five (5) or more board members.
- May receive a salary that is determined by the board of directors.
- Must take the oath of office as required by the Arkansas Constitution.

# Roles (Rules): Reading and Voting

- Passage of an Ordinance ACA 14-55-201 through 207 (et seq!)
- Reading Requirement: on 3 occasions; unless waived by a 2/3d's vote.
- Voting Requirement:
- Yeas and Nays recorded.
- Majority of board to pass, as long as you have a quorum.
- 2/3d's for emergency clause.

# Budget and Appropriations

- CM ACA 14-47-125, CA 14-48-122 and generally 14-58-202
- Passing a budget is an appropriation(s).
- May revise as many times as you like.
- BUT:
- Taxes levied for certain things must be used for those particular things; and,
- You may not divert funds to the detriment or prejudice of a creditor
- Or, lawsuits of the illegal exaction or contract type will most certainly arise.

# The End!

- Mark R. Hayes
- [mhayes@arml.org](mailto:mhayes@arml.org)
- 501-978-6102

---

# Conducting Your Council Meeting

Now That You Are Elected

Who Does What?

January 15, 2015

2pm to 3pm

*Mark R. Hayes*

*Director of Legal Services*

*Arkansas Municipal League*



# OUTLINE

---

- ✘ Setting the Agenda
  - + Remember the Agenda!
  - + Procedural Rules
- ✘ What is a Quorum?
- ✘ Passing an Ordinance
- ✘ The Mayor's Vote
- ✘ Understanding the Veto
- ✘ Public Comments



# Remember to Have an Agenda

---

- ✘ Agenda

  - + How is it set?

  - + By whom?

  - + When is it set?

- ✘ Time certain before the meeting?

  - + During the meeting?

# January Rules Meeting

---

- ✘ A.C.A. § 14-43-501
  - + At the first meeting in January . . .
  - + ORGANIZE!
- ✘ AML Procedural Rules
- ✘ By doing so you *lessen debate over form* and *encourage debate over substance*.

# PROCEDURAL RULES FOR COUNCIL MEETINGS

---

## ✘ Order of the Meeting

- + Call to order
- + Roll call
- + Reading of the minutes (previous meeting)
- + Reports of boards or standing committees
- + Reports of special committees
- + Unfinished (Old) business
- + New business
- + Announcements
- + Citizen Commentary
- + Adjournment



# PROCEDURAL RULES: CALL TO ORDER

---

- ✘ Let's make this easy
  - + Who's there . . . And who isn't?
  - + Mayor = Count heads
  - + If there IS a quorum . . .
    - ✘ Call the meeting to Order, declare a quorum present and start the business agenda.
  - + If there ISN'T a quorum . . .
    - ✘ Go home.

# ROLL CALL

---

× So.....

+ Take the roll and,

+ Keep a record of the same

+ Rules may require that the clerk or the recorder call the roll.

× Simple

# PROCEDURAL RULES: READING OF THE MINUTES

---

- ✘ This involves . . .
- ✘ Ready . . .
  - + Reading the minutes of the previous meeting.
  - + Mayor: “Clerk (or Recorder), please read the minutes unless there’s a motion to dispense with same.”
    - ✘ Postpone reading/passage the minutes to another meeting



# PROCEDURAL RULES: READING OF THE MINUTES

- ✘ Minutes can be mailed early
  - + If so, a verbal reading of the minutes is not required.
- ✘ Use your time well
- ✘ Minutes aren't transcripts

# TRANSCRIPT MEANS...

✘ According to Webster...

+a: a written, printed, or typed copy;  
*especially*: usually a typed copy of  
dictated or recorded material

+b: an official or legal and often  
published copy <a court reporter's  
*transcript*>; *especially*: an official copy  
of a student's educational record



# MINUTES MEAN...

---

✘ Webster again...

+a: a brief note (as of summary or recommendation)

+b: the official record of the proceedings of a meeting

## PROCEDURAL RULES: REPORTS OF COMMITTEES

- ✘ Again, let's not overly complicate things.
- ✘ If you have committees, set a process for them to report.
  - + Committee reports are, effectively, for informational purposes, AND
  - + To make recommendations to the council as a whole.

# PROCEDURAL RULES: REPORTS OF COMMITTEES

---

- ✘ Chair of committee should report
  - + Order: (1) Chairmen of the standing committees, then (2) the chairmen of special committees
- ✘ Your own records should define the committee, the chair, etc.



# PROCEDURAL RULES: UNFINISHED (OLD) BUSINESS

---

- ✘ This is just what it sounds like . . .
  - + Things that are still hanging around that need resolution or additional reporting.
  - + Mayor, remind everyone what these things are.
    - ✘ Even if you don't like or support the issue.
    - ✘ Democracy is majority rule.

# PROCEDURAL RULES: NEW BUSINESS

- ✘ This is the meat of your meeting.
  - + It is critical that your elected officials all have the ability to get new business items on the agenda.
- ✘ Again, what are your local rules?
  - + This is where the January rule-setting meeting is critical.
- ✘ Mayor, ask if anyone has any new business.

# PROCEDURAL RULES: ANNOUNCEMENTS

- ✘ Again, simple, simple, simple.
- ✘ When business is concluded . . .
  - + Mayor, ask for any announcements.
  - + Just like at church
- ✘ It is okay to set an order by which folks will be asked, or to ask generally.
- ✘ Whatever works for you.



# PROCEDURAL RULES: ADJOURNMENT

- ✘ When business appears complete, a member (council or board) may move to adjourn.
- ✘ Mayor, you may ask for such a motion if one hasn't yet been made.
  - + Vote taken, and if it passes, the meeting is adjourned.
- ✘ Mayor, you should state that the meeting is adjourned.

# PROCEDURAL RULES: MOTIONS AND THE LIKE

---

- ✘ A quick word or two:
  - + Mayors run the meeting
  - + Mayors must call on those on the council wishing to speak, and must recognize motions even if the mayor isn't in favor of same.
- ✘ Decorum is required by all
- ✘ Again, debating substance is true democracy; debating form is a waste of time.



# PROCEDURAL RULES: MOTIONS AND THE LIKE

---

- ✘ Steps in Handling a Motion
  - + Member addresses the mayor
  - + Mayor recognizes the member
  - + Member states his or her motion
  - + Another member seconds the motion
  - + Mayor re-states the motion (confirmation)
  - + If debatable, members discuss the motion
  - + Clerk or recorder takes the vote
  - + Mayor announces the result
- ✘ The Basics:
  - + Motion → Second → Discussion → Vote

## PROCEDURAL RULES: MOTIONS AND THE LIKE

---

### ✘ More rules to remember . . .

- + Any member of the council may propose a motion
- + As soon as the member is recognized by the mayor, the member is entitled to the council's undivided attention.
- + Discussion or debate not usually permissible until a motion has been re-stated by the mayor.
- + If the motion is not seconded, it is defeated.
- + Debate is restricted to the motion under consideration

# PUBLIC COMMENTS

---

- × Have Rules for Public Speech
- × General Ideas
  - + To allow or not to allow, that is the question.
  - + And how long one gets to chat, etc.
- × Topics
  - + Time, place, and manner—NO CONTENT RESTRICTIONS! See U.S. Const. Amend. I.
- × USE AN EGG TIMER!



# PUBLIC COMMENTS

---

- ✘ **Public Comments can be put at the beginning of a meeting, in the middle, or at the end.**
- ✘ **Can be directed to agenda and/or non-agenda items.**
- ✘ **Have a structure . . . And a set of rules**

# PUBLIC COMMENTS

---

- ✘ For example:
  - + Issues *not* on the agenda *may be* addressed.
    - ✘ While items on the agenda will be allowed for public comment when being discussed by the Council.
  - + Have a time limit on the length of any individual citizen's comment.
    - ✘ May be revoked in instances of inappropriate language or subject matter

# PUBLIC COMMENTS

---

- + Have the citizen state his or her name, address, and a concise statement of his or her position or concern.
- + Remarks should be addressed to the Mayor or the Council as a whole, and not to any individual members of the Council.
- + Only the Mayor, the Council and the person with the floor should speak during this time.



# PUBLIC COMMENTS

---

## × Agenda Items

- + **Complete a speaker's card listing the specific agenda item to be discussed**
- + **Give the card to the City Clerk prior to the time when the item is called.**
- + **Enforce maximum time limits (typically 5 minutes)**
- + **Mayor calls for speakers after the item is called and before Council discussion on the item.**

# PUBLIC COMMENTS (CONT'D.)

---

## ✘ Non-Agenda Items

- + Use the Public Comment portion of the meeting (typically at the end of Old Business and before adjournment)
- + Speakers must fill out a comment card, and indicate they are planning to speak about a non-agenda item.
- + Give the comment card to the City Clerk prior to adjournment.
- + Enforce time limits (typically 5 minutes)



# WHAT IS A QUORUM?

- ✘ For City Council governments
  - + Cities of the First & Second Class – majority of the whole number of alderman is a quorum. ACA §§ 14-43-501; 14-44-107. (mayor can be counted)
  - + Incorporated Towns – majority of the whole number of alderman is a quorum. ACA § 14-45-101.
- ✘ For City Administrator/Manager cities
  - + A majority of the elected membership of the board is a quorum for the transaction of business. ACA § 14-47-123.

# REGULAR COUNCIL MEETINGS

- ✘ Held at regular intervals
  - + Bi-weekly
  - + Monthly
  - + Quarterly (not suggested)
- ✘ Provide a time and a place for the meeting.
- ✘ All meetings must be open to the public.  
See, e.g., A.C.A. § 14-43-502(b)(1)(B).

# SPECIAL COUNCIL MEETINGS

---

- ✘ **The mayor, or any three (3) council members of a town may call for a special meeting. See, e.g., A.C.A. § 14-43-502(b)(1)(B).**
- ✘ **Special meetings may only be called as provided by ordinance. See, e.g., *id.* (*work sessions...a special word*)**



# SPECIAL COUNCIL MEETINGS

- × Typically called for:
  - + Vacancy in the Mayor's office. *See, e.g.,* A.C.A. § 14-44-106.
  - + Council member vacancy. *See, e.g.,* A.C.A. § 14-43-411(b)(1).
  - + Passing an ordinance. *See, e.g.,* A.C.A. § 14-55-206;
- × **MUST** be open to the public. *See, e.g.,* A.C.A. § 14-43-502(b)(1)(B).

# PASSING AN ORDINANCE

---

- ✘ A word or two on emergency ordinances . .
- ✘ **Separate vote on emergency clause is required.**
  - + Must be an emergency.
  - + Clause must articulate the emergency.
  - + (mayors can't vote on emergency clause AG OP 96-155)

# PASSING AN ORDINANCE

- ✘ Each ordinance is limited to ONLY one subject. A.C.A. § 14-55-201.
- ✘ Reading Requirement
  - + Ordinances must be read on three (3) different days. A.C.A. § 14-55-202.
  - + Two-thirds of the council membership may suspend the reading requirement. *Id.*
  - + If the reading requirement is suspended, read the ordinance once, then proceed to vote on the ordinance at the same meeting.



# PASSING AN ORDINANCE (CONT'D.)

- ✘ Majority vote enacts an ordinance. A.C.A. § 14-55-203(b).
- ✘ Mayor calls the vote, but does not participate in the voting process unless vote is needed to pass.
- ✘ The yea's and nay's are recorded. A.C.A. § 14-55-203(a).
- ✘ Applies to any resolutions or orders for the appropriation of the city's money. A.C.A. § 14-55-204.
- ✘ Once enacted, all ordinances shall be recorded in a book kept for that purpose. A.C.A. § 14-55-205.

# PASSING AN ORDINANCE (CONT'D.)

---

- × Notice Requirement (A.C.A. § 14-55-206)
  - + All ordinances of a general or permanent nature imposing any:
    - × Fines, Penalties, OR Forfeitures
  - + Must be published in some newspaper of general circulation in the municipality.
    - × If no newspaper, post the ordinance in five (5) of the most public places in the city.
  - + Failure to provide notice: “Life never breathed into the ordinance”
    - × Citizen can say “I didn’t know!” . . . and the court will agree.



# PASSING AN ORDINANCE (CONT'D.)

---

## × Notice Requirement (cont'd.)

+ Ordinances establishing rules and regulations for:

× Zoning

× Construction of buildings

× Plumbing

× Electrical wiring, AND

× These Regulations/Rules are published as a code in book form

# PASSING AN ORDINANCE (CONT'D.)

- + Ordinance may reference the title of the code without further publication or posting.
- + However, three (3) copies shall be filed for use and examination by the public in the city clerk's office.
- + Failure to provide notice is a sufficient defense to any suit or prosecution for violating the rules and regulations.

# PASSING AN ORDINANCE (CONT'D.)

## × Effective Date

- + Ninety-one (91) days after passage by the governing body of the city or town. See A.C.A. § 14-55-203(c)(1)(A).
- + Unless by ordinance set between 30-90, id.
- + Ordinances that are NOT of a general or permanent nature are effective on the date of passage, unless otherwise specified by the ordinance. See A.C.A. § 14-55-203(c)(2).



# PASSING AN ORDINANCE (CONT'D.)

## × Effective Date (cont'd.)

- + **Deadlines for referendums** may be set by the ordinance.
  - × Cannot be less than thirty (30) days nor more than ninety (90) days after passage.
- + **Referendums** are referred to a vote of the people.
- + A majority vote repeals the ordinance.

# PASSING AN ORDINANCE (CONT'D.)

---

- ✘ Emergency Clauses (Ark. Const. art. 5, § 1).
  - + Council wants an ordinance *of a general or permanent nature* to take effect immediately.
  - + What is required?
    - ✘ Must be necessary for the preservation of the public peace, health, and safety.
    - ✘ In the ordinance, state WHY the emergency clause is necessary for the public's peace, health, and safety.
      - ★ You MUST state facts that give rise to the emergency.
    - ✘ Two-thirds of the *roll call vote* of the ordinance is required to pass.
    - ✘ Mayor may not vote on the emergency clause.

# PASSING AN ORDINANCE (CONT'D.)

## × Referendum

- + Public may vote on the emergency clause by referendum, and may repeal the emergency clause by a majority vote



# THE MAYOR'S VOTE

---

- ✘ A mayor may vote, when the mayor's vote is necessary for passage. ACA §§ 14-43-501; 14-44-107; 14-45-105.
- ✘ A mayor may vote, when the mayor's vote is necessary for passage.
  - + I repeated it because it's that important.
- ✘ Tie sounds like the only time necessary to vote, but it isn't.
  - + 6 member council example.
  - + 4 show for the meeting, but only three vote yes. You get the idea.

# THE MAYOR'S VOTE

---

- ✘ The Mayor may not vote on the following:
  - + Emergency **clauses**
  - + To amend or repeal an initiative measure enacted by a vote of the people.
  - + Whenever the statute calls for a vote of those “elected to” the council.



# UNDERSTANDING THE VETO

- ✘ What does veto mean?
  - + According to Mr. Webster:
  - + “A power of one department or branch of a government to forbid or prohibit finally or provisionally the carrying out of projects attempted by another department.”

# UNDERSTANDING THE VETO, CONT'D.

- ✘ Mayor can veto an ordinance, resolution, order, motion.
- ✘ Mayor must veto within **5 days, in writing**, and presented at the next council meeting.  
ACA §§ 14-43-504; 14-44-107; 14-45-105.

# UNDERSTANDING THE VETO, CONT'D.

- ✘ Statutes do not set forth a procedure to document, so, for example:
  - + Veto “on the record” at council meeting (recorded in minutes); OR
  - + File a written copy with the clerk or recorder with a date stamp.
    - ✘ I like this idea the best.



# THE END!

---

- ✘ Thanks for your attendance...
  - ✘ And good questions.
  - ✘ We're honored to represent you!
- 
- ✘ Mark R. Hayes
  - ✘ [mhayes@arml.org](mailto:mhayes@arml.org)
  - ✘ 501-978-6102

# GETTING ALONG

## Civility at City Council Meetings

Presented by:  
*Ken Wasson, Director of Operations*  
*Arkansas Municipal League*

# Newspaper headlines...



## What might they say about your City?

- “Mayor accuses City Council of being obstructionist”
- “Council members call Mayor a Dictator”
- “Police Called to Restore Order at City Council Meeting”
- “Council Members Challenge Mayor to a fight”
- “Shouting match ensues at City Council Meeting”

# Attitudes are changing !

- Over time society's definition of what manners & common courtesies are have changed
- This change is never more apparent then in City Council Meetings and Public Hearings
- There seems to be a downward trend in regard to politeness, courtesies and civilized conduct at City Meetings





- Attacking and fighting with others at City Council meetings is NOT engaging your citizens in the process of governing



We have to learn to be civil



# Facts according to the *KRC Research Center*

- 65 % of Americans see the lack of civility as a major problem
- 55 % believe it is going to get worse

Civility in America, A Nationwide Study

[http://www.krcresearch.com/pdfs/WSCivilityStudy\\_SocialMediaExecSummary.pdf](http://www.krcresearch.com/pdfs/WSCivilityStudy_SocialMediaExecSummary.pdf)

If we accept the premise that a lack of civility is a major problem

and

We understand the definition of civility is “Courteous Behavior, Politeness, Showing Respect for Others” then what does “Incivility” in Council Meetings look like?

# Incivility in Council Meetings could be...

- Cheering/Jeering
- Name Calling
- Wild Accusations
- Belittling and Rude Comments
- Use of Profanity
- Unwillingness to compromise
- “Ward” politics
- Rude or impolite behavior, language or remarks



We have now defined  
civility & incivility but...

Why is civility so important in council  
meetings?



# Civility matters because...

- Civility respects everyone's opinion and promotes teamwork and problem solving
- Civility allows for honest discussions
- Incivility creates hostility and mistrust
- The Public not only wants their leaders to act civil and get along but they expect it

# Incivility is Counter-Productive because it...

- Discourages good people from running for office
- Pushes people from public service involvement
- Breeds apathy. Your citizens will cease to care and support the councils decisions
- Paralyzes progress. You will most likely not get things accomplished
- Bad Reputation. Who would want to be a part of a city where city officials bicker continuously

“An eye for an eye makes the world blind”

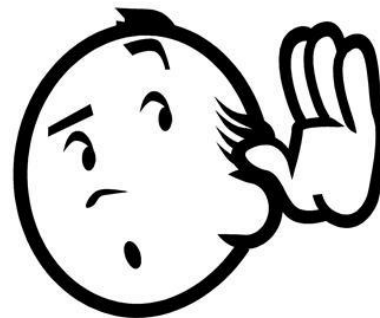
*Mahatma Gandhi*

# What can you do to promote civility?

- Be pro-active about practicing civility. Don't wait for the other person to do the right thing
- Look for opportunities to be positive
- Place cooperation, trust and respect at the heart of all you do
- Work for win-win situations instead of win-lose
- Ask yourself do my actions (vote) go towards the best interest of my city or my own best interest
- Maintain a sense of humor
- Kindness & Consideration go a long way

# What else can you do to promote civility?

- Practice respect. It is a two way street
- Encourage others to state their views and
  - Refrain from putdowns, criticism and personal attacks
  - Be aware of tone and volume of your voice
- Honor all discussions before making decisions
- Practice active listening



- Express yourself assertively rather than passively or aggressively
- Know when to be submissive
- Trust each other, until and unless such trust is violated



# Words that can promote conflict (Words to avoid)

- “You lied to me”
- “This is so typical of you”
- “You will never change”
- “You always \_\_\_\_\_”
- “You are like your Daddy/Family” or “all of you Jones’ are just alike”



Words affect the feelings of others.

Never attack a person or their ideas.



# Rules



- Agree on a set of rules and then hold each other accountable. Include in the rules:
  - How will public meetings be conducted; and
  - How to handle public input at council meetings
- Set specific ground rules – articulate.

Let's discuss briefly how to deal with public input.

# Words of Wisdom on citizens input at public meetings !

- Put the City Council Rules and Procedures in writing.
  - Hand them out at the beginning of each public meetings
- Set a time for each speaker
  - Be fair
  - Be consistent
- No cheering or jeering
  - Those who do will be asked to leave
- Do not allow swearing or use of profanity
  - Those who do will forfeit their right to speak and may be asked to leave

# SAMPLE CODE OF CONDUCT for ARKANSAS MUNICIPAL OFFICIALS

Presented by Ken Wasson  
Director of Operations  
Arkansas Municipal League

# Introduction

- In an effort to assist Arkansas municipalities in creating an environment that fosters civility the Arkansas Municipal League staff has prepared a “Sample Code of Conduct” to be considered by Arkansas municipalities.

# What is a “Sample Code of Conduct”

- A set of agreed-upon practices that the Mayor and Council members agree to follow.
- Developed to reinforce the concept that the Mayor and Council members serve as role models.
- By adopting a sample code the City Council publically sets a civility standard for others to follow.
- Recognizing the importance of trust invested in them by the public.

# Please know that...

- This information is not all-inclusive
- Individual municipalities may wish to add or subtract from its contents.
- It is recommended that the sample code be reviewed and updated yearly and
- It is recommended that a training session be held at the beginning of each year for all (or) elected city officials on the content of this code.



# City/Town of \_\_\_\_\_

## Code of Conduct

- **Opening Statement**

- This code of conduct is designed to describe the manner in which the Mayor and Council Members should treat one another and others whom they come in contact with in representing the City/Town of \_\_\_\_\_.

- Glossary of Terms

# Overview of Rules & Responsibilities

- The Mayor
- The City Council

# City Councils will...

Hold themselves accountable to the following principles and guidelines

## **City Council Conduct with One Another**

This council is composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, each council member has chosen to serve in public office in order to preserve and protect the present and the future of the city of \_\_\_\_\_.

This common goal should be acknowledged even as council members may “agree to disagree” on contentious issues.

# City Councils 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 that could be construed as threatening will be tolerated.

# City Councils with The Public

## Be Polite and Professional to Speakers and Treat Them with Care and Gentleness

- Because personal concerns are often the issue of those who come to present to the council, Council members should remember that how they treat the speaker will either relax or push their emotions to a higher level of intensity.

# Proper Conduct

- City/Town of \_\_\_\_\_ Principles of Proper Conduct
- Proper Conduct is...
- Proper Conduct is NOT...



# Signature Page example

I affirm that I have read and understand the City/Town of  
\_\_\_\_\_ Council's Code of Conduct.

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

# Resolution to establish a City Code of Conduct

WHEREAS, the City Council of \_\_\_\_\_ desires to adopt a Code of Conduct as a reference and guide for its members.

NOW THEREFORE, be it resolved by the City Council of the City of \_\_\_\_\_ to adopt the attached document entitled “City Council Code of Conduct”

Passed and Approved this \_\_\_ day of \_\_\_\_\_, 2014.

By: \_\_\_\_\_ Mayor

Attest: \_\_\_\_\_, City Clerk

# ALL I REALLY NEED TO KNOW I LEARNED IN KINDERGARTEN

Robert Fulghum, *All I Really Need to Know I Learned in Kindergarten: Uncommon Thoughts On Common Things*

# Fulghum suggest that you...

- Play Fair
- Don't hit people
- Put things back where you found them
- CLEAN UP YOUR OWN MESS
- Don't take things that aren't yours
- Say you are SORRY when you HURT somebody
- Take a nap every afternoon

# Think what a better world it would be if...

- If we all had Cookies and Milk about 3 o'clock every afternoon and then laid down with our blankie's for a nap, or
- If all Government had a basic policy to put things back where they found them and they had to clean up their own mess...

# and it is still true...

- No matter how old you are that

**IT IS BEST TO HOLD HANDS AND STICK TOGETHER**



Sample

Code of Conduct

For

Arkansas Municipal Officials

In an effort to assist Arkansas municipalities in creating an environment that fosters civility, the Arkansas Municipal League staff has prepared a sample Code of Conduct.

The Code of Conduct is a set of practices that the mayor and council members agree to follow. The Sample Code of Conduct has been developed to reinforce the concept that the mayor and council members serve as role models for their constituents and city staff. By adopting this code of conduct, the city council publicly sets a civility standard for others to follow and recognizes the importance of trust invested in them by the public to accomplish city business.

It is understood that the information provided in this document is not all-inclusive and individual municipalities may wish to add or subtract from its contents. Furthermore, it is recommended that a training session be held at the beginning of each year for all elected city officials on the content of this code.

City/Town of \_\_\_\_\_ Code of Conduct

**Opening Statement**

This code of conduct is designed to describe the manner in which the mayor and council members should treat one another and others whom they come in contact with in representing the City/Town of \_\_\_\_\_.

**Glossary of Terms**

<b>attitude</b>	The manner in which one shows one's dispositions, opinions, and feelings
<b>behavior</b>	External appearance or action; manner of behaving; carriage of oneself
<b>civility</b>	Politeness, consideration, courtesy
<b>conduct</b>	The way one acts; personal behavior
<b>courtesy</b>	Politeness connected with kindness
<b>decorum</b>	Suitable; proper; good taste in behavior
<b>manners</b>	A way of acting; a style, method, or form; the way in which things are done
<b>point of order</b>	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
<b>propriety</b>	Conforming to acceptable standards of behavior
<b>protocol</b>	The courtesies that are established as proper and correct
<b>respect</b>	The act of noticing with attention; holding in esteem; courteous regard

## Overview of Rules and Responsibilities

### The Mayor

- The mayor presides over meetings of the council.
- The mayor presides over the council in a manner designed to promote high standards of democratic governance and chairs meetings with efficiency and fairness, never discriminating against any speaker, whether council member or member of the public, based on the speaker's point of view.
- The mayor will not use his or her authority to thwart the democratic process.  
Example 1: the mayor will not cancel or adjourn meetings for the purpose of preventing a matter from coming to a vote.  
Example 2: The mayor will not refuse to allow a matter to be voted upon if it has received the necessary motion and second.
- The mayor is required to sign all ordinances, resolutions and city council minutes.
- The mayor in cities and towns with mayor/council forms of government may veto any ordinance resolution or order adopted by the council.
- The mayor has the same speaking rights as any other members of the city council.
- The mayor demonstrates honesty and integrity in every action and statement.

### The City Council

- The city council sets the time and place for regular city council meetings
- The city council participates in city council meetings while demonstrating respect, kindness, consideration and courtesy to others
- city council members prepare in advance of meetings and are familiar with the issues on the agenda
- The city council serves as a model of leadership and civility to the municipality
- The city council inspires public confidence in \_\_\_\_\_ city government
- All members of the city council have equal votes. No council member has more power than any other council member, and should be treated with equal respect.
- A city council member will remember at all times that as an individual he or she has no legal authority outside the meetings of the city council and that he or she shall conduct relationships with the city staff, the local citizens and all modes of communication on the basis of this fact.

- Inform the mayor and the city clerk of plans to be absent from a council meeting or plans to leave a council meeting before it as adjourned.
- A city council member serves as a model of leadership and civility to the city.
- A city council member recognizes that all electronic transmittals sent or received in performance of their duties as a city council member are subject to The Arkansas Freedom of Information Act.

The city council shall hold themselves accountable to the following principles and guidelines:

### **City Council Members Conduct with One Another**

This council is composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, each council member has chosen to serve in public office in order to preserve and protect the present and the future of the city of \_\_\_\_\_. This common goal should be acknowledged even as council members may “agree to disagree” on contentious issues.

#### **I. 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 that could be construed as threatening will be tolerated. Therefore:

- Avoid personal comments that could offend other council members.
- Honor the role of the mayor in maintaining order.
- Be respectful of other members of the city council, boards, commissions, committees, city staff and the public by refraining from abusive conduct, personal charges or verbal attacks.
- Fully participate in council meetings and other public meetings while demonstrating respect, consideration and courtesy to others.
- A city council member will always treat a fellow council member with the respect he or she would expect to receive in return.
- A city council member will always address a citizen, employee, fellow committee member and fellow council member with respect.
- Request the opportunity to speak, and address the council, through the mayor, mayor pro tem, or other member conducting the meeting.
- Recognize fellow council members and guest speakers by their formal names and appropriate titles; after initial acknowledgement, the terms “Mr.” or “Ms.” may be used.
- Be respectful of others’ time and be brief and prepared in making remarks.

- Be prompt in attending public meetings so that they may begin at the publicly posted time.

## II. Council Member Conduct with The Public

### **Be Polite and Professional to Speakers and Treat Them with Care and Gentleness.**

Because personal concerns are often the issue of those who come to present to the council, council members should remember that how they treat the speaker will either relax or push their emotions to a higher level of intensity.

- Limit comments to issues and avoid personal attacks.
- Remain seated when someone is speaking at the podium.
- Give the appearance of active listening.
- Ask for clarification, but avoid debate and argument with the public
- No personal attacks of any kind, under any circumstances
- Make no promises on behalf of the council or staff
- Make no personal comments about other council Members

**Proper Conduct**



City/Town of \_\_\_\_\_ Principles of Proper Conduct

**Proper conduct IS...**

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

**Proper conduct IS NOT...**

- Showing antagonism
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness
- Acting in a self-righteous manner

I affirm that I have read and understand The City/Town of \_\_\_\_\_ Council Code  
of Conduct

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

**Resolution Establishing a City Code of Conduct**

Whereas The City Council of \_\_\_\_\_ desires to adopt a code of conduct as a reference and guide for its members.

Now therefore, be it resolved by the City Council of the City of \_\_\_\_\_ to adopt the attached document entitled "City Council Code of Conduct"

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_

By \_\_\_\_\_,  
Mayor

Attest:

\_\_\_\_\_  
City Clerk