# COLLECTIVE BARGAINING PREPARATIONS FOR LOCAL GOVERNMENTS

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Municipal Labor Relations In Missouri Manual

## UNDERSTANDING AND CREATING APPROPRIATE BARGAINING UNITS

Under the Missouri law, employees are permitted to exercise their rights to organize and petition their public employers. The organizational unit that serves to provide a cohesive grouping of employees for such activity is called an appropriate bargaining unit. There may be several configurations of employees which can be determined to be an appropriate bargaining unit. Therefore, the public employer should determine what is better for its purposes and operations. Set out in this section are some of the issues reviewed by the Board of Mediation in determining what unit is appropriate for bargaining. There are other considerations that public employers may wish to make that are not discussed in this section, but which should be reviewed with counsel when a petition for recognition is presented affecting the public employer.

The Board of Mediation is the agency charged with the responsibility for hearing most all disputes as these relate to the creation and modification of bargaining units, except for public employees who are not covered by the law – police, teachers, and deputy sheriffs. The Board has adopted procedures to guide the parties through the process of unit creation and/or modification. The procedures are found in the Missouri State Code of Regulations at 8 CSR 40.1.010 et seq. In addition to the rules and regulations, the Board of Mediation has issued decisions that can assist a public employer to understand the Board's rationale in reviewing facts in the designation of appropriate bargaining units. This section of the manual will relate some of the key issues that a municipal employer needs to understand and consider in arriving at an appropriate bargaining unit that is best for its interests and provides the public employer with sufficient personnel to manage and supervise work of the governmental agency and sub-units whose employees may seek to be organized. Police units are handled by local processes only.

The process for determining an appropriate bargaining unit, in summary, involves a written request by a labor organization made to an employer for a described grouping of employees. The request may be made directly to the employer or it may be filed with the Board of Mediation. The request will describe in general terms what employees by name or classifications of employees or work groups of employees that the labor organization believes to be appropriate for bargaining. For a request to be valid, the exclusive bargaining representative will file a petition or showing of interest signed by at least 30% of the employees covered by the petitioned – for unit.

It should be noted that other labor organizations may intervene in the proceedings at any time provided the intervening organization presents a petition or showing of interest signed by at least 10% of the employees in the petitioned – for unit. Employees are permitted to sign petitions or showing of interest for more than one organization.

The employer thereafter has options available to it. It may:

1) agree to recognize the petitioning labor organization for the requested unit;

2) agree to recognize the petitioning labor organization provided the parties can arrive at a unit acceptable to both;

3) refuse to recognize the labor organization raising a question of the majority status of the labor organization provided the employer has not looked at and/or investigated the accompanying employee signatures; or
4) refuse to accept the unit proposed by the labor organization and insist that the matter be presented to the Board of Mediation for handling.

To insure that the employees have the greatest protection possible under the system and to learn the amount of the labor organization's real support, however, it is recommended that an employer only extend recognition after an election has been conducted in the unit that is determined to be appropriate.

The Board will either through informal consultation or through a formal hearing process determine what unit is to be appropriate.

The Board looks to the "community of interest" of employees in being placed in the same bargaining unit. Some criteria described in Board decisions that are considered in arriving at a community of interest are:

1) similarity in scale and manner of determining employees' earnings;

2) similarity in employment benefits, hours of work, and other terms and conditions of employment;

3) similarity in the type of work performed;

4) the similarity in the qualifications, skills and training of the employees;

5) the geographic proximity of employees to each other;

6) relationship to the employer's administrative and operational functions;

7) the continuity or integration of production processes;

8) the frequency of contact and interchange among and between workers;

9) the common supervision and determination of labor relations policy;

10) the bargaining history of other similarly situated employers' operations and bargaining units; and under some circumstances

11) the desires of the employees and extent of union organization.

What is clear is that there is no set of predictable outcomes that can be derived from decisions of the Board of Mediation as to what community of interest criteria will control in any case. Employers should review all criteria in light of that employer's circumstances to determine what the employer's best position is with respect to all of the criteria when preparing for the hearing.

In addition to the community of interest analysis that will be conducted, the Board of Mediation, if presented with appropriate argument, will also make determinations as to the exclusion or inclusion of supervisors, managers, and confidential workers in any unit. Any employer desiring to exclude these categories of workers needs to raise the issue and be prepared to provide evidence to the Board of Mediation for exclusion.

Workers who are supervisors as determined by the Board of Mediation using the following criteria may be excluded from some bargaining units if the evidence supports the employer positions. The criteria assessed by the Board of Mediation are

1) the person's authority to effectively recommend hiring, promotion, transfer, discipline or discharge employees;

2) the person's authority to direct and assign the work force;

3) the number of employees supervised and the number of other persons with authority who supervise the same employees;

4) the level of pay provided to the worker including evidence of whether the person is paid for the person's skill or for the person's supervisory activity;

5) whether the person's is primarily supervising an activity or supervising employees;

6) whether the person spends a "preponderance" or "substantial majority" of time supervising employees;

7) whether the person exercises independent judgment and discretion in acting as a supervisor. No one factor is determinative, but the inquiry turns on the factors present in sufficient combination and degree to exclude the position as supervisory.

Managers are persons who in the interest of the public employer formulate, determine or effectuate policies. They also may be excluded from a particular bargaining unit because of potential conflicts of interest that may arise when the managers perform duties for the public employer causing them to lose their community of interest with the employees.

Confidential workers are defined as persons, under the "labor nexus" test, currently preferred by the Board of Mediation, who act in a confidential capacity to persons who formulate, determine and effectuate management policy in the field of labor relations. Under another Board of Mediation definition, currently disfavored, a confidential worker is a person who acts in a confidential relationship to a manager or supervisor.

Both of these categories of workers may be excludable from an appropriate bargaining unit if the employer presents sufficient evidence to the Board in support of the employer's position consistent with the Board's definitions. Employers should also not overlook the possibility, especially in small communities, that a person may qualify for more than one exemption from coverage from a particular bargaining unit. Some workers may not qualify for one exemption, but may qualify for a mixed exemption if the particular worker engages in work that fits under more than one of the definitions.

Finally, employers should understand that the Board of Mediation will issue a decision setting out the appropriate bargaining unit if it determines one to exist and will order an election to be held. Only employees in the appropriate bargaining unit will be permitted to vote. The outcome of the election is determined by a majority of the employees who cast their votes.

The Board of Mediation will refuse to process any unit petition or request for elections where there is an existing current agreement between the municipal employer and a recognized bargaining representative. This refusal to process is called a "contract bar" fashioned after the private sector practice of refusing to process a petition when a valid current contract exists between the parties.

The Board of Mediation also will not process any petition for an election in any unit in which an election has been held in the past twelve (12) months. This is because the Board seeks to insure labor stability for the parties involved.

In addition to petitions for certification of new bargaining units, the Board has rules for processing requests to change a bargaining unit and to change the bargaining representative that already exists under some specific circumstances as identified in earlier Board decisions. These are either unit clarification or unit amendment petitions.

Petitions to remove or replace a recognized bargaining representative are called decertification petitions. While these are rare types of petitions, employees and others can seek to remove or replace a bargaining agent for a particular bargaining unit provided there are no impediments to the election. Employers are referred to the rules of the Board for the processing of these types of petitions.

## SELECTING THE EXCLUSIVE BARGAINING REPRESENTATIVE

Once an appropriate bargaining unit has been designated either by agreement of the parties or by order of the Board of Mediation, the employees are presented with an opportunity

to vote for representation or to maintain non-represented status. The Board of Mediation rules and practices govern the conduct of the election for those employees who are not excluded.

For police officers, deputies, and teachers who are excluded, a municipality is free to establish its own process in the absence of legislative direction in order to facilitate the exercise of employee rights under the recent Supreme Court decision. Municipal employers are encouraged to exercise extreme care and to seek professional assistance before venturing into these difficult areas.

Under the old law, to be placed on the ballot, the petitioning labor organization must have a showing of interest of at least 30% of the employees in the designated bargaining unit. Other labor organizations may be placed on the ballot if they present at least a 10% showing of interest of the employees in the bargaining unit and the request is presented in a timely manner.

The Board of Mediation sets the ballot and conducts the actual election. Under usual circumstances, the balloting is held on the employer's premises usually where a majority of the workers report for work. The balloting is usually held during working hours and at such time as not to interfere with work to be performed and when the employees are expected to be present. Therefore, the balloting is held at the beginning of the work day or toward the end of the day. When there are shift workers eligible to vote, it is possible to have the balloting take place at more than one time, although this is not mandated.

The Board procedures provide for advance posting of election notices so that affected employees will know that an election is scheduled, who the eligible voters are, and when and where the balloting will take place. The Board will also require the municipal employer to provide a list of eligible voters with their addresses for identification purposes. This list serves to identify and check in the eligible voters during the voting period. The list is provided to the labor organizations that are on the ballot following a practice developed in the private sector.

Eligible voters include employees identified as being employed in the designated bargaining unit who are employed on a specific date and who have reasonable expectation of continued employment. Persons who terminate employment prior to the election can be challenged at the time of voting. Persons who are employed after the eligibility date is set and who are working in the designated unit may also vote, but these persons may be subject to challenge. Under usual circumstances, persons who have been laid off and who have reemployment rights may be permitted to vote because of their relative status with other employees who continue to work.

The outcome of the election is determined by a majority of the valid ballots cast by the employees who are eligible to vote. The labor organization must receive over half of the ballots cast in order to be declared as the exclusive bargaining representative. Ties leave the employees in an unrepresented status. For example, assume there are 100 eligible employee voters of whom 80 cast ballots. To become the exclusive bargaining representative, at least 41 of the voters must cast votes for the exclusive bargaining representative to select it as the winner. If there is more than one labor organization on the ballot, to prevail one of the choices on the ballot must receive

a majority of the votes cast. If none of the choices receives a majority, then a run off election is held between the two highest choices from the initial election.

The ballots are counted on the day of the election. All parties are entitled to be present and represented as the ballots are scrutinized and counted. A ballot may be challenged by the parties present at the count if a ballot does not reflect the votes intention, (i.e., the voter marks both choices of the ballot). Once all the ballots have been counted, the Board of Mediation will produce a document certifying the election results provided challenged ballots do not affect the outcome of the election.

If there are challenged ballots in sufficient number to affect the outcome of the election, the Board of Mediation will conduct post-election hearings to determine the validity of the challenges and to determine if the ballots will be counted. There are a number of reasons for challenging ballots. However, these will not be discussed in this document. A municipality engaged in an election should seek advice of counsel to insure that it understands and exercises all of its election rights that it determines are appropriate for that community. Once the post-election challenges are dispensed with, the Board of Mediation will certify the election results.

All parties are free to engage in an election campaign in an effort to educate and persuade the eligible employees on the best way to cast their ballots. Public employers and labor organizations often campaign on the issues of interest to the employees, including educating the workers as to the effect of their vote and what the collective bargaining process entails.

In Missouri there is little guidance as to what may or may not be done in an election campaign by either party. However, the Board of Mediation has rules that allow for post-election objections to an election to be raised by any party. Post-election objections identified in the private sector labor relations arena can serve as guidance to municipal officials as to what the Board of Mediation might do when presented with objections to the conduct of the parties during an election period. One type of conduct that is sure to gain Board of Mediation response is conduct that is engaged by a municipal employer to penalize employees who are involved in the election. See State ex rel Missey v. City of Cabool, 441 S.W.2d 35 (Mo. 1969).

One advantage to an employer of going to an election is to identify why the employees seek to be represented and what is being promised by the participating labor organizations. Often promises are made to employees by labor organizations that cannot be kept. However, in the private sector, the decisions have held that such promises are puffing expected in an election and that employees are capable of understanding such campaign propaganda for what it is. Public employers on the other hand are prohibited from threatening or coercing employees in the exercise of their rights on the basis that the employer is capable of carrying out its threats. However, public employers are free to state facts for employees to consider that relate to issues in an election.

During an election period to select an exclusive bargaining representative there are certain general rules that have evolved in the private sector that a public employer should understand that guide the conduct of the parties and their agents during the campaign period. Even though these rules have been generally developed in the private sector labor arena and are

not binding on a public employer, they can serve as guidelines for the public employer in Missouri.

WHAT IS PERMISSIBLE?

1. Rights of the parties

    a) a public employer has the undisputed right to make rules and regulations necessary for the preservation of its basic interests in maintaining discipline, efficiency, safety, and in protecting its property rights.

    b) employees have a right to organize and communicate organizational interest related to the exercise of their right to organize and petition the employer.

    c) a need to balance these interests requires the parties to operate in a fair and open manner whether engaged in a union organizing arena or some other organization's solicitation efforts.

2. Solicitation rules

    a) employees may be prohibited from soliciting other employees during "working time" in "working areas".

    b) "working hours" in "non-working areas" generally are open to employee activity unless special circumstances warrant otherwise. These are usually clear and should balance the need for employee safety, work discipline, and production with organizing opportunities available outside of work.

    c) non-employees can be totally prohibited from access to non-public property unless there is no other reasonable means for them to solicit employees and the same treatment is given to all similarly situated organizations which seek to solicit employees. Non-access areas can include non-public parking lots, break rooms, and other areas of limited public access or quasi public access.

    d) off-duty employees are treated the same as non-employees unless the public employer's work rules provide special privileges to off-duty employees.

3. Rules Related to Distribution of Written Materials

    a) employees' activities may be restricted to non-work areas on non-working time much the same as for solicitation. The public employer should look to the physical and surrounding environment to set distribution limits as well as practices.

    b) non-employees are treated the same as under the solicitation rules.

c) off-duty employees' limitations are only enforceable if they are limited to property interiors and work areas; and the rules are disseminated to all employees; and the rules apply to all employees equally regardless of the reason for the solicitation.

d) Bulletin board access can be prohibited if its use is ordinarily limited only to agency business and the prohibition of use is not restricted to only union organizing activity and communications.

4. What may the exclusive bargaining representative stewards do?

The public employer should look to the steward's work related duties and responsibilities as an employee representative as stated in the parties' contract. The public employer should look to the location for performance of the respective duties of the steward. The public employer should look to the flexibility that supervisors allow other employees in movement and activities related to non-work functions.

There will be times that union organizers will attempt to put the public employer's supervisors and managers on the spot for an immediate answer. They need only respond fairly after they are sure that they are acting correctly under the rules of the work place in effect at the time.

Supervisors may say and do certain things during an election campaign to select a bargaining agent without violating election rules. Set out are some general guidelines for consideration. It should be remembered that supervisors ultimately are controlled by the attitude that the public employer takes toward the election and its outcome.

Supervisors and managers can speak freely to employees about the issues, but they should avoid making threats and promises, or engaging in interrogations. They should speak often and effectively. Supervisors may express an opinion that the union is not wanted or needed. They may explain that employees have the right to refrain and to refuse to join any union. This should not be confused with need for employees to vote to protect these rights at election time. Supervisors may explain benefits and pay programs of the job and may indicate that unionization may interfere with individual employee's ability to discuss and resolve problems without outside interference. They may identify disadvantages of union organizing (dues, fees, assessments, job insecurity, loss of money during strikes, loss of job flexibility, etc.). They may say there is no requirement to sign authorization cards or limit to the number to be signed. They may explain how authorization cards may actually be used rather than as explained by the union. Supervisors may advise employees of pending changes as to pay, benefits, work rules and other employment policies and practices.

Supervisors and other agents of the public employer may act to involve employees in operations of employer on a regular basis. They may seek employee input as to intended changes to work rules and practices. They may seek employee concerns and recommendations as to current rules, practices, and policy, but should reserve the ultimate decision to management. They can show appreciation for work of employees and for effort expended. They can set

reasonable job-related goals and seek feedback from affected persons. They can stick to established reasonable standards so long as applied equally and equitably. They can show interest in employees beyond the work effort in order to develop loyalty and camaraderie.

Supervisors should be fair, consistent, supportive, and have integrity. They should continue to perform their supervisory duties. They should deny union access to premises under certain conditions as specified in the public employer's rules.

There are limits as to what a supervisor may say and do. The right to speak freely is balanced by perceived or real power of the employer to carry certain actions beyond words. Supervisors and managers should make no threats which may cause employees to avoid exercising their rights; should make no promises conditioned on anti-union activity; and should make no economic predictions unless based on specific identifiable objective facts approved by the public employer in advance.

Certain supervisory actions can violate employee rights. Supervisors may not discriminate against employees because of their union activity and attitudes or anti-union sentiments; threaten disciplinary action for soliciting authorization cards during non-work time during working hours; engage in surveillance or give the impression of same at home or at union meetings; interrogate employees about union activity, but a supervisor may respond to inquiries initiated by employees; isolate employees to discuss issues if this varies from regular practice; or poll employees for personal opinions concerning unionization.

There are also elections that are held to decertify or remove or replace a recognized bargaining agent. This type of election is rare. In Missouri, if such an election is held, the Board of Mediation currently processes the election in the same way as a petition for certification. The labor organization must receive a majority of the votes cast to keep its status as the exclusive bargaining representative.

As the reader can see, there are significant considerations to be scrutinized during an election period. These need to be reviewed at the time that a petition has been filed and an overall strategy put together for the public employer to follow. Just as in municipal elections for public office, elections for employee representation present multiple issues of public concern for the jurisdiction that should not be ignored. Municipal officials should seek the advice of counsel early in the process when faced with a petition and a potential election.

Under the new circumstances in Missouri, public employers will need to take greater care in assessing employee activity that may be related to free speech and freedom to associate under the United States Constitution and under the Missouri Constitution. Failure to understand the rights now existing may subject the municipal employer to lawsuits in federal court which carries with them numerous disadvantages to the losing public employer. State court litigation can be expected to increase as well if municipal employers are not careful in how they react to employee organizing and negotiations.

## USE OF GOVERNMENTAL PROPERTY FOR ORGANIZING ACTIVITY

The public employer should understand that labor relations activity will provide organizations and employees with an opportunity to make requests for use of municipal property. The requests will relate to meeting with employees to campaign for election, to organize for meet and confer, and to solicit membership. Prior to the time that a municipal employer is faced with such requests, it should have developed a response that relates to all similar requests regardless of the status of the requesting entity.

As a general rule, a labor organization has the same rights to use municipal property as any other organization. Whatever written rules or actual practices are in effect for the use of municipal property by the public also govern the use of municipal facilities by a labor organization. Public entities are prohibited from discriminating against organizations based on the content of the speech that they exercise. Labor organizations' speech is exercised to organize and represent employees which is protected activity. Therefore, public employers should develop rules related to the use of municipal property as a regular course of business so as not to have to create them when a labor organization knocks on the door of the municipal building.

Municipal property falls into three types as this relates to use as a public forum. The first type of municipal property is that type of facility which is available to all members of the public for whatever use the public desires. If a labor organization seeks to use this property, the municipal entity is required to permit the use of the facility provided the labor organization conforms to the same application and regulatory processes that any other entity must meet to secure the use of the facility.

The second type of property is municipal property that is used by the public for a specific purpose. An example of such facility would be a conference room in the business areas of the municipal building that a citizen uses to meet with a city official to discuss city business related to the citizen. This type of property is open to the public only for particular purposes and is not generally accessible for other uses. It is property of limited public forum. The use available to a labor organization is limited because of the limited use available to the public and the access is limited only to groups with similar purposes. See Widmar v. Vincent, 454 U.S. 263 (1981).

The third type of property is municipal property that is non-public forum. In general, this is property where public access is either severely limited or denied entirely. Local governments are permitted to restrict access to this type of property as in the private sector. Labor organizations can be prohibited from use as well because they are considered the same as the public.

Municipal entities are encouraged to develop rules for use of the various types of property so as to avoid adverse reactions to rules created with a specific speaker in mind, whether that speaker is a labor organization or some other person who expresses a view not in conformity with the local government's attitudes. The property use rules must be content-neutral.

Local governments also need to assess what access to internal mail distribution may be utilized by non-municipal entities. The same general approach to use of the internal mail distribution system is followed as to use of the public facilities. If one organization is permitted access, then all similarly-situated organizations must be permitted access without regard to the

content of the communication and under the same circumstances as the use is permitted, unless there is some special status that the entity has with the municipal government. For example, if a municipal entity permits use of internal distribution systems to promote insurance products, it cannot restrict other commercial entities from soliciting. However, if the municipal entity prohibits the use of the internal distribution system to all entities except employees conducting municipal business, it can restrict all entities from using the internal distribution systems. See Professional Assn. of College Educators, TSTA/NEA v. El Paso County Community College Dist, 730 F.2d 258 (5th Cir. 1984), cert. denied 469 U.S. 881 (1984) and Lehman v. Shaker Heights, 418 U.S. 298 (1974).

The same rules that apply to use of internal mail distribution systems apply to the use of the municipality's bulletin boards and public address systems.

In general the following rules may be applied to labor organizations seeking to organize employees provided the local government has not opened its property for unlimited distribution and solicitation. A public employer can ban outside labor organizers from distributing or soliciting on the employer's property, except when the employees may not reasonably be reached otherwise or where the ban is applied discriminatorily. A public employer may prohibit employees from distributing or soliciting during work hours, unless it can be shown that the rule was created for a discriminatory reason or is applied unfairly. An employer may not bar employees from distributing or soliciting during non-work time unless there are special circumstances making rules necessary to maintain production or discipline. These rules follow the principles developed in the private sector.

Municipal entities are encouraged to review the constitutional decisions related to the exercise of free speech when formulating rules restricting distributions and solicitations and the use of municipal property or facilities.

## CREATING THE MANAGEMENT BARGAINING TEAM

Once an exclusive bargaining representative is selected by the employees, the public employer is required to negotiate with the representative regarding salaries and other conditions of employment once the exclusive bargaining representative makes a demand to do so. To most effectively carry out this duty, the public employer should establish a management committee to serve as its spokesperson with the exclusive bargaining representative. Each local government needs to set up its own team based on the skills and talents of the management personnel and professionals available. This section presents a brief profile of how to set up a management team that can effectively represent the public employer's interests at the bargaining table.

Selection of the persons to serve on the management team is based partly on the persons' positions and partly on the persons' personal skills. Every team has its own persona which needs to be recognized. What the public employer needs to understand is that it must regulate what is accepted or rejected at the table. At the same time, the team needs to have its own ability and flexibility to act when appropriate to the time and strategy that has been developed.

Some of the persons who should be active with the management team, but not necessarily sitting in during the negotiating process are: the municipal administrator, the finance person for the municipality, the manager of the unit(s) organized, an attorney, and representative supervisors if the unit is large and relates to expansive operations of the employer. One person should be designated as the spokesperson for the team when it meets with the exclusive bargaining representative.

The person selected to serve as the management spokesperson should coordinate the management position throughout the bargaining process whether that is at the bargaining table or in caucus with municipal officials. This person needs to have an ability to handle all types of situations and have access to all information necessary to presenting the management positions effectively. The person also needs to be able to build relationships that will present the management positions successfully and who knows how to reach decisions that will be properly handled by the governing body when it is presented with the end document. The chief negotiator needs to be close to the fountainhead of policy and not so far down the chain of authority as not to be recognized as the municipality's real spokesperson. The chief spokesperson is often a labor attorney, but it may be any person designated by the public employer.

The second member of the management team should be a person familiar with municipal finance for the local government. The negotiating process almost always relates to some economic items. The person who understands the financial picture of the community and its future prospects is invaluable in responding to the management team needs for information to address the labor organization's proposals.

An important third member of the management team is an operating official who has responsibility for the unit of workers that is represented. This person must be familiar with the day to day operations and nuances of the working unit and the employees. The view of this person is critical because it is this person who has to implement what is agreed and who understands the effect of any wording that is suggested. This person will also gain insight through participation as to what the employer agreed once the document becomes effective in the work place.

Other members of the management team such as line supervisors, personnel managers, and policy makers can be added as the process dictates. The team should not be overly large, but it should be able to call upon all of the resources of the municipality to assist it in presenting the employer's positions.

Public employers may be well advised to consider hiring an outside professional to serve as chief negotiator, at least in the first endeavor. This will help the newly organized employer to learn techniques of labor negotiations and the methods that are available to bring successful conclusion to the community. Experience in labor negotiations on the management team will keep the negotiating process balanced because it can be expected that the exclusive bargaining representative will have a seasoned negotiator to speak for the employees.

Generally, it is unwise to have the chief municipal executive or elected members of the governing body present during the negotiating sessions, although the management team should

keep these persons informed as progress is made. Seldom do these persons have the sufficient time to keep themselves fully familiar with proposals and responses. Continuity of attendance is critical and elected officials may not have the time needed to devote to the process. Additionally, active engagement in the process by elected officials will result in the unnecessary injection of political agendas by the exclusive bargaining representative that have no real place at the table during the bargaining process. Such injection often results in the compromise of critical management positions that have long term negative effects on the public employer and/or its operations that were unintended.

Members of the negotiating team need to understand that their selection to serve carries with it a commitment to devote the time and energy needed to carry the management positions. They also need to understand that personal agenda and animosity must be left outside of the process. One quality that is needed by the team members is that of the ability to overlook personal interests for the good of the employer and the relationship between the parties after the negotiating process in concluded, regardless of the final results.

One of the more important issues to be addressed in public sector labor relations is the proper involvement of elected officials. Elected officials should be involved in formulating policy positions and serving as advisors to the management team as needed, but should not be at the bargaining table. It is not unusual for elected officials to be the recipient of communications from the exclusive bargaining representative seeking to influence the management team during the process before it is completed. If the elected official becomes involved directly, the official may unintentionally affect the outcome of the negotiations in a way adverse to the municipality because of the mere involvement. What is critical to the protection of the public is that the process not be undermined by political pressure. Therefore, elected officials should maintain their posture as a management representative who will pass on the ultimate document when it is presented to them for final review and action.

In summary there are some guiding principles that an elected official should keep in mind when relating to the negotiating process. First, the elected official is a management principal. Second, the elected official is not a mediator. Third, the elected official must maintain the confidentiality of the municipality's labor relations information, positions, strategy and tactics, and the intended goals. Fourth, elected officials should act together and not individually when it comes to speaking on labor relations issues because individual actions can send the wrong message to the public and to the exclusive bargaining representative concerning management positions. Fifth, elected officials should leave the process to the management team at the bargaining table. Finally, elected officials should deflect end run attempts by the exclusive bargaining representative or employees so as not to undercut the municipality's positions or to send the wrong message to the employees who selected the negotiating process in the first instance.

If all of the management team works together, the results from the negotiations will serve the needs of the community without adversely affecting the resources available to deliver the desired services.