June 2, 1983

ATTORNEY GENERAL OPINION NO. 83-86

Mr. Ronald S. Reuter
Roeland Park City Attorney
Wagner, Leek & Mullins
4101 West 54th Street Terrace
Shawnee Mission, Kansas 66205

Re: Cities, Second Class -- Elections -- Confirmation of Mayoral Appointments

Synopsis: K.S.A. 14-201 requires the city council of a city of the second class, to consent to mayoral appointments for city officials including police officers. Absent confirmation by the council, the appointee does not become a public officer of the city.


Dear Mr. Reuter:

You have requested an opinion regarding the authority of the mayor of a second class city with a mayor-council form of government to grant police commissions without the consent of the council. You advise that the mayor of Roeland Park issued the police commissions in the form of cards to certain individuals as an honorary gesture without the knowledge or consent of the City Council. Subsequently, the cards have been returned to the city.

As you note in your request, K.S.A. 14-201 and your city ordinances provide that the mayor may appoint police officers "with the consent of the council." In our opinion, confirmation by the council is required as provided in K.S.A. 14-201 before a mayoral appointee can become a public official. This position is consistent with our interpretations of similar statutes and cases noted in Attorney General Opinion Nos. 79-109 and 81-155, copies of which are enclosed.
Moreover, even if these police commissions are honorary, thus granting no authority to the recipients to perform on behalf of the city, our research fails to reveal any legal authority for the mayor of a second class city to grant honorary police commissions. Hence, whether viewed as an attempt to appoint a city police officer or an attempt to confer some special honor on certain persons, the police commissions issued by the mayor in this instance are invalid and ineffectual.

Therefore, we conclude that K.S.A. 14-201 requires the city council of a city of the second class, to consent to mayoral appointments for city officials including police officers. Absent confirmation by the council, the appointee does not become a public officer of the city.

Very truly yours,

ROBERT T. STEPHAN
Attorney General of Kansas

Bradley J. Smoot
Deputy Attorney General

RTS:BJS:hle
Enc.