

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 236-6220

DATE: April 17, 2007
TO: Honorable Mayor and City Council members
FROM: City Attorney
SUBJECT: The City Council's Role in the Impasse Hearing

In 2004 voters passed Proposition F giving the City of San Diego a Strong Mayor form of government. The argument in favor of Proposition F stated, in part:

MAYOR NEEDS AUTHORITY TO MAKE CHANGES

Currently, the authority to run the City of San Diego is held by an unelected City Manager. Proposition F ends the buck-passing and finger-pointing. Proposition F gives you the power to elect someone with **the authority to make changes.**

Under prior practice, conflicts between the City Manager and the labor unions over the terms and conditions of employment were resolved by Council directive issued to the City Manager in closed session. Those practices were a principal cause of the City's \$2 billion pension and retiree health care deficit. In the hopes of changing such practices, voters were given the opportunity to create a Strong Mayor form of government with Proposition F in the November 2, 2004, election.

The Proposition F ballot proposition argument expressly represented that under the Strong Mayor form of government the Mayor would have "the authority to make changes." The Mayor believes that voters gave him the authority to set the City's bargaining position in collective bargaining, so long as he acts reasonably and in the best interests of the City of San Diego. The Mayor has made it clear that he does not intend to follow past practices in which the City's position in collective bargaining was directed by the City Council through the City Manager. In enacting Proposition F voters gave the Mayor the power he seeks to exercise in connection with the City's bargaining position with Local 145.

As part of his administrative duties, the Mayor has negotiated for several months with the City's recognized labor organizations and now has declared he is at impasse with Local 145. Impasse procedures have been initiated before City Council pursuant to Council policy 300-06. The Council has asked what the procedures are if the Council does not support the Mayor's last, best, and final offer.

The Mayor has used his best judgment in setting the City's last, best and final offer to Local 145, which includes no salary increase. He has explained his reasons to the Council and the public and those reasons appear to be reasonable. Council member Peters has indicated that he may wish to give Local 145 a salary increase and asked what the Council's role is with respect to how the Council is to proceed, in light of the applicable impasse procedures.

The Council may not negotiate directly with the unions. If the Council disagrees with the City's last, best, and final offer, as set by the Mayor, it has the following options: (1) it may request the Mayor to change the offer to one that the Council supports; or (2) it may impose the Mayor's last best and final, offer; and by introduction of the salary ordinance, authorize a salary increase. However, such an increase may be made by the Council only if it makes a finding the Mayor's offer is unreasonable and not in the best interests of the City. The Council may not simply usurp the Mayor's authority in collective bargaining by substituting its judgment for the Mayor's, unless it determines the Mayor acted unreasonably and not in the best interests of the City.

The City Council must also identify funds to pay for any Council originated salary increase it adopts in the salary ordinance. The Mayor may veto and the Council may override such veto of the salary ordinance.

MICHAEL J. AGUIRRE, City Attorney

By

Michael J. Aguirre
City Attorney

MJA:jb

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO
Michael J. Aguirre
CITY ATTORNEY

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

MEMORANDUM OF LAW

DATE: April 16, 2007
TO: Honorable Mayor and City Council members
FROM: City Attorney
SUBJECT: Request to Continue Impasse Hearing and Introduction of Salary Ordinance

INTRODUCTION

The San Diego City Fire Fighters' union, Local 145, has requested a one-week continuance of the impasse hearing scheduled on the City Council agenda for April 16, 2007.¹ Local 145 states as reasons for the request that an alternative location for the impasse hearing is necessary to accommodate an anticipated large turnout and because there may not be a full council at the meeting on April 16, 2007.² This Office has been asked to provide an analysis of whether the City Council may grant Local 145's request for a continuance of the impasse hearing and delay the introduction of the salary ordinance to allow for a full council and to accommodate the anticipated turnout for the hearing.

QUESTION PRESENTED

May the City Council grant Local 145's request for a one-week continuance of the impasse hearing and delay the introduction of the salary ordinance?

SHORT ANSWER

No. Charter section 290 provides that the salary ordinance shall be introduced by the City Council no later than April 15 of each year. The salary ordinance fixes the salaries of all officers and employees. In order to fix the salaries, negotiations with recognized labor unions must be completed so that the salaries have been set by either a memorandum of understanding or by imposition of the City's last, best, and final offer. The April 15 deadline is part of a process to ensure the timely adoption of the City's budget and annual appropriation ordinance.

¹ See, Letter dated April 12, 2007, from Ron Saathoff to Council President Peters, a copy of which is attached.

² It is anticipated that Council members Kevin Faulconer and Jim Madaffer will be absent from this hearing.

Accordingly, the City Council may grant a continuance that might affect these deadlines only if legally required to do so or for other compelling reasons. Local 145's reasons do not appear to meet this requirement.

ANALYSIS

City Charter section 290 provides that the salary ordinance shall be introduced by the City Council no later than April 15 of each year.³ The salary ordinance fixes the salaries of all officers and employees of the City and is proposed by the Mayor in a "form consistent with any existing Memorandum of Understandings with recognized labor organizations, or otherwise in conformance with procedures governed by the Meyers-Milias-Brown Act or any other legal requirements governing labor relations that are binding upon the City." Charter § 290(a).

After the salary ordinance is introduced, it is transmitted to the Mayor, who shall, within five business days of receipt, either approve the ordinance as introduced by Council or veto all or any specific provision within the ordinance. Charter § 290(a)(1). The salary ordinance is then returned to the Council, which has ten business days to override the veto and pass the salary ordinance as introduced or otherwise accept the changes proposed by the Mayor at the second reading of the ordinance. Charter § 290(a)(2). The salary ordinance passed by the Council becomes a controlling document for preparation of the annual appropriation ordinance for the ensuing fiscal year. Charter § 290(a)(3).

As noted above, the Council must introduce the salary ordinance "fixing the salaries of all officers and employees of the City." In order to meet the April 15 deadline contemplated in the Charter, the City must use its best efforts to complete negotiations with the recognized labor organizations and enter into a memorandum of understanding with respect to salaries by April 15 each year. If an agreement is not reached, the City should continue to negotiate in good faith until at impasse and the City has imposed its last, best, and final offer in accordance with applicable labor relations legal requirements.

The City's labor negotiators have met with Local 145 on 16 occasions since February 9, 2007. On April 12, 2007, the City's negotiators declared it is at impasse on certain issues, including Local 145's request for a salary increase. Council Policy 300-06 provides for the impasse procedures, which includes an impasse meeting between the parties and, if necessary, an impasse hearing before City Council. This impasse hearing is scheduled for April 16, 2007 and the introduction of the salary ordinance is set to follow the resolution of this matter. It is anticipated that either: (1) the parties do not resolve the dispute and the City imposes its last, best, and final offer, or (2) the parties reach an agreement on salaries. In either case, the salaries are known and can be reflected in the introduction of the salary ordinance on April 16, 2007.

³ April 15 falls on a Sunday this year. Accordingly, it is appropriate to introduce the salary ordinance on the next business day, April 16, 2007. See, Cal. Code Civ. Proc. § 12a.

The April 15 deadline for introduction of the salary ordinance appears to be necessary to meet other time requirements in the Charter related to the budget and the annual appropriation ordinance. For instance, the budget must be approved by the Council prior to June 15, and after holding a minimum of two public hearings. Charter § 290(b). If the Council modifies the budget, the Mayor must within five business days of receipt, either approve, veto, or modify any line item approved by the Council. The Council then has five business days to override any vetoes or modifications made by the Mayor.

The budget necessarily includes the amounts specified in the salary ordinance in order to meet the balanced budget requirements of Charter section 71. The salary ordinance and the approved budget become the controlling documents for preparation of the annual appropriation ordinance. Charter § 290(a)(3), 290(b)(1) and 290(b)(2). The appropriation ordinance must be adopted during the month of July, again after a minimum of two public hearings. Charter § 71, 295(c). All of these deadlines are important to ensure the public's participation in the process and to provide time for the Mayor and Council to prepare, review and consider these documents.

Because a delay in any of these timelines could result in a failure to meet Charter requirements for adoption of the annual appropriation ordinance, continuances of matters with set deadlines should not be granted absent compelling reasons. Such reasons might include the lack of a quorum, the failure to obtain the necessary votes on an ordinance or resolution, or delays required to meet legal requirements governing labor negotiations. On the other hand, a delay requested because the Council chambers might not be large enough to accommodate a large turnout or the absence of some council members that will not result in the lack of a quorum, do not seem to rise to such a compelling reason to justify failing to meet the requirements of the Charter.

CONCLUSION

The Charter states that the salary ordinance fixing the salaries of all officers and employees of the City shall be introduced by the Council no later than April 15 of each year. The salary ordinance is proposed by the Mayor in a form consistent with any existing agreements with recognized labor organizations or otherwise in conformance with procedures governed by the Meyers-Miliias-Brown Act or any other legal requirements governing labor relations that are binding upon the City. We read this Charter provision to contemplate the completion of collective bargaining by either an agreement between the City and the labor organizations or by imposition of the City's last, best, and final offer, at least with respect to salaries, prior to April 15 of each year. A continuance of the impasse hearing on April 16, 2007, will require a delay in

Honorable Mayor and City
Council members

-4-

April 16, 2007

the introduction of the salary ordinance. Such a delay may be justified and unavoidable in some cases. However, the Council should grant a continuance only if legally required to do so or in light of other compelling reasons. The reasons set forth by Local 145 do not meet this standard.

MICHAEL J. AGUIRRE, City Attorney

By



Michael J. Aguirre
City Attorney

MJA:jb

cc: Elizabeth Maland, City Clerk

ML-2007-6



RECEIVED
CITY CLERK'S OFFICE
07 APR 12 PM 3:50
SAN DIEGO, CALIF.

**COUNCIL PRESIDENT SCOTT PETERS
FIRST DISTRICT**

MEMORANDUM

DATE: April 16, 2007
TO: Honorable Mayor Jerry Sanders
Honorable City Attorney Michael Aguirre
FROM: Council President Scott Peters
SUBJECT: Local 145 Request for Continuance on Council Docket Items 203

San Diego City Firefighters Local 145 has requested a one week continuance on City Council docket Item #203, Impasse Procedure.

Last year, the Salary Ordinance was introduced on Monday, April 17, 2006; the impasse hearing was May 1, 2006 and the second reading of the Salary Ordinance was May 8, 2006. The proposed schedule for this request would have the Salary Ordinance introduced on Monday, April 16, 2007 and the impasse hearing continued a week later to Monday, April 23, 2007.

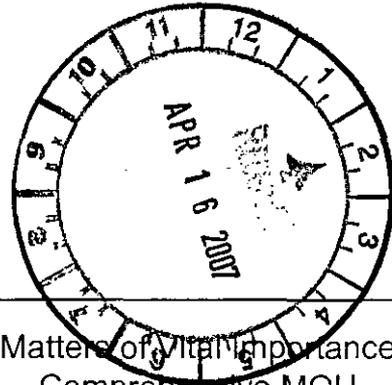
I respectfully request a written legal analysis of the possibility of the City Council granting a one-week continuance on the impasse hearing and introduction of the salary ordinance.

Thank you for your assistance with this request.

SHP:bbk

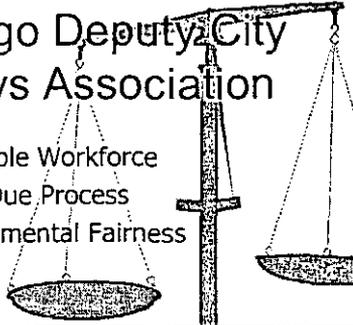
Attachment

cc: Honorable City Councilmembers
Rich Snapper, Personnel Director
Stu Swett, Head Deputy City Attorney
Andrea Tevlin, IBA
Liz Maland, City Clerk



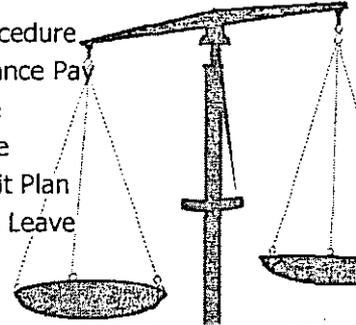
San Diego Deputy City Attorneys Association

Stable Workforce
Due Process
Fundamental Fairness



Matters of Vital Importance Comprehensive MOU

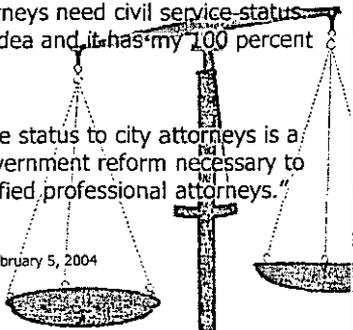
- Grievance Procedure
- Earned Severance Pay
- Merit Increase
- Wage Increase
- Flexible Benefit Plan
- Administrative Leave



City Attorney Michael Aguirre on Due Process

- "Deputy City Attorneys need civil service status. It is an excellent idea and it has my 100 percent support."
- "Giving civil service status to city attorneys is a matter of vital government reform necessary to retain highly qualified professional attorneys."

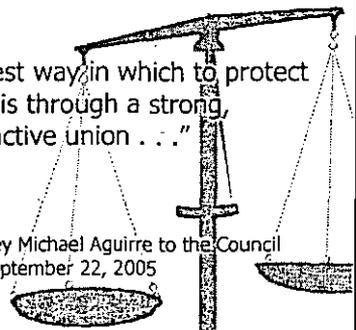
San Diego Daily Transcript - February 5, 2004



City Attorney Michael Aguirre on the Union's Role

"Obviously the best way in which to protect workers' rights is through a strong, cohesive, and active union . . ."

Email from City Attorney Michael Aguirre to the Council regarding DCAA - September 22, 2005



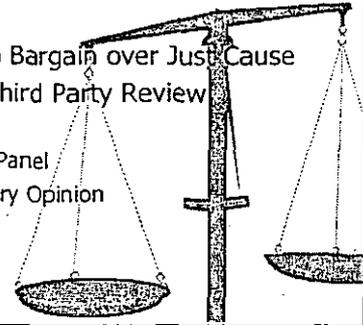
Loss of Experience

- 80 Employees in 2 Years
- Over 50% Loss
- Hundreds of Years of Experience
- Serious Disruption of Legal Services
- Problem Persists
 - 5 Employees in Last Four Months



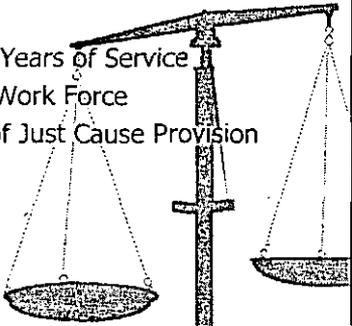
Grievance Procedure

- City Refuses to Bargain over Just Cause
- Independent Third Party Review
 - Arbitration
 - Three Person Panel
 - Neutral Advisory Opinion



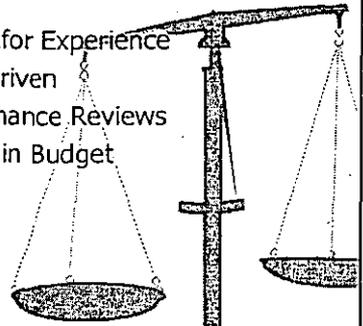
Earned Severance Pay

- Recognition for Years of Service
- Stabilization of Work Force
- Mitigates Lack of Just Cause Provision



Merit Increases

- Compensation for Experience
- Performance Driven
- Annual Performance Reviews
- Contained within Budget



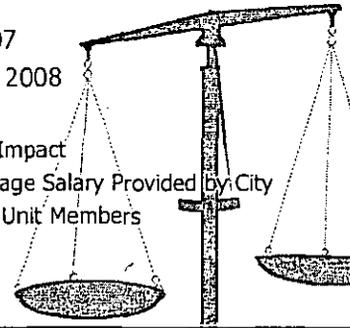
Wage Increase

- FY06 - No Wage Increase
- FY07 - No Wage Increase
- FY08 - No Wage Increase Offered
 - MEA 4%
 - POA 8-9%



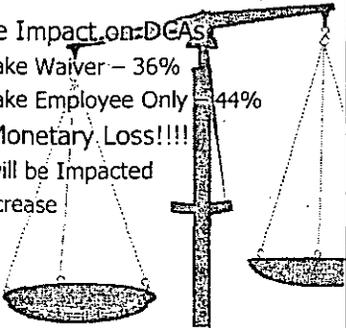
DCAA Wage Proposal

- 2% July 1, 2007
- 2% January 1, 2008
- \$383,000
 - Approx. FY08 Impact
 - Based on Average Salary Provided by City
 - Assuming 144 Unit Members



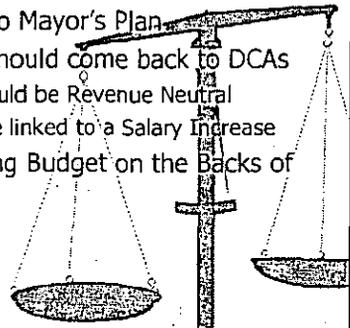
Flexible Benefit Plan

- Disproportionate Impact on DCAS
 - 52 out of 144 take Waiver - 36%
 - 63 out of 144 take Employee Only - 44%
- 80% will have Monetary Loss!!!!
 - 115 Members will be Impacted
 - Up to 4.6% Decrease



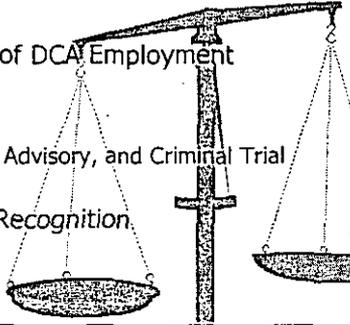
Flexible Benefits

- DCAA agrees to Mayor's Plan
- Cost Savings should come back to DCAS
 - FY08 plan should be Revenue Neutral
 - Plan should be linked to a Salary Increase
- Mayor Balancing Budget on the Backs of Employees



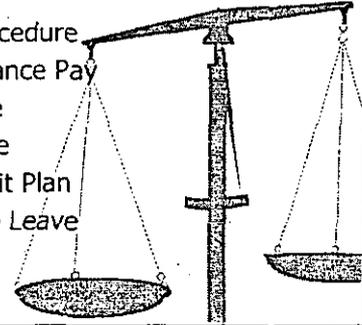
Administrative Leave

- Unique Nature of DCA Employment
 - Salaried
 - No Overtime
 - Civil Litigation, Advisory, and Criminal Trial Demands
- Retention and Recognition



Matters of Vital Importance Comprehensive MOU

- Grievance Procedure
- Earned Severance Pay
- Merit Increase
- Wage Increase
- Flexible Benefit Plan
- Administrative Leave



Conclusion

- Stability
- Due Process
- Fairness

Vote Yes on DCAA Proposals
Respect your Deputy City Attorneys and
Retain Highly Qualified Professionals



City of San Diego

Pension Costs

San Diego City Attorney's Office

16 April 2007

City of San Diego retiree funding liabilities

- City of San Diego's liabilities to current and future retirees
 - Unfunded pension liability between \$1.0 and \$1.21 billion
 - Liability for retiree health care more than \$1.4 billion

City of San Diego and Police Officers Association

- City of San Diego proposed 9 percent raise for Police Officers Association
- What are the costs?

City of San Diego and Police Officers Association

- Increase in present value of benefits for POA raise:
 - \$61 million with 6 percent salary increase
 - \$81 million with 8 percent salary increase
 - ??? million with 9 percent salary increase

City of San Diego and Police Officers Association

- Costs of raise for POA costs to the City of San Diego's Annually Required Contribution to SDCERS for pension costs
 - \$4.8 million with 6 percent salary increase
 - \$6.4 million with 8 percent salary increase
 - ??? with 9 percent salary increase

City of San Diego and Police Officers Association

- Mayor's estimated costs of 9 percent salary increase to POA
 - “[T]he increase to pay and benefits will cost the city about \$16 million starting July 1,” according to *San Diego Union-Tribune* article
 - No estimate on increase to UAAL
 - No information released to public by Cheiron on how these numbers were calculated

Mayor's "Five-Year Financial Outlook" of potential raises (p. 19)

Assumed Salary Increases by Bargaining Unit Fiscal Years 2008 – 2012					
Bargaining Unit	Forecast 2008	Forecast 2009	Forecast 2010	Forecast 2011	Forecast 2012
Municipal Employee's Association	4.0%	0.0%	0.0%	0.0%	0.0%
Local 127	4.0%	0.0%	0.0%	0.0%	0.0%
Local 145	0.0%	0.0%	0.0%	0.0%	0.0%
Police Officers Association	0.0%	0.0%	0.0%	0.0%	0.0%
Deputy City Attorney Association	0.0%	0.0%	0.0%	0.0%	0.0%
Unclassified/ Unrepresented	0.0%	0.0%	0.0%	0.0%	0.0%

City of San Diego and Police Officers Association

- Manager's Proposal 1 pension funding shortfall

Fiscal Year	Rate Stabilization Rate	Projected Actuarial Rate	Actual Actuarial Rate
95-96	7.08%	8.60%	8.60%
96-97	7.33%	9.55%	9.55%
97-98	7.83%	10.87%	10.87%
98-99	8.33%	12.18%	10.86%
99-00	8.83%	12.18%	11.48%
00-01	9.33%	12.18%	11.96%
01-02	9.83%	12.18%	12.58%
02-03	10.33%	12.18%	15.59%

City of San Diego and Police Officers Association

- Manager's Proposal 2 funding shortfall

Fiscal Year	MP2 Rate Stabilization Rate	Projected Actuarial Rate	Actual A Actuarial Rate
02-03	15.59%	15.59%	15.59%
03-04	17.11%	17.11%	21.13%
04-05	11.33%	17.11%	27.94%
05-06	11.83%	17.11%	31.69%

San Diego City Employees' Retirement System UAAL

- June 30, 2006 Actuarial Valuation for the City of San Diego produced by Cheiron

SDCERS – City of San Diego		
Valuation Date	6/30/2006	6/30/2005
Unfunded Actuarial Liability (millions)	\$1,000.8	\$1,394.0
Funding Ratio	79.9%	68.2%

San Diego City Employees' Retirement System UAAL

- UAAL as calculated by City's actuary, Actuarial Services Company
 - \$1.21 billion
 - a difference of \$209.4 million
 - Why such a big difference?

San Diego City Employees' Retirement System UAAL

- Difference in the UAAL calculation between Cheiron and Actuarial Services Company because use of one-year changes
 - Investment performance accounted for \$158.6 million
 - Contributions in excess of expected accounted for \$105.6 million
 - Changing of the asset smoothing to market value accounted for \$183.3 million

Report to San Diego City Council

April 16, 2007

By Joseph Esuchanko

Services Provided

- Gain thorough familiarity with the history and structure of SDCERS
- Replicate Cheiron's June 30, 2005 actuarial valuation
 - Actuarial Accrued Liability: +0.76%
 - Normal Cost Rate: -2.93%
 - Annual Required Contribution: -0.56%

Services Provided

- Study past SDCERS experience relative to actuarial assumptions
- Analyze and compare actuarial methods of calculating liabilities, actuarial methods of smoothing assets and actuarial assumptions
- Illustrate effects of changes in actuarial methods and assumptions

Services Provided

- Assist Audit Department in preparation of June 30, 2003 CAFR
- Determine financial effects of MP1, MP2 and the Corbett Settlement
- Testify in the matter of San Diego City Employees' Retirement System v. San Diego City Attorney Michael J. Aguirre, et al.

Services Provided

- Present report on SDCERS underfunding
- Present report on strategies for pension reform
- Replicate Cheiron's June 30, 2006 actuarial valuation
 - Actuarial Accrued Liability: +0.71%
 - Normal Cost Rate: -0.71%
 - Annual Required Contribution: +0.73%

Services Provided

- Prepare expert report in the matter of San Diego Police Officers' Association v. City of San Diego, et al.
- Evaluate DROP cost neutrality
- Provide cost estimates for labor negotiations

June 30, 2006 Actuarial Valuation

- Able to replicate Cheiron report within plus or minus 0.75% for actuarial accrued liability, normal cost rate and annual required contribution
- IRS guideline is plus or minus 5%
- Conclusion – June 30, 2006 actuarial valuation can be relied upon for accuracy

June 30, 2006 Actuarial Valuation

- Calculation of liability for terminated members entitled to future benefits
 - Assumes those with less than 10 years of service will take refund of accumulated contributions, without reciprocity, and those with 10 or more years of service will take service retirement allowance, subject to reciprocity
 - All are entitled to reciprocity or refund of accumulated contributions
 - Increases unfunded actuarial accrued liability by \$16 million and annual required contribution by \$0.9 million

June 30, 2006 Actuarial Valuation

- Actuarial value of assets was set equal to market value of assets (fresh start)
 - If fresh start were assumed to occur 4 years earlier, actuarial value of assets would be only \$13 million less
 - However, at June 30, 2007, smoothing would consider only one year of experience rather than four years
 - Difference could be as great as \$125 million
- Actuarial value of assets increased by \$184 million, due to change in smoothing method.

Actuarial Accrued Liability

- Amount dependent upon method of calculation, e.g. Projected Unit Credit (PUC) or Entry Age Normal (EAN), as well as actuarial assumptions
- GASB 27 allows 6 different methods of calculation – Entry Age, Frozen Entry Age, Projected Unit Credit, Attained Age, Frozen Attained Age and Aggregate

Actuarial Accrued Liability

- Entry Age - \$5.192 billion
- Projected Unit Credit - \$4.983 billion
- Entry Age increase equals \$209 million

Unfunded Actuarial Accrued Liability

- Amount dependent upon calculation of actuarial accrued liability and calculation of actuarial value of assets
- Actuarial value of assets
 - Fresh start at June 30, 2006 - \$3.982 billion
 - Fresh start at June 30, 2002 - \$3.969 billion
 - Conclusion – No material difference at June 30, 2006; however, difference at June 30, 2007 will be material (approximately \$125 million understatement)
 - June 30, 2006 fresh start is more conservative

Unfunded Actuarial Accrued Liability

- Unfunded actuarial accrued liability equals actuarial accrued liability minus actuarial value of assets
 - Entry Age - \$1.210 billion
 - Projected Unit Credit - \$1.001 billion
 - Entry Age increase equals \$209 million

Amortization

- 27 years
 - Entry Age - \$71 million
 - Projected Unit Credit - \$59 million
 - Entry Age increase equals \$12 million
- 20 years
 - Entry Age - \$86 million
 - Projected Unit Credit - \$72 million
 - Entry Age increase equals \$14 million
- 20 year Entry Age increase over 27 year Projected Unit Credit equals \$27 million

Normal Cost

- Amount dependent upon funding method chosen
 - Entry Age - \$70 million
 - Projected Unit Credit - \$79 million
 - Entry Age decrease equals \$9 million

Annual Required Contribution

- Amount dependent upon funding method chosen
- Equals Normal Cost plus Amortization, with 27 year amortization
 - Entry Age - $\$70 + \$71 = \$141$ million
 - Projected Unit Credit - $\$79 + \$59 = \$138$ million
- Entry Age increase equals \$3 million

Annual Required Contribution

- Equals Normal Cost plus Amortization, with 20 year amortization
 - Entry Age - $\$70 + \$86 = \$156$ million
 - Projected Unit Credit - $\$79 + \$72 = \$151$ million
- Entry Age increase equals \$5 million
- 20 year Entry Age increase over 27 year Projected Unit Credit equals \$18 million.

Actuarial Assumptions

- Experience Study
- Key assumptions
 - Investment return
 - Inflation rate
 - Salary increase rate
 - Rates of termination
 - Rates of disability
 - Rates of retirement

Actuarial Soundness

- Is SDCERS actuarially sound?
- Yes, because
 - June 30, 2006 funded ratio is 79.9%.
 - The annual required contribution calculates the liability for all participants and beneficiaries, determines the normal cost and amortization payments for the unfunded actuarial accrued liability over a reasonable period and has established a method for determining and amortizing gains and losses.

Actuarial Soundness

- Is SDCERS actuarially sound?
- Yes, because
 - At June 30, 2006, the market value of assets was only \$118 million less than the liability of the System, were it to freeze all benefits (97.1% funded ratio).
 - There is no material risk that SDCERS will be unable to pay the benefits which the City has agreed to pay.

SCHWARTZ, STEINSAPIR, DOHRMANN & SOMMERS LLP

LAWYERS

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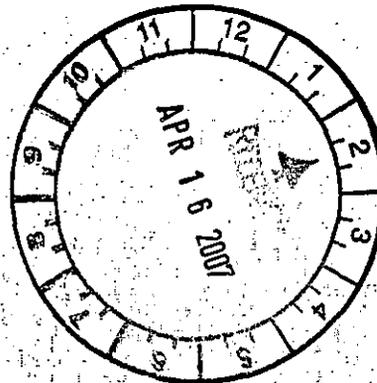
LAURENCE D. STEINSAPIR
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RICHARD D. SOMMERS
STUART LIBICKI
MICHAEL R. FEINBERG
MICHAEL D. FOUR
MARGO A. FEINBERG
HENRY M. WILLIS*
D. WILLIAM HEINE
CLAUDE CAZZULINO
DOLLY M. GEE
JUDY L. VON ENDE
TAMRA M. BOYD
ZOE S. MOSKOWITZ
SUSAN M. SWAN
AMANDA R. CANNING
RICHARD M. SWARTZ

*MEMBER OF CA AND NY BARS
**MEMBER OF PA AND CA BARS

April 16, 2007

VIA FACSIMILE AND U.S. MAIL

Public Employment Relations Board
Los Angeles Regional Office
3530 Wilshire Boulevard
Suite 1435
Los Angeles, California 90010-2334



Re: Amended Unfair Practice Charge
Deputy City Attorney Association, Charging Party
and- City of San Diego, Office of the City Attorney
PERB Case No. LA-CE-359-M

Dear Gentlepersons:

Enclosed for filing in regard to the above-referenced case please find AMENDED UNFAIR PRACTICE CHARGE against the above-named Employer.

Sincerely,

Amanda R. Canning
Amanda R. Canning

ARC:eb

Enclosure

cc: Michael Aguirre, Esq. (w/encl; Via Facsimile and U.S. Mail)
City Attorney, City of San Diego

Andrew Jones, Esq. (w/encl.; Via Facsimile and U.S. Mail)
Deputy City Attorney, City of San Diego



STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD
UNFAIR PRACTICE CHARGE

DO NOT WRITE IN THIS SPACE: Case No: _____ Date Filed: _____

INSTRUCTIONS: File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

a. Full name: Deputy City Attorney Association
 b. Mailing address: 1200 Third Avenue, Suite 1100, San Diego, CA 92101
 c. Telephone number: 619-236-6486
 d. Name, title and telephone number of person filing charge: Margo A. Feinberg, Esq., Attorney for Charging Party, 323-655-4700
 e. Bargaining unit(s) involved:

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION EMPLOYER

a. Full name: City of San Diego, Office of the City Attorney
 b. Mailing address: 1200 Third Avenue, Suite 1620, San Diego, CA 92101
 c. Telephone number: 619-236-6220
 d. Name, title and telephone number of agent to contact: Michael J. Aguirre, City Attorney, 619-236-6220

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:
 b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Government Code section 18524.)

a. Full name:
 b. Mailing address:
 c. Agent:

¹ An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569.

5. GRIEVANCE PROCEDURE

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes No

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- Educational Employment Relations Act (EERA) (Gov. Code sec. 3540 et seq.)
- Ralph C. Dills Act (Gov. Code sec. 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code sec. 3560 et seq.)
- Meyers-Millias-Brown Act (MMBA) (Gov. Code sec. 3500 et seq.)
- Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code sec. 99560 et seq.)
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3, Gov. Code sec. 71630 - 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code sec. 71800 et seq.)

b. The specific Government or Public Utilities Code section(s), or PERB regulation section(s) alleged to have been violated is/are: Government Code Section 3509(b), PERB Regulation 32603(a) and (c)

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (a copy of the applicable local rule(s) MUST be attached to the charge):

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and not conclusions of law. A statement of the remedy sought must also be provided. (Use and attach additional sheets of paper if necessary).

SEE AMENDED EXHIBIT A

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on April 16, 2007

(Date)

at Los Angeles, California (City and State)

Margo A. Feinberg, Esq. (Type or Print Name)

Margo A. Feinberg (Signature)

Title, if any: Attorney for Charging Party

Mailing address: 6300 Wilshire Boulevard, Suite 2000, Los Angeles, CA 90048-5268

Telephone Number: () 323-655-4700

EXHIBIT A – AMENDED STATEMENT OF THE UNFAIR PRACTICE CHARGE

Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

c. Statement of Conduct Alleged to Constitute an Unfair Practice

The Deputy City Attorneys Association ("DCAA" or "Union") is the exclusive representative of the deputy city attorneys for the City of San Diego ("Employer" or "City"). The Union and the City are parties to a collective bargaining agreement due to expire on June 30, 2007. Parties are currently in negotiations for a new agreement.

On or about February 14, 2007, the Union requested that the City provide information and documentation relevant to matters involved in the bargaining of a new collective bargaining agreement, numbered 1 through 13. (See Exhibit 1)¹ On or about February 23, 2007, the City produced information responsive to some requests, agreed to produce specific information as to others, and refused to provide information responsive to other requests.

On or about February 28, 2007, the Union, by email, requested the information the City had previously agreed to produce, provided an explanation for why the City was required to produce information responsive to all of its requests, and requested the City provide a written refusal. (See Exhibit 2) On or about March 1, 2007, in a negotiations meeting, DCAA reiterated its previous requests, and the City orally refused to produce the information. Again, at this meeting, the Union requested the refusals be placed in writing.

On or about March 7, 2007, by email, the Union reiterated its request for a written response, and requested additional information. On or about March 8, 2007, the City provided selected documentation and responded in writing to DCAA's requests, again specifying its reasons for refusing to provide information. (See Exhibit 3)

- I. **Within the last six months, the Employer has violated the MMBA and PERB Regulation 32603(c) by refusing to meet and confer in good faith with DCAA, by failing to provide information necessary to the Union fulfilling its role as the exclusive bargaining representative and necessary to the meet and confer process, and by failing to provide information in a timely fashion.**

DCAA seeks to consider bargaining over conditions not included in the previous MOU, including provisions which address such issues as "just cause" for discipline or dismissal, "progressive discipline," severance pay, a right to have a union representative present in certain meetings, and protections from discrimination.

¹ Exhibits 1 through 3 are attached to the charge filed on March 15, 2007, incorporated herein by reference.

Accordingly, on or about February 14, 2007, DCAA requested the City respond to tailored, largely numeric requests, to provide DCAA with enough information to determine the magnitude of its perceived concern and the nature of the language needed to address such concerns. On or about February 28, 2007, the Union, by email, reiterated its request for information.

In a negotiations meeting on March 1, 2007 and by letter dated March 8, 2007, the City refused to provide data responsive to DCAA's requests.

This information is necessary so that DCAA may effectively engage in collective bargaining by properly assessing the scope of the problem and the need for such provisions. The bargaining unit has approximately 133 members. The City has informed the Union that since 2004 through the end of 2006 approximately 8 members were terminated (2 more have been terminated in the last 2 weeks) and 91 members resigned (not including 4 who retired). A majority of these terminations and resignations have occurred in the last year. The Union has reason to believe that many of the resignations were given in the face of being told that the employee was to be terminated. In order to engage in the meet and confer process, the Union requires additional information to determine the circumstances surrounding the terminations and resignations in order to prepare its bargaining strategy.

The request is not burdensome. Many of DCAA's requests require only that the City count the number of cases in its files, not that it provides any substance about any particular case. Moreover, as noted the unit has only 133 members. This is just a very small fraction of the number of employees of the City of San Diego.

DCAA requested, and the City refused to provide, information relevant to its proposed Article 12 "just cause" clause and Article 26 "Severance Payment," including:

- the number of unit members who were informed that they were to be terminated but were not terminated in 2004, 2005, and 2006 respectively;
- the number of unit members who were suspended for disciplinary reasons in 2004, 2005, and 2006 respectively;
- the number of letters of reprimand issued to unit members in 2004, 2005, and 2006 respectively;
- the number of unit members who filed DFEH charges against the City in 2004, 2005, and 2006 respectively;
- the number of unit members who filed EEOC charges against the City in 2004, 2005, and 2006 respectively;
- the number of unit members who filed claims against the City related to their employment in 2004, 2005, and 2006 respectively;

DCAA requested, and the City refused to provide, information relevant to its proposed Article 12 "progressive discipline" clause, including:

- the number of unit members who were informed that they were to be terminated but were not terminated in 2004, 2005, and 2006 respectively;
- the number of unit members who were suspended for disciplinary reasons in 2004, 2005, and 2006 respectively;

- the number of letters of reprimand issued to unit members in 2004, 2005, and 2006 respectively;
- the number of unit members who filed DFEH charges against the City in 2004, 2005, and 2006 respectively;
- the number of unit members who filed EEOC charges against the City in 2004, 2005, and 2006 respectively;
- the number of unit members who filed claims against the City related to their employment in 2004, 2005, and 2006 respectively;

DCAA requested, and the City refused to provide, information relevant to its proposed Article 14 "employee representation" clause, including:

- the number of unit members who were informed that they were to be terminated but were not terminated in 2004, 2005, and 2006 respectively;
- the number of unit members who were suspended for disciplinary reasons in 2004, 2005, and 2006 respectively;
- the number of letters of reprimand issued to unit members in 2004, 2005, and 2006 respectively;
- the number of unit members who filed DFEH charges against the City in 2004, 2005, and 2006 respectively;
- the number of unit members who filed EEOC charges against the City in 2004, 2005, and 2006 respectively;
- the number of unit members who filed claims against the City related to their employment in 2004, 2005, and 2006 respectively;

DCAA requested, and the City refused to provide, information relevant to its proposed Article 17 "nondiscrimination" clause, including:

- the number of unit members who were informed that they were to be terminated but were not terminated in 2004, 2005, and 2006 respectively;
- the number of unit members who were suspended for disciplinary reasons in 2004, 2005, and 2006 respectively;
- the number of letters of reprimand issued to unit members in 2004, 2005, and 2006 respectively;
- the number of unit members who filed DFEH charges against the City in 2004, 2005, and 2006 respectively;
- the number of unit members who filed EEOC charges against the City in 2004, 2005, and 2006 respectively;
- the number of unit members who filed claims against the City related to their employment in 2004, 2005, and 2006 respectively;

DCAA requested, and the City refused to provide, information relevant to its proposed and current Article 7, Agency Shop provisions, and the wage and merit pay proposals, including:

- the salary and step placement of each member of the unit during the period from January 2005 to present; and
- any written documentation reflecting the criteria used to grant any movement on the salary and step placement as reflected in information request above.

The salary and step placement of each member and the criteria used to grant any movement on the salary and step placement are necessary as to the current contract and the contract under negotiations.

As to the current contract, it is necessary for the Union to know this information because it is responsible for enforcing the proper deduction or refund of the agency fee. The collective bargaining agreement and the Union's bylaws link union dues and agency fees to a percentage of salary. All unit members must pay dues or fees, requiring the disclosure of both the member's identify and salary. The City's alternatives do not achieve the purpose of properly calculating union dues and ensuring that the Union can enforce the contract, and file grievances or give direction to adjust an individuals deduction if need be. Indeed, the Union has contended that during the existing contract the employer has and may still be using the wrong base salary to calculate the deduction.

As to the contract under negotiation, the Union needs the requested information in order to gauge the global economic impact of the wage proposal on member benefits and union dues. The information is also needed to assess whether there is a disparity as to how members are currently being moved along the salary schedule so that the Union can bargain over this structure in its new agreement.

The City has offered some alternatives in its letter. These were not offered at the table, nor did they offer to negotiate over those alternatives. Regardless, the alternatives offered do not address the concern. Nor, has the City provided the information using any of these alternatives, proving these alternatives were just offered to mask the all out refusal. The City has failed to make out a privacy argument for these individuals. Indeed, the City has recently provided the press the names and salaries of non unit members in the City Attorney's office.

The Union requests that the Board order the City to provide the requested information.

- II. **Within the last six months the Employer has violated MMBA and PERB Regulation 32603(a) by imposing or threatening to impose reprisals on employees, discriminating or threatening to discriminate against employees, or otherwise to interfering with, restraining, or coercing employees because of their exercise of rights guaranteed by this chapter, and denying to employee organizations rights guaranteed to them by this chapter, including denying certain employees their right to be represented by their certified exclusive bargaining agent.**

On or about February 15, 2007, Assistant City Attorney Chris Morris called in a bargaining unit member, on a matter he believed could lead to discipline. This unit member requested a Union representative be present in the meeting. He was informed that he could only have a Union representative present if the meeting was a termination meeting.

The Assistant City Attorney shared the discipline with the unit member, placed him on probation, and told him that the information was going to be placed in his personnel

file. The Unit member's request for a union representative was again rejected. The Assistant City Attorney demanded the unit member give his version of events about various cases right then and there without any opportunity to prepare a response.

On or about January 29, 2007, the Union submitted its proposed contract to the City, which included Article 14, "Employee Representation," a clause that would memorialize and extend a union member's right to union representation in disciplinary meetings. In a negotiation meeting on or about February 8, 2007 the City asserted its position that it was not, nor has it ever been, under a legal duty to permit a unit member to bring a union representative to disciplinary meetings. The City representative indicated that since these were non-civil service employees, the City did not know these employees had these rights. The City asked for legal support to the contrary. While informing the City of its obligation at that session, on or about February 15, 2007, by email the Union provided such legal authority.

On or about February 23, at a negotiation session, the Union asked the City to inform its supervisors of the state of the law with respect to employees right to union representation. The City representative said it would deal with it in the current negotiations. It did not indicate it would take any steps to remedy the situation as it presently exists. We have reason to believe that the City is currently not providing these rights to the Unit members.

The Union, as the exclusive representative of its members, has a right to ensure the rights of its members.

The instant unit member, like all individual union members, has a right to be represented upon request. The unit member's rights were violated when, after he made a request for representation, he was not permitted to have a union representative present during disciplinary discussions, as were the Union's right to represent it's members.

III. Within the last six months, the City has violated the MMBA and PERB Regulation 32603(c) by refusing to meet and confer in good faith with the Union, the exclusive representative of the City Attorneys of San Diego, by refusing to bargain over topics within the scope of bargaining.

At a negotiation meetings on or about February 3, 2007 and March 1, 2007, the City's bargaining representatives, represented that the City would not bargain over "just cause" and "progressive discipline" provisions because the City maintains it would be unlawful under the City's Charter Sections 40, 117 and 30. This is not an accurate statement of the City's Charter and Code. Such topics are mandatory subject of bargaining.

Specifically,

1. Charter Section 40 provides in pertinent part:

"The City Attorney shall appoint such deputies, assistants, and employees to serve him or her, as may be provided by ordinance of the Council, but all appointments

of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter.”

Note all MOU's are approved by the City Council.

2. Charter 117 indicates that the deputy city attorneys are unclassified (i.e. not covered by Civil Service)
3. Charter Section 30 provides:

Removal of Unclassified Officers and Employees Officers and employees in the unclassified service appointed by the Manager or other appointing authority not under control of the Manager may be removed by such appointing authority at any time.

Appropriate rules and regulations shall be promulgated to establish procedures as may be necessary by which the dismissal provided for in this article shall be processed and effectuated.

Nothing contained herein shall be construed as in any way limiting the authority and power of the Manager or such other appointing authority not under the control of the Manager to remove any such unclassified officer or employee appointed or employed by them and any order effecting said removal shall be final and conclusive.

This section on its face indicates that rules and regulations shall be promulgated regarding dismissal. Such rules and regulations are mandatory topics of bargaining.

The Union requests the Board order the City to bargain in good faith as to the inclusion of "just cause" and "progressive discipline" provisions.

- IV. **Within the last six months, the City has violated the MMBA and PERB Regulation 32603(c) by refusing to meet and confer in good faith with DCAA, by failing to provide information necessary to the Union fulfilling its role as the exclusive bargaining representative and necessary to the meet and confer process, and by failing to provide information in a timely fashion.**

On or about March 7, 2007, by email, the Union requested that the City produce information relevant to the review of and merit increases provided to Deputies 1 through 4.

Specifically, the Union requested the names of Deputies 1 through 3 employed since January 2006, the dates these employees were reviewed, and whether a merit increase was provided. The Union further requested any written communication showing that the outcome of the review was communicated to the Deputy.

For Deputy 4s, the Union requested any written documentation showing that said Deputies employed by the City since January 2006 requested a review, whether the

review was performed, and any documentation communicating the outcome of the review to the Deputy so reviewed.

By letter dated March 21, 2007, the City refused, for all Deputies 1 through 4, to provide the names, salary, and step information, reasserting its same reasons set forth in its letter dated March 8, 2007. The City only produced the names of Deputies who were employed since January 2006, and continue to be employed currently, despite the Union's interest in all employees, currently employed or not, since January 2006. The City also refused to provide unredacted names, salary, and step information associated with merit increases resulting from employment reviews.

For similar reasons specified in Roman I above, the Union must be provided this information, unredacted, in order to know whether Deputies were reviewed in compliance with Article 13 of the current contract mandating review of Deputies 1 through 2 semi-annually, Deputy 3s annually, and Deputy 4s annually upon request, and to enforce violations therefrom. The names produced by the City give no indication as to union membership status, time of hire, Deputy rank, whether a merit review was requested or completed, whether a raise was awarded, or any other information that responds to the Union's request.

Furthermore, the Union requires this information for purposes of negotiating a new contract in order to gauge the global economic impact of the wage proposal on member benefits, a mandatory bargaining subject. The City has refused to bargain over a wage proposal under the pretext that Deputies receive merit-based raises. If the City is going to take this position, the Union must have information necessary to determine whether merit raises were in fact granted, and more generally, whether merit-based compensation is a valid method of compensating its members. Furthermore, the Union must be provided the merit criteria itself and the methodology for determination and notification of merit review compensation so as to assess the effectiveness of the City's only compensation tool. Without this information, the Union is unable to access the economic consequences of the proposal, and cannot effectively engage in the collective bargaining process.

As noted above, the information is also needed to assess whether there is a disparity as to how members are currently being moved along the salary schedule so that the Union can bargain over this structure in its new agreement.

V. Within the last six months, the City has violated the MMBA and PERB Regulation 32603(c) by going through the motions of negotiations, but taking action to delay and prevent agreement.

To engage in good faith bargaining, the City must leave an opening for negotiation in connection with mandatory subjects of bargaining. However, as detailed below, the City has refused to bargain over mandatory subjects of bargaining, including wages and compensation, discipline and discharge criteria, and grievance procedures, anti-discrimination provisions, indemnification and many others proposals. Furthermore, the City has engaged in regressive bargaining with respect to flex benefit plans. Thus

far in the negotiation process, the City has offered no meaningful changes to the current agreement, economic or otherwise. The City's responses to the many proposals offered by the Union have been illusory. Some of the examples of the City's actions are as follows.

Wages: As specified above, the City refuses to bargain over wages, other than a merit-based scheme. Otherwise stated, the City has refused to consider an across-the-board wage increase, a cost-of-living adjustment, a flat administrative pay award, or even a merit increase directly tied to mutually agreed to performance evaluations, as proposed by the Union.

Apart from refusing to provide any information to the Union about its merit increase system, the City refuses to engage in any dialog about factors considered as part of the merit evaluation, despite the fact that the current contract, Article 13, states:

“the parties recognize that management of the City Attorney's office needs more time to develop the performance evaluation process for employees. As such, during the term of this MOU, the city Attorney's office will work on developing a performance evaluation process for employees. DCAA will be invited to provide input on the performance evaluation process, and the city Attorney's office will consider that input in the development of the performance evaluation process.”

The parties have agreed to develop a performance evaluation process. The Union has provided the City with model performance evaluations. The City has not acknowledged the Union's input, nor has it entertained any discussions indicating that it intends to include a process within a new collective bargaining agreement, as was clearly the intent under the existing agreement. This is further evidenced by the fact that the City's comprehensive proposal does not include any verbiage on performance evaluations.

Discipline/Discharge: As expressed in Roman I and III above, the City has refused to bargain over any kind of just cause standard for discipline or discharge. In light of the City's refusal to bargain over a just cause provision, the Union proposed Article 26, a severance pay agreement to provide some recognition for service when employees are summarily let go. In response, the City claimed without any support the provision was an unlawful gift of public funds. This is a misstatement of the law. Public employee severance packages are often found in other California collective bargaining agreements, including ones covering Deputy City Attorneys in other cities.

Grievance Procedures: The City will not consider any proposal that grants any form of review of disciplinary action or any dispute under the collective bargaining agreement leaving full discretion to interpretation of the agreement and facts in dispute to the City Attorney himself. This outcome makes the agreement completely one-sided. Thus far, the City's position has been “we have control. Why should we give it up.” The Union has offered proposals that at a minimum provide review of grievances in a neutral advisory body, or alternatively, a City appointee outside the City Attorney's Office. Vesting review in a more neutral individual or entity permits facts to be evaluated before a final decision is made that so severely impacts the members of the unit.

Simply, the City has left no opening for negotiation on any grievance-related provision of a new contract.

Regressive Bargaining: The City has engaged in regressive bargaining with respect to flex benefits. While at one point the City proposed \$6,500 in flex benefits to those who waived out of the City Program, it returned to the table with a reduced offer of \$4,000 (Note: the existing agreement provides for \$ 8,575). A large percentage of the Unit elects this benefit.

Moreover, the City engaged in bad faith bargaining by prematurely and unlawfully declaring impasse. On April 13, 2007, the City declared impasse without having first met impasse requirements. Approximately two weeks prior to April 13, 2007, the City notified the Union that it would declare impasse on April 13, 2007, regardless of the status of bargaining, or the parties' frequency and engagement in bargaining leading up to April 13, 2007, based upon its need to comply with City Charter Section 290.

The City represents that it must present a Salary Ordinance to the City Council by April 15, 2007. However, Section 290(a) explicitly states that the proposal must be in accordance with the Meyers-Milias-Brown Act (MMBA). The MMBA, and the authority that interprets it, specifies standards under which impasse may be declared. Even if the City Ordinance did not explicitly acknowledge compliance with the MMBA (which it does), the MMBA would nonetheless take precedence over local law. The City's position is further untenable because they have presented no nexus as to how presentation of the salary ordinance to the City Council on April 16, 2007 would prevent further bargaining or implementation of any proposal on the table. The City has not provided any draft document it has or anticipates presenting to the City Council with respect to the Salary Ordinance, including but not limited to a budget proposal. The April 13, 2007 deadline is therefore arbitrary and preordained, and cannot constitute a valid declaration of impasse.

The Union does not support a declaration of impasse. The Union has engaged in a good faith effort to bargain fairly. It continues to produce substantive bargaining proposals to the City for its consideration, despite the City's refusal to produce information relevant to mandatory subjects of bargaining. Accordingly, the Union's ability to meaningfully bargain has been hampered by a lack of requested information. Nonetheless, the Union does not believe that continued discussion would be futile. Indeed, if the information requested were to be provided, the Union contends further progress could be made in this process. The Union dedication to continuing negotiations is sincere; the Union has and will continue to make itself available to bargain. Furthermore, the Union has filed Unfair Labor Practice Charges with the Public Employee Relations Board, which are currently still pending. Since these charges go to the heart of the bargaining over the instant agreement, these charges of bad faith bargaining must be resolved before impasse may be declared.

Due to the City's declaration of impasse on April 13, 2007 and its movement to institute its last, best and final offer, the City's response to these amended unfair labor practice charges is urgent. The Union prays that PERB order an expedited response to these amended charges from the City in order to minimize any further harm to the parties.

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PROOF OF SERVICE BY FACSIMILE AND MAIL

Deputy City Attorney Association, Charging Party
-and- Office of the City Attorney, City of San Diego, Employer
PERB Case No. LA-CE-359-M

ELIZABETH BEAUDINE certifies as follows:

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 6300 Wilshire Boulevard, Suite 2000, Los Angeles, California 90048-5268. Our facsimile number is 323-655-4700.

On April 16, 2007, I served the foregoing document(s) described as:

AMENDED UNFAIR PRACTICE CHARGE AGAINST EMPLOYER and EXHIBIT A, AMENDED STATEMENT OF THE UNFAIR PRACTICE CHARGE

by transmitting the document by facsimile transmission and mail to the person(s) shown below, by placing a true and correct copy (copies) thereof in an envelope (envelopes) addressed as follows:

Michael Aguirre, Esq.
City Attorney, City of San Diego
Civic Center Plaza
1200 Third Avenue, Suite 1620
San Diego, California 92101
Facsimile Number: (619) 236-7215

The facsimile transmission report indicated that the transmission was complete and without error.

And by then sealing said envelope(s) and placing it (them) for collection and mailing on that same date following the ordinary business practices of Schwartz, Steinsapir, Dohrmann & Sommers LLP, at its place of business, located at 6300 Wilshire Boulevard, Suite 2000, Los Angeles, California 90048-5268. I am readily familiar with the business practices of Schwartz, Steinsapir, Dohrmann & Sommers LLP for collection and processing of correspondence for mailing with the United States Postal Service. Pursuant to said practices the envelope(s) would be deposited with the United States Postal Service that same day, with postage thereon fully prepaid, at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing in the affidavit. (C.C.P. §1013a(3))

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 16, 2007, at Los Angeles, California.


ELIZABETH BEAUDINE

Good Afternoon Council President Peters and Council Members:

I am very pleased to announce that the San Diego Police Officers Association has reached a tentative agreement with the City of San Diego.

The agreement is complex and although you are probably familiar with most of the details, I would like to spend a few minutes emphasizing the important aspects of this tentative agreement. I'll begin with some background information about the current state of the police department, followed by a simplified analysis of the Buck Salary Survey, and finish with a briefing on how this tentative agreement was reached and how it will positively impact the San Diego Police Department.

Background:

In April of 2006, Chief Lansdowne stood before this Council and stated that he had 135 vacancies for sworn officers. Today, we have 100 more vacancies and our Independent Budget Analyst, Ann Tevlin, predicted that we will finish the year with approximately 234 unfilled positions. With more job offers being made this month to our veteran officers by the California Department of Justice and the San Diego District Attorneys' Office, it is more probable that we will finish the year closer to 250 unfilled positions.

How did it ever reach this point? How did we go from losing roughly 15 officers to other police agencies during fiscal years 2001 through 2005, to losing 76 officers to other agencies in FY 2006. This massive attrition by SDPD officers to other agencies, which is five times our previous average, may actually be surpassed in this current fiscal year.

The Buck Study

The answer behind officer attrition in San Diego PD was very simple to identify with the completion of the Buck Salary Study.

The study revealed that SDPD officers pay more to fund their pensions than any other agency in the study and their health care costs were the third highest of the cities surveyed. When the study was narrowed to focus on the 11 cities that SDPD were transferring to in the highest numbers, we found that officers received the following AVERAGE take home pay increases by leaving SDPD:

	Percentage Increases	Dollar Increases	
PO Recruit	32-45%	\$11,310-16,337	\$13,823 (Average)
PO I	27-50%	\$10,646-21,280	\$15,963 (Average)
POII	13-22%	\$6,851-12,439	\$9,645 (Average)
Sgt.	18-29%	\$13,345-16,360	\$14,853 (Average)
Lt.	10-18%	\$8,080-16,409	\$12,244 (Average)

Negotiations

In January, the SDPOA and the City entered into negotiations with a commitment to address the recruitment and retention crisis plaguing the San Diego Police Department by closing this compensation gap.

During negotiations, the City and POA recognized that there are only three ways to increase the take home pay for employees. The first would be for the City of San Diego to pay an increased contribution or pick-up towards an officer's pension. As you know, many of the cities analyzed in the study pay 100% of their officer's pension costs. The City of San Diego does not provide this benefit to its employees and San Diego Police Officers pay more to fund their pensions than any other agency included in the salary survey.

The second way to increase the take home pay for officers is to simply increase their base salaries. The San Diego Police Department is so far behind in compensation that we found that the take home pay for recruits in several of the cities studied was actually higher than that of SDPD's twenty year veterans. Every city in the study paid their newest officers, POI's, more than SDPD's veterans. In fact, it was determined that the City would have to provide an immediate 14% pay raise to veteran officers just to move into a position where they would be paid more than an officer with 1-2 years experience in a neighboring city.

With this in mind, the City responded by agreeing to provide SDPD officers with a 6% increase effective July 1st, 2007, followed by a 2% salary increase effective Dec. 29th of 2007. In addition to these base salary increases, the City offered a 1% increase to officers who had obtained their Intermediate/Advance POST Certificates.

The POA recognized this significant financial commitment by the City and agreed to do its part to help the city cut costs. First, the SDPOA agreed to the elimination of the controversial FIT program, which provided officers workers compensations benefits if they were injured maintaining their fitness off-duty. Unlike firefighters, police officers, including most of our SWAT officers, do not get time to work out on duty even though they are required to pass fitness tests to remain on SWAT. The elimination of the FIT program will save the City over 2 million dollars per year.

The POA also agreed to a complete restructure of the flex benefit system, which included giving the City complete control to administer the health plans being offered and set how the flex dollars are allotted. This is the third way take home pay can be increased to employees.

Initially, the POA was highly skeptical about giving up its own health plan, since we had proven year after year that our plan provided our officers with competitive rates, excellent customer service, and benefits not provided by other plans. We doubted the City's claims that they could limit rate plan increases and actually roll back rates if we agreed to the elimination of our association's sponsored health plan. In response, the city removed our doubts by producing finalized rates for its health plan offered through PacifiCare that were 7.5% lower than in fiscal year 2007. In actual dollars, PacifiCare reduced its family plan \$990.00, its employee plus one dependant plan by \$659.00 and its employee plan by \$330.00.

The POA countered that the City had simply worked out a deal with PacifiCare to lower these rates for a limited time only and in fiscal year 2009 we believed rates would rise dramatically. We told the city they if they were so confident that reducing the number of plans offered to city employees would save money through competition; they should guarantee to provide 100% coverage to all employees seeking insurance coverage for themselves only, 80% coverage to officers seeking insurance for themselves and one dependant and finally, 60% percent coverage to employees seeking insurance for their families.

The POA also requested that the coverage percentages listed above, 100, 80, and 60, be linked to the highest priced Health and Dental HMO's being offered. By doing this, the flexible dollar amounts being offered to our employees increased or decreased by the following dollar amounts:

Flex Dollar Changes from the current \$5575 being offered.

Single Coverage Only - \$4,266 or \$1,309 decrease

Emp. + 1 Coverage - \$6,826 or \$1251 increase

Family Coverage - \$7,690 or \$2115 increase

The City agreed to set coverage in these amounts only if the POA agreed to reduce the amount received by officers who waive insurance to \$1000.00. This was an extremely difficult request for the POA to consider, since it meant that roughly 360 of our members would see their take home pay reduced by \$4482.00 or 6.6 percent of their take home dollars. The POA opposed the dollar amount for waivers being set at \$1000.00, and requested it be increased. The City countered that an increase in the dollar amount given to officers with insurance waivers, would be done by taking away flex dollars to those seeking insurance coverage only for themselves, as well those with dependants.

After much discussion, the POA Board reluctantly agreed to this concession. We did so knowing that the base pay raises for those with insurance waivers, roughly twenty percent of our membership, would be essentially cancelled out by this change. The POA Board believes that of the hundreds of officers who are thinking about leaving the San Diego Police Department, the majority are considering doing so because they simply can no longer afford to pay the health costs for their families under the current flex benefit system offered by the city.

For example, an officer who chose the PacifiCare Family Health Plan (FY 2007 cost \$13,242) and Concordia Dental HMO (FY 2007 cost \$564.00) incurred out of pocket expenses in the amount of \$8232.00. This means every two weeks officers under this plan were paying \$316.00 just to provide basic insurance coverage to their families. Under the new plan, officers who make the same health selection in FY 2008 will pay \$197.00 out of pocket or \$5192. This is a savings to the employee in the amount of \$3040.00.

The impact for those who choose Kaiser is even more dramatic under this restructured flexible benefit plan. For example, an officer with one dependent who chooses Kaiser this year will have his health benefits covered at 100%. Last year, the same employee with the same coverage incurred \$476.00 in out of pocket expenses. An employee who chose the Kaiser Family Health Plan and dental HMO last year paid \$3951 in out of pocket expenses. Under the new plan, they will pay \$2538.00 a savings of \$1413.00.

These savings would NOT be possible without health plan consolidation. In fact, PacifiCare has advised the City that it will increase its rates on average 10%, should plan consolidation not occur. This would mean that the PacifiCare rate listed above would actually increase 17.5%, which would provide more incentive for additional officers to leave in FY 2008.

By restructuring the flexible benefit plan, the city's plan is now similar to those offered by the agencies and cities competing for our highly coveted San Diego Police Officers. The flexible benefit plan also changes from what it was for many employees, a supplemental income plan, to a plan truly dedicated to paying the health care costs of San Diego Officers.

Finally, and most importantly, The POA agreed to the flexible benefit changes being sought by the city, with one final condition. The POA included language in the tentative agreement that if any bargaining unit was allowed to keep its sponsored health care plan, we reserved the right to reestablish the POA Health Plan. The City negotiating team agreed to this condition, because Mayor Sanders was adamant that the consolidation of health plans would save the city money and he planned on demanding it from all city bargaining units. It is estimated that the city will save \$775,000 dollars by implementing this change on police employees alone.

Conclusion:

The pay increases and flexible benefit listed above will have the following impact on San Diego Police Officers.

	% Difference in FY 2007	% Difference under tentative agreement needed to bring SDPD to the 50 percentile mark on the Buck Study.
PO Recruit	32-45%	17-26%
POI	27-50%	15-31%
POII	13-22%	2.6-6.9%
SGT.	18-29%	7.2-9.2%
LT.	10-18%	3.8-5.2%

The % differences in FY 2008 will increase by approximately 4%, as many of the agencies we are competing against also get their contractual raises*

It should be noted that hundreds of our POA members were very displeased with this tentative agreement. They feel that it does not go far enough to stem the loss of experience officers and it will not translate into increased hiring of new recruits.

They cite Mayor Sanders press release which shows that even after this pay raise and flex benefit restructure, Police Recruits will move from the 0 Percentile in the Buck Study to the 13 percentile. POI's started in the 13th percentile and this is where they will remain. Finally, POII's will move from the 6th percentile to the 33rd.

To be very honest, some officers, including me, initially wondered if it would be better to go to impasse with the City over base salary increases while agreeing to flex benefit restructuring and elimination of the FIT program. By doing this, the POA could have crafted a last, best and final offer to the city that would have showed Council that the SDPOA was committed to saving the city millions of dollars through reform projects important to Mayor Sanders, City Council, and the taxpayers of San Diego, while still arguing that more money was needed to attract and retain the best officers for our police department. A last, best and final offer such as this would have given the Council the opportunity to evaluate the salary needs of the San Diego Police Department, while ensuring the reform measures needed to save taxpayer dollars could still be implemented.

In the end, the Board of Directors of the San Diego Police Officers' Association put aside impasse discussions and unanimously endorsed this tentative agreement. We also encouraged our members to vote for it because it acknowledged the budgetary constraints of our City and represented a solid first step towards correcting the compensation problems within the San Diego Police Department by compromising and cooperating with our City leaders.

On behalf of the SDPOA Board and the overwhelming majority of our members who voted for it, I encourage you all support this tentative agreement. It is in the best interest of all who live, work and recreate in our amazing city.

Thank you,

Jeff Jordon
San Diego Police Officer's Association

IMPACT OF SALARY INCREASES ON TAKE HOME PAY FOR SUPRA FY 2008

% Differences represent increases needed to bring SDPD Officers into the 50 Percentile Range of comparison cities. Percentage differences will increase approximately 4%, as comparison cities receive their contractual raises on 07/01/2007.

POLICE RECRUIT – SINGLE

	BASE SALARY		TAKE HOME (Less Health, Life, Pension)			
	Minimum	Maximum	Minimum	Maximum		
Carlsbad	\$47,238	\$57,418	\$47,238	\$57,418		
Chula Vista	\$45,812	\$48,103	\$45,716	\$48,007		
El Cajon	\$51,522	\$56,867	\$51,522	\$56,867		
Escondido	\$47,832	\$47,832	\$47,603	\$47,603		
National City	n/a	\$59,880	n/a	\$59,864		
Oceanside	\$41,600	\$41,600	\$41,600	\$41,600		
San Diego Cty	\$34,652	n/a	\$30,675	n/a		
Anaheim	\$51,251	\$72,114	\$48,835	\$68,759		
Murrieta	\$0		\$0			
Riverside	\$47,376	\$47,376	\$47,376	\$47,376		
Riverside County	\$46,123	\$57,121	\$46,123	\$57,121		
Average	\$45,934	\$54,256	\$45,187	\$53,846	45,187	53,846
San Diego	\$37,236	\$44,856	\$33,877	\$40,810		44,844
Difference	\$8,698	\$9400	\$11,310	\$13,036		9002
%Difference	23%	21%	33%	32%		17%

NET TAKE HOME PAY

POLICE RECRUIT – EMPLOYEE + 1 DEPENDENT

	BASE SALARY		TAKE HOME (Less Health, Pension)			
	Minimum	Maximum	Minimum	Maximum		
Carlsbad	\$47,238	\$57,418	\$46,999	\$57,179		
Chula Vista	\$45,812	\$48,103	\$45,644	\$47,935		
El Cajon	\$51,522	\$56,867	\$48,804	\$54,149		
Escondido	\$47,832	\$47,832	\$47,013	\$47,013		
National City	n/a	\$59,880	n/a	\$58,725		
Oceanside	\$41,600	\$41,600	\$41,235	\$41,235		
San Diego County	\$34,652	n/a	27,994	n/a		
Anaheim	\$51,251	\$72,114	\$48,724	\$68,648		
Murrieta						
Riverside	\$47,376	\$47,376	\$47,296	\$47,296		
Riverside County	\$46,123	\$57,121	\$44,980	\$55,978		
Average	\$45,934	\$54,256	\$44,298	\$53,128	44,298	53,128
San Diego	\$37,236	\$44,856	\$32,265	\$39,198		43908
Difference	\$8,698	\$9400	\$12,033	\$13,930		9220
% Difference	23%	21%	37%	35%		21%

NET TAKE HOME PAY

POLICE RECRUIT – EMPLOYEE + FAMILY

	BASE SALARY		TAKE HOME			
	Minimum	Maximum	Minimum	Maximum		
Carlsbad	\$47,238	\$57,418	\$46,152	\$56,332		
Chula Vista	\$45,812	\$48,103	\$45,536	\$47,827		
El Cajon	\$51,522	\$56,867	\$45,970	\$51,316		
Escondido	\$47,832	\$47,832	\$46,235	\$46,235		
National City	n/a	\$59,880	n/a	\$58,111		
Oceanside	\$41,600	\$41,600	\$39,286	\$39,286		
San Diego County	\$34,652	n/a	\$26,581	n/a		
Anaheim	\$51,251	\$72,114	\$48,637	\$68,561		
Murrieta						
Riverside	\$47,376	\$47,376	\$45,980	\$45,980		
County of Riverside	\$46,123	\$57,121	\$42,838	\$53,836		
Average	\$45,934	\$54,256	\$43,023	\$51,942	43,023	51,942
San Diego	\$37,236	\$44,856	\$28,672	\$35,605		41277
Difference	\$8,698	\$9400	\$14,351	\$16,337		10665
% Difference	23%	21%	50%	45%		26%

SDPD pay changes from 32-50% difference to 17-26% average pay difference.

NET TAKE HOME PAY CONFIDENTIAL

POLICE OFFICER I – SINGLE

	BASE SALARY		TAKE HOME		
	Minimum	Maximum	Minimum	Maximum	
Carlsbad					
Chula Vista	\$48,922	\$70,492	\$48,826	\$70,396	
El Cajon					
Escondido	\$52,728	\$61,032	\$52,499	\$60,803	
National City					
Oceanside					
San Diego County	\$45,503	\$65,106	\$40,733	\$58,903	
Anaheim	\$55,203	\$73,965	\$52,609	\$70,527	
Murrieta					
Riverside	\$56,460	\$65,340	\$56,460	\$65,340	
County of Riverside	\$51,587	\$69,227	\$51,587	\$69,227	
Average	\$51,733	\$67,527	\$50,452	\$65,866	50,452
San Diego	\$43,752	\$52,800	\$39,806	\$48,037	43,759
Difference	\$7,981	\$14,727	\$10,646	\$17,829	6693
%Difference	18%	28%	27%	37%	15%

NET TAKE HOME PAY

POLICE OFFICER I – EMPLOYEE + 1 DEPENDENT

	BASE SALARY		TAKE HOME		
	Minimum	Maximum	Minimum	Maximum	
Carlsbad					
Chula Vista	\$48,922	\$70,492	\$48,754	\$70,324	
El Cajon					
Escondido	\$52,728	\$61,032	\$51,909	\$60,213	
National City					
Oceanside					
San Diego County	\$45,503	\$65,106	\$38,052	\$56,222	
Anaheim	\$55,203	\$73,965	\$52,498	\$70,416	
Murrieta					
Riverside	\$56,460	\$65,340	\$56,380	\$65,260	
County of Riverside	\$51,587	\$69,227	\$50,444	\$68,084	
Average	\$51,733	\$67,527	\$49,672	\$65,086	49,672
San Diego	\$43,752	\$52,800	\$38,194	\$46,425	42824
Difference	\$7,981	\$14,727	\$11,478	\$18,661	6848
%Difference	18%	28%	30%	40%	16%

NET TAKE HOME PAY

POLICE OFFICER I – EMPLOYEE + FAMILY

	BASE SALARY		TAKE HOME		
	Minimum	Maximum	Minimum	Maximum	
Carlsbad					
Chula Vista	\$48,922	\$70,492	\$48,646	\$70,216	
El Cajon					
Escondido	\$52,728	\$61,032	\$51,131	\$59,435	
National City					
Oceanside					
San Diego County	\$45,503	\$65,106	\$36,639	\$54,809	
Anaheim	\$55,203	\$73,965	\$52,411	\$70,329	
Murrieta					
Riverside	\$56,460	\$65,340	\$55,064	\$63,944	
County of Riverside	\$51,587	\$69,227	\$48,302	\$65,942	
Average	\$51,733	\$67,527	\$48,698	\$64,112	48,698
San Diego	\$43,752	\$52,800	\$34,601	\$42,832	40193
Difference	\$7,981	\$14,727	\$14,097	\$21,280	8505
%Difference	18%	28%	40%	50%	21%

SDPD pay changes from 27-50% difference to 15-31% average difference.

NET TAKE HOME PAY

CONFIDENTIAL

POLICE OFFICER II – SINGLE

BASE SALARY

	Minimum	Maximum
Carlsbad	\$55,660	\$67,655
Chula Vista	\$63,856	\$77,605
El Cajon	\$59,738	\$69,285
Escondido	\$64,092	\$70,656
National City	\$51,686	\$66,005
Oceanside	\$51,456	\$73,200
San Diego County	\$47,316	\$67,716
Anaheim	\$66,934	\$81,370
Murrieta	\$56,628	\$68,832
Riverside	\$68,652	\$72,060
County of Riverside	\$54,020	\$72,493
Average	\$58,185	\$71,534
San Diego	\$55,812	\$67,440
Difference	\$2373	\$4,094
%Difference	4.25%	6.0%

TAKE HOME

	Minimum	Maximum			
	\$55,660	\$67,655			
	\$63,760	\$77,509			
	\$59,738	\$69,285			
	\$63,863	\$70,427			
	\$51,670	\$65,989			
	\$51,456	\$73,200			
	\$44,661	\$64,539			
	\$63,813	\$77,599			
	\$56,628	\$68,832			
	\$68,652	\$72,060			
	\$54,020	\$72,493			
	\$57,629	\$70,871	57,629	70,871	
	\$50,778	\$61,357	56158	67697	
	\$6,851	\$9,514	1471	3174	
	13%	15%	2.6%	4.6%	

NET TAKE HOME PAY

POLICE OFFICER II – EMPLOYEE + 1 DEPENDENT

BASE SALARY

	Minimum	Maximum
Carlsbad	\$55,660	\$67,655
Chula Vista	\$63,856	\$77,605
El Cajon	\$59,738	\$69,285
Escondido	\$64,092	\$70,656
National City	\$51,686	\$66,005
Oceanside	\$51,456	\$73,200
San Diego County	\$47,316	\$67,716
Anaheim	\$66,934	\$81,370
Murrieta	\$56,628	\$68,832
Riverside	\$68,652	\$72,060
County of Riverside	\$54,020	\$72,493
Average	\$58,185	\$71,534
San Diego	\$55,812	\$67,440
Difference	\$2373	\$4,094
%Difference	4.25%	6.0%

TAKE HOME

	Minimum	Maximum			
	\$55,421	\$67,416			
	\$63,688	\$77,437			
	\$57,020	\$66,567			
	\$63,273	\$69,837			
	\$50,531	\$64,850			
	\$51,091	\$72,835			
	\$41,980	\$61,858			
	\$63,701	\$77,488			
	\$55,757	\$67,961			
	\$68,572	\$71,980			
	\$52,877	\$71,350			
	\$56,719	\$69,961	56,719	69,961	
	\$49,166	\$59,745	55222	66762	
	\$7,553	\$10,216	1497	3199	
	15%	17%	2.7%	4.8%	

NET TAKE HOME PAY

POLICE OFFICER II – EMPLOYEE + FAMILY

BASE SALARY

	Minimum	Maximum
Carlsbad	\$55,660	\$67,655
Chula Vista	\$63,856	\$77,605
El Cajon	\$59,738	\$69,285
Escondido	\$64,092	\$70,656
National City	\$51,686	\$66,005
Oceanside	\$51,456	\$73,200
San Diego County	\$47,316	\$67,716
Anaheim	\$66,934	\$81,370
Murrieta	\$56,628	\$68,832
Riverside	\$68,652	\$72,060
County of Riverside	\$54,020	\$72,493
Average	\$58,185	\$71,534
San Diego	\$55,812	\$67,440
Difference	\$2373	\$4,094
%Difference	4.25%	6.0%

TAKE HOME

	Minimum	Maximum			
	\$54,574	\$66,569			
	\$63,580	\$77,329			
	\$54,186	\$63,733			
	\$62,495	\$69,059			
	\$49,917	\$64,236			
	\$49,142	\$70,886			
	\$40,567	\$60,444			
	\$63,614	\$77,401			
	\$52,769	\$64,973			
	\$67,256	\$70,664			
	\$50,735	\$69,208			
	\$55,348	\$68,591	55,348	68,591	
	\$45,573	\$56,152	52591	64,130	
	\$9,775	\$12,439	2,757	4,461	
	21%	22%	5.2%	6.9%	

SDPD pay changes from 13-22% difference to 2.6-6.9% average difference.

CONFIDENTIAL

NET TAKE HOME PAY POLICE SERGEANT – SINGLE

BASE SALARY	Minimum		Maximum		TAKE HOME	
	Minimum	Maximum	Minimum	Maximum		
Carlsbad	\$71,038	\$86,347	\$71,038	\$86,347		
Chula Vista	\$73,445	\$89,294	\$73,349	\$89,198		
El Cajon	\$69,120	\$84,204	\$69,120	\$84,204		
Escondido	\$70,656	\$90,180	\$70,427	\$89,951		
National City	\$68,244	\$82,956	\$68,228	\$82,940		
Oceanside	\$88,824	\$93,252	\$88,824	\$93,252		
San Diego County	\$77,856	\$81,744	\$74,419	\$78,207		
Anaheim	\$95,098	\$99,861	\$90,709	\$95,258		
Murrieta	\$73,272	\$89,064	\$73,272	\$89,064		
Riverside	\$79,440	\$91,944	\$79,440	\$91,944		
County of Riverside	\$66,617	\$87,069	\$66,617	\$87,069		
Average	\$75,782	\$88,719	\$75,040	\$87,948	75,040	87,948
San Diego	\$67,752	\$81,900	\$61,641	\$74,513		82048
Difference	\$8,030	\$6,819	\$13,399	\$13,345		5900
%Difference	12%	8%	22%	18%		7.2%

NET TAKE HOME PAY POLICE SERGEANT – EMPLOYEE + 1 DEPENDENT

BASE SALARY	Minimum		Maximum		TAKE HOME	
	Minimum	Maximum	Minimum	Maximum		
Carlsbad	\$71,038	\$86,347	\$70,799	\$86,108		
Chula Vista	\$73,445	\$89,294	\$73,277	\$89,126		
El Cajon	\$69,120	\$84,204	\$66,402	\$81,486		
Escondido	\$70,656	\$90,180	\$69,837	\$89,361		
National City	\$68,244	\$82,956	\$67,089	\$81,801		
Oceanside	\$88,824	\$93,252	\$88,459	\$92,887		
San Diego County	\$77,856	\$81,744	\$71,738	\$75,527		
Anaheim	\$95,098	\$99,861	\$90,598	\$95,147		
Murrieta	\$73,272	\$89,064	\$72,401	\$88,193		
Riverside	\$79,440	\$91,944	\$79,360	\$91,864		
County of Riverside	\$66,617	\$87,069	\$65,474	\$85,926		
Average	\$75,782	\$88,719	\$74,130	\$87,038	74,130	87,038
San Diego	\$67,752	\$81,900	\$60,029	\$72,901		81112
Difference	\$8,030	\$6,819	\$14,101	\$14,137		5926
%Difference	12%	8%	23%	19%		7.3%

NET TAKE HOME PAY POLICE SERGEANT – EMPLOYEE + FAMILY

BASE SALARY	Minimum		Maximum		TAKE HOME	
	Minimum	Maximum	Minimum	Maximum		
Carlsbad	\$71,038	\$86,347	\$69,952	\$85,261		
Chula Vista	\$73,445	\$89,294	\$73,169	\$89,018		
El Cajon	\$69,120	\$84,204	\$63,568	\$78,652		
Escondido	\$70,656	\$90,180	\$69,059	\$88,583		
National City	\$68,244	\$82,956	\$66,475	\$81,187		
Oceanside	\$88,824	\$93,252	\$86,510	\$90,938		
San Diego County	\$77,856	\$81,744	\$70,325	\$74,113		
Anaheim	\$95,098	\$99,861	\$90,511	\$95,059		
Murrieta	\$73,272	\$89,064	\$69,413	\$85,205		
Riverside	\$79,440	\$91,944	\$78,044	\$90,548		
County of Riverside	\$66,617	\$87,069	\$63,332	\$83,784		
Average	\$75,782	\$88,719	\$72,759	\$85,668	72,759	85,668
San Diego	\$67,752	\$81,900	\$56,436	\$69,308		78,481
Difference	\$8,030	\$6,819	\$16,323	\$16,360		7,187
%Difference	12%	8%	29%	23%		9.2%

SDPD pay changes from 18-29% difference to 7.2-9.2% average difference.

**NET TAKE HOME PAY
POLICE LIEUTENANT – SINGLE**

	BASE SALARY		TAKE HOME			
	Minimum	Maximum	Minimum	Maximum		
Carlsbad	\$81,000	\$117,504	\$81,000	\$117,504		
Chula Vista	\$88,130	\$107,162	\$88,034	\$107,066		
El Cajon	\$86,304	\$105,168	\$86,304	\$105,168		
Escondido	\$88,824	\$119,916	\$88,595	\$119,687		
National City	\$82,404	\$100,164	\$82,388	\$100,148		
Oceanside	\$107,268	\$112,632	\$107,268	\$112,632		
San Diego County	\$77,352	\$94,032	\$73,928	\$90,181		
Anaheim	\$99,462	\$136,760	\$94,877	\$130,496		
Murrieta	\$93,516	\$113,676	\$93,516	\$113,676		
Riverside	\$90,672	\$118,620	\$90,672	\$118,620		
County of Riverside	\$79,511	\$103,890	\$79,511	\$103,890		
Average	\$88,585	\$111,774	\$87,826	\$110,824	87,826	110,824
San Diego	\$86,652	\$103,776	\$78,836	\$94,415		106757
Difference	\$1933	\$7,998	\$8,990	\$16,409		4067
%Difference	2%	8%	11%	17%		3.8%

**NET TAKE HOME PAY
POLICE LIEUTENANT – EMPLOYEE + 1 DEPENDENT**

	BASE SALARY		TAKE HOME			
	Minimum	Maximum	Minimum	Maximum		
Carlsbad	\$81,000	\$117,504	\$80,761	\$117,265		
Chula Vista	\$88,130	\$107,162	\$87,962	\$106,994		
El Cajon	\$86,304	\$105,168	\$83,586	\$102,450		
Escondido	\$88,824	\$119,916	\$88,005	\$119,097		
National City	\$82,404	\$100,164	\$81,249	\$99,009		
Oceanside	\$107,268	\$112,632	\$106,903	\$112,267		
San Diego County	\$77,352	\$94,032	\$71,247	\$87,500		
Anaheim	\$99,462	\$136,760	\$94,765	\$130,385		
Murrieta	\$93,516	\$113,676	\$92,645	\$112,805		
Riverside	\$90,672	\$118,620	\$90,592	\$118,540		
County of Riverside	\$79,511	\$103,890	\$78,368	\$102,747		
Average	\$88,585	\$111,774	\$86,916	\$109,914	86,916	109,914
San Diego	\$86,652	\$103,776	\$78,836	\$94,415		105821
Difference	\$1933	\$7,998	\$8,080	\$15,499		4093
%Difference	2%	8%	10%	16%		3.9%

**NET TAKE HOME PAY
POLICE LIEUTENANT – EMPLOYEE + FAMILY**

	BASE SALARY		TAKE HOME			
	Minimum	Maximum	Minimum	Maximum		
Carlsbad	\$81,000	\$117,504	\$79,914	\$116,418		
Chula Vista	\$88,130	\$107,162	\$87,854	\$106,886		
El Cajon	\$86,304	\$105,168	\$80,752	\$99,616		
Escondido	\$88,824	\$119,916	\$87,227	\$118,319		
National City	\$82,404	\$100,164	\$80,635	\$98,395		
Oceanside	\$107,268	\$112,632	\$104,954	\$110,318		
San Diego County	\$77,352	\$94,032	\$69,834	\$86,087		
Anaheim	\$99,462	\$136,760	\$94,678	\$130,298		
Murrieta	\$93,516	\$113,676	\$89,657	\$109,817		
Riverside	\$90,672	\$118,620	\$89,276	\$117,224		
County of Riverside	\$79,511	\$103,890	\$76,226	\$100,605		
Average	\$88,585	\$111,744	\$85,546	\$108,543	85,546	108,543
San Diego	\$86,652	\$103,776	\$76,631	\$92,210		103190
Difference	\$1933	\$7998	\$8,915	\$16,333		5353
%Difference	2%	8%	12%	18%		5.2%

SDPD pay changes from 10-18% difference to 3.8-5.2% average difference.

CONFIDENTIAL

COMPENSATION—Contract increases already in place for other cities in the comparison.

	2007	2008	2009	2010
San Diego	0.00%			
Carlsbad	4.00%			
Chula Vista ⁽¹⁾	4.00%	4.00%	3.00%	4.00%
El Cajon	n/a	n/a	n/a	
Escondido	3.50%			
National City	n/a	n/a	n/a	
Oceanside	3.00%			
San Diego County	3.00%			
Anaheim	1.50%	6.00%	3.00%	
Murrieta	5.00%			
Riverside	4.00%	3.00%	n/a	
County of Riverside	4.00%			

SDPD OFFICER ATTRITION FOR ALL REASONS

FY2001: 65 departed (11 retired, 16 medical, 29 other, 9 other agencies), 113 hired - net gain of 48

FY2002: 81 departed (38 retired, 12 medical, 16 other, 15 other agencies), 68 hired - net loss of 13

FY2003: 83 departed (43 retired, 3 medical, 24 other, 13 other agencies), 50 hired - net loss of 33

FY2004: 101 departed (59 retired, 5 medical, 23 other, 14 other agencies), 22 hired - net loss of 79

FY2005: 124 departed (64 retired, 7 medical, 31 other, 22 other agencies), 132 hired - net gain of 8

FY2006: 213 departed (50 retired, 35 other, 76 other agencies, 1 killed), 98 hired - net loss of 115

FYTD2007: 131 departed (56 other agencies, 9 remaining in DROP)

A total of 796 officers have left SDPD for all reasons since July 1, 2000 (205 to other agencies).

SAN DIEGO CITY
10405 SAN DIEGO MISSION RD., STE. 201
PHONE 619-583-6181



FIRE FIGHTERS
SAN DIEGO, CALIFORNIA 92108
FAX 619-583-0351

LOCAL 145, I.A.F.F.

Affiliated with: INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AFL-CIO, SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL, CALIFORNIA
LABOR FEDERATION, CALIFORNIA C.O.P.E., SAN DIEGO COUNTY C.O.P.E., CALIFORNIA PROFESSIONAL FIRE FIGHTER'S P.A.C.

April 12, 2007

Council President Scott Peters
City of San Diego
202 C Street, 10th floor
San Diego, CA 92101

**SUBJ: Request for One Week Continuance of Item 203 on the
Docket for Monday, April 16, 2007**

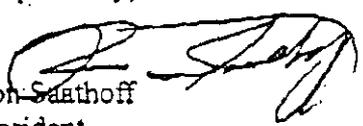
Dear President Peters:

The purpose of this letter is to request a one week continuance of Item #203, Impasse Procedure, to Monday, April 23, 2007. The basis for our request follows.

Local 145 anticipates a very large turnout for the Impasse hearing currently scheduled for Monday, April 16th. To accommodate the large turnout, Local 145 is asking that this item be continued one week to be placed on the docket of Monday, April 23. This will allow an alternative location to be identified and this item to be set for a time certain hearing. Additionally, it has come to our attention that there may not be a full council on April 16th; Local 145 believes such an important issue deserves the attention of the full City Council.

For these reasons we respectfully request consideration of a one-week continuance of Item 203.

Respectfully,


Ron Saathoff
President

SAN DIEGO CITY
10405 SAN DIEGO MISSION RD., STE. 201
PHONE 619-569-6161



FIRE FIGHTERS
SAN DIEGO, CALIFORNIA 92108
FAX 619-563-0351

LOCAL 145, I.A.F.F.

All Union and CWA: INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AFL-CIO, SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL, CALIFORNIA
LABOR FEDERATION, CALIFORNIA C.O.P.E., SAN DIEGO COUNTY C.O.P.E., CALIFORNIA PROFESSIONAL FIRE FIGHTER'S/P.A.C. 

April 12, 2007

Council President Scott Peters
City of San Diego
202 C Street, 10th floor
San Diego, CA 92101

**SUBJ: Request for One Week Continuance of Item 203 on the
Docket for Monday, April 16, 2007**

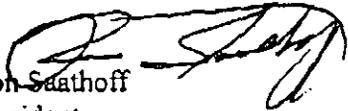
Dear President Peters:

The purpose of this letter is to request a one week continuance of Item #203, Impasse Procedure, to Monday, April 23, 2007. The basis for our request follows.

Local 145 anticipates a very large turnout for the Impasse hearing currently scheduled for Monday, April 16th. To accommodate the large turnout, Local 145 is asking that this item be continued one week to be placed on the docket of Monday, April 23. This will allow an alternative location to be identified and this item to be set for a time certain hearing. Additionally, it has come to our attention that there may not be a full council on April 16th; Local 145 believes such an important issue deserves the attention of the full City Council.

For these reasons we respectfully request consideration of a one-week continuance of Item 203.

Respectfully,


Ron Saathoff
President

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:

ITEM-201: Establishing a Schedule of Compensation for Officers and Employees of the City of San Diego for the Fiscal Year 2006-2007.

(Continued from the meeting of April 3, 2006, Item 200, at the request of the Mayor, for further review.)

STAFF'S RECOMMENDATION:

Introduce the ordinance in Subitem A and adopt the resolutions in Subitems B, C, and D:

Subitem-A: (O-2006-111)

Introduction of an Ordinance establishing a Schedule of Compensation for Officers and Employees of the City of San Diego for the Fiscal Year 2006-2007.

Subitem-B: (R-2006-857)

Establishing overtime eligibility of classifications in the classified service.

Subitem-C: (R-2006-858)

Amending employee representation units to add new classifications and remove deleted classifications from existing appropriate units as established in the Fiscal Year 2005-2006 Salary Ordinance.

Subitem-D: (R-2006-859)

Establishing and adopting a Cafeteria Benefits Plan for all designated eligible employees and authorizing classifications eligible for the Management Benefits Plan.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

ITEM-S402: Impasse Procedure.

MAYOR SANDERS' RECOMMENDATION:

Providing an impasse procedure, if necessary, for Management and Police Officers Association currently involved in contract negotiations.

SUPPORTING INFORMATION:

The current MOU and Council Policy 300-6 provide that Labor Organizations have a right to Council hearing on any issues at impasse at the conclusion of negotiations.

The purpose of the impasse meeting shall be to identify and specify in writing the issue or issues that remain in dispute according to Council Policy 300-6.

Michell/Froman

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION: (Continued)

ITEM-201: Establishing a Schedule of Compensation for Officers and Employees of the City
of San Diego for the Fiscal Year 2006-2007.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/17/2006, Item 201,
Subitem A. (Council voted 8-0):

(O-2006-111)

Establishing a Schedule of Compensation for Officers and Employees of the City
of San Diego for the Fiscal Year 2006-2007.

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUM (FOR AUDITOR'S I) s500

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT): MAYOR JERRY SANDERS

3. DATE: 04/16/07

4. SUBJECT: IMPASSE PROCEDURE

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)
Jeff Gattas (MS 11A, X66980)

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)
Lisa Briggs (MS 11A, X66568)

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.					
ORGANIZATION					
OBJECT ACCOUNT					
JOB ORDER					
C.I.P. NUMBER					
AMOUNT					

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	<i>JG</i>	4/4/07	8	DEPUTY CHIEF	<i>JR</i>	4/4/07
2	AUDITOR			9	COO		
3				10	CITY ATTORNEY		
4	CFO			11	ORIG. DEPT/COUNCIL LIAISON		
5				DOCKET COORD: _____ COUNCIL LIAISON <i>AB</i>			
6				✓	COUNCIL PRESIDENT <i>MS</i>	<input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> ADOPTION
7						<input type="checkbox"/> REFER TO: _____	COUNCIL DATE: 4/16/07

11. PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

11A. STAFF RECOMMENDATIONS:

Scheduling an impasse procedure, if necessary, for Management and Labor Organizations currently involved in contract negotiations.

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S): ALL

ENVIRONMENTAL IMPACT: THIS ACTION IS NOT A "PROJECT" FOR PURPOSES OF CEQA

HOUSING IMPACT:

OTHER ISSUES:

EXECUTIVE SUMMARY SHEET

DATE ISSUED: April 4, 2007 REPORT NO.:
ATTENTION: City Attorney
ORIGINATING DEPARTMENT: Office of the Mayor
SUBJECT: Impasse Hearing
COUNCIL DISTRICT(S):
CONTACT/PHONE NUMBER: Lisa Briggs/6-6568

REQUESTED ACTION: Scheduling of an impasse procedure, if necessary, for Management and Labor Organizations currently involved in contract negotiations.

STAFF RECOMMENDATION: Scheduling an impasse procedure, if necessary, for Management and Labor Organizations currently involved in contract negotiations.

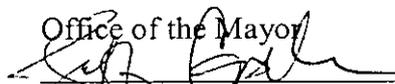
EXECUTIVE SUMMARY: The current Memoranda of Understanding and Council Policy 300-6 provide that the City's Labor Organizations have a right to a Council hearing on any issues at impasse at the conclusion of contract negotiations. The purpose of the impasse meeting shall be to identify and specify in writing the issue or issues that remain in dispute according to Council Policy 300-6.

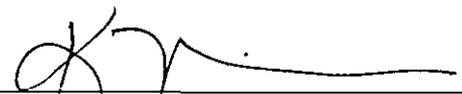
FISCAL CONSIDERATIONS:

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Office of the Mayor

Originating Department


Deputy Chief/Chief Operating Officer

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

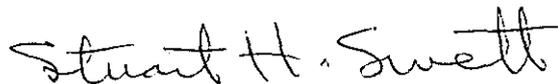
(619) 236-6220

DATE: April 16, 2007
TO: Elizabeth Maland, City Clerk
FROM: City Attorney
SUBJECT: Corrected Copy of the Fiscal Year 2008 Salary Ordinance (Item 204A of Council Docket of April 16, 2007)

Attached is a corrected copy of Ordinance No. O-2007-124 without attachments (the Salary Ordinance for FY 2008) listed as Item 204, Subitem A on the Council Docket of April 16, 2007, which reflects the addition of Section 23 on Page 23 to provide for amending the Salary Ordinance to reflect the results of reopened negotiations with Local 127 and MEA, should they occur.

MICHAEL J. AGUIRRE, City Attorney

By



Stuart H. Swett
Senior Deputy City Attorney

SHS:jab
Attachment

THE CITY ATTORNEY

CITY OF SAN DIEGO

Michael J. Aguirre

CITY ATTORNEY

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178

TELEPHONE (619) 236-6220

FAX (619) 236-7215

MEMORANDUM OF LAW

DATE: April 16, 2007

TO: Honorable Mayor and City Council members

FROM: City Attorney

SUBJECT: Request to Continue Impasse Hearing and Introduction of Salary Ordinance

INTRODUCTION

The San Diego City Fire Fighters' union, Local 145, has requested a one-week continuance of the impasse hearing scheduled on the City Council agenda for April 16, 2007.¹ Local 145 states as reasons for the request that an alternative location for the impasse hearing is necessary to accommodate an anticipated large turnout and because there may not be a full council at the meeting on April 16, 2007.² This Office has been asked to provide an analysis of whether the City Council may grant Local 145's request for a continuance of the impasse hearing and delay the introduction of the salary ordinance to allow for a full council and to accommodate the anticipated turnout for the hearing.

QUESTION PRESENTED

May the City Council grant Local 145's request for a one-week continuance of the impasse hearing and delay the introduction of the salary ordinance?

SHORT ANSWER

No. Charter section 290 provides that the salary ordinance shall be introduced by the City Council no later than April 15 of each year. The salary ordinance fixes the salaries of all officers and employees. In order to fix the salaries, negotiations with recognized labor unions must be completed so that the salaries have been set by either a memorandum of understanding or by imposition of the City's last, best, and final offer. The April 15 deadline is part of a process to ensure the timely adoption of the City's budget and annual appropriation ordinance.

¹ See, Letter dated April 12, 2007, from Ron Saathoff to Council President Peters, a copy of which is attached.

² It is anticipated that Council members Kevin Faulconer and Jim Madaffer will be absent from this hearing.

Accordingly, the City Council may grant a continuance that might affect these deadlines only if legally required to do so or for other compelling reasons. Local 145's reasons do not appear to meet this requirement.

ANALYSIS

City Charter section 290 provides that the salary ordinance shall be introduced by the City Council no later than April 15 of each year.³ The salary ordinance fixes the salaries of all officers and employees of the City and is proposed by the Mayor in a "form consistent with any existing Memorandum of Understandings with recognized labor organizations, or otherwise in conformance with procedures governed by the Meyers-Milias-Brown Act or any other legal requirements governing labor relations that are binding upon the City." Charter § 290(a).

After the salary ordinance is introduced, it is transmitted to the Mayor, who shall, within five business days of receipt, either approve the ordinance as introduced by Council or veto all or any specific provision within the ordinance. Charter § 290(a)(1). The salary ordinance is then returned to the Council, which has ten business days to override the veto and pass the salary ordinance as introduced or otherwise accept the changes proposed by the Mayor at the second reading of the ordinance. Charter § 290(a)(2). The salary ordinance passed by the Council becomes a controlling document for preparation of the annual appropriation ordinance for the ensuing fiscal year. Charter § 290(a)(3).

As noted above, the Council must introduce the salary ordinance "fixing the salaries of all officers and employees of the City." In order to meet the April 15 deadline contemplated in the Charter, the City must use its best efforts to complete negotiations with the recognized labor organizations and enter into a memorandum of understanding with respect to salaries by April 15 each year. If an agreement is not reached, the City should continue to negotiate in good faith until at impasse and the City has imposed its last, best, and final offer in accordance with applicable labor relations legal requirements.

The City's labor negotiators have met with Local 145 on 16 occasions since February 9, 2007. On April 12, 2007, the City's negotiators declared it is at impasse on certain issues, including Local 145's request for a salary increase. Council Policy 300-06 provides for the impasse procedures, which includes an impasse meeting between the parties and, if necessary, an impasse hearing before City Council. This impasse hearing is scheduled for April 16, 2007 and the introduction of the salary ordinance is set to follow the resolution of this matter. It is anticipated that either: (1) the parties do not resolve the dispute and the City imposes its last, best, and final offer, or (2) the parties reach an agreement on salaries. In either case, the salaries are known and can be reflected in the introduction of the salary ordinance on April 16, 2007.

³ April 15 falls on a Sunday this year. Accordingly, it is appropriate to introduce the salary ordinance on the next business day, April 16, 2007. See, Cal. Code Civ. Proc. § 12a.

The April 15 deadline for introduction of the salary ordinance appears to be necessary to meet other time requirements in the Charter related to the budget and the annual appropriation ordinance. For instance, the budget must be approved by the Council prior to June 15, and after holding a minimum of two public hearings. Charter § 290(b). If the Council modifies the budget, the Mayor must within five business days of receipt, either approve, veto, or modify any line item approved by the Council. The Council then has five business days to override any vetoes or modifications made by the Mayor.

The budget necessarily includes the amounts specified in the salary ordinance in order to meet the balanced budget requirements of Charter section 71. The salary ordinance and the approved budget become the controlling documents for preparation of the annual appropriation ordinance. Charter § 290(a)(3), 290(b)(1) and 290(b)(2). The appropriation ordinance must be adopted during the month of July, again after a minimum of two public hearings. Charter § 71, 295(c). All of these deadlines are important to ensure the public's participation in the process and to provide time for the Mayor and Council to prepare, review and consider these documents.

Because a delay in any of these timelines could result in a failure to meet Charter requirements for adoption of the annual appropriation ordinance, continuances of matters with set deadlines should not be granted absent compelling reasons. Such reasons might include the lack of a quorum, the failure to obtain the necessary votes on an ordinance or resolution, or delays required to meet legal requirements governing labor negotiations. On the other hand, a delay requested because the Council chambers might not be large enough to accommodate a large turnout or the absence of some council members that will not result in the lack of a quorum, do not seem to rise to such a compelling reason to justify failing to meet the requirements of the Charter.

CONCLUSION

The Charter states that the salary ordinance fixing the salaries of all officers and employees of the City shall be introduced by the Council no later than April 15 of each year. The salary ordinance is proposed by the Mayor in a form consistent with any existing agreements with recognized labor organizations or otherwise in conformance with procedures governed by the Meyers-Milias-Brown Act or any other legal requirements governing labor relations that are binding upon the City. We read this Charter provision to contemplate the completion of collective bargaining by either an agreement between the City and the labor organizations or by imposition of the City's last, best, and final offer, at least with respect to salaries, prior to April 15 of each year. A continuance of the impasse hearing on April 16, 2007, will require a delay in

Honorable Mayor and City
Council members

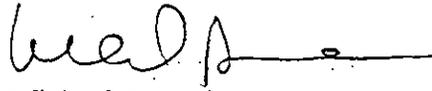
-4-

April 16, 2007

the introduction of the salary ordinance. Such a delay may be justified and unavoidable in some cases. However, the Council should grant a continuance only if legally required to do so or in light of other compelling reasons. The reasons set forth by Local 145 do not meet this standard.

MICHAEL J. AGUIRRE, City Attorney

By



Michael J. Aguirre
City Attorney

MJA:jb

cc: Elizabeth Maland, City Clerk

ML-2007-6

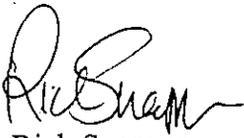
**CITY OF SAN DIEGO
MEMORANDUM**

DATE: September 7, 2006
TO: Honorable Mayor and Council
FROM: Rich Snapper, Personnel Director
SUBJECT: Exemption of Two Labor Relations Officer Positions from the Classified Service

On September 7, 2006, the Civil Service Commission reviewed a request from the Labor Relations Manager to exempt two Labor Relations Officer positions from the Classified Service. These positions develop, interpret and administer labor relations policies; advise and consult on complex and sensitive disciplinary and employment issues; lead and participate in formal labor negotiations; and perform other administrative work at the managerial level.

Charter Section 117 states that the Unclassified Service shall include managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council.

Upon review of the duties and responsibilities of these positions, the Commission finds that they meet the intent of Charter Section 117. If additional information would be of assistance in your consideration of this matter, staff is available to respond with details as necessary.



Rich Snapper
Personnel Director

RS:PH

CITY OF SAN DIEGO
MEMORANDUM

DATE: September 1, 2006
TO: Civil Service Commission
FROM: Rich Snapper, Personnel Director
SUBJECT: Request to Exempt Two (2) Labor Relations Officer Positions from the Classified Service

The Labor Relations Manager has requested that two Labor Relations Officer positions be exempted from the Classified Service.

These positions develop, interpret and administer labor relations policies; advise and consult on complex and sensitive disciplinary and employment issues; lead and participate in formal labor negotiations; and perform other administrative work at the managerial level.

Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council."

Upon review of the duties and responsibilities of these positions, staff finds that they meet the intent of Charter Section 117. Based on the above, it is recommended that this request be approved.


Rich Snapper
Personnel Director

RS:PH:nf

Attachments:

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: July 26, 2006
TO: Civil Service Commission *7/28/06*
via Rich Snapper, Personnel Director
FROM: Scott Chadwick, Labor Relations Manager
SUBJECT: Request to Exempt Two (2) Labor Relations Officers from the Classified Service

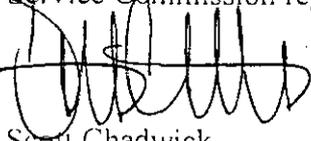
In accordance with the City Charter, the Labor Relations Office is requesting exemption of two (2) positions from the Classified Service. *As background, these are not new positions.* Both positions are existing and budgeted Program Manager positions that were previously filled as Human Resources/Labor Relations Officer positions in late 2004. As the result of a recent recruitment, it was brought to my attention that neither position was properly exempted from the classified service.

Reporting to the Labor Relations Manager, both positions perform administrative services at the managerial level, having significant responsibilities for formulating and administering labor relations policies and programs. Labor Relations Officers are responsible for developing, interpreting and administering labor relations policies; advising and consulting on complex and sensitive disciplinary and employer/employee relations issues; leading and participation in formal labor negotiations; interpreting and administering labor agreements; conducting Step V grievance hearings and Industrial Leave and Long Term Disability appeal hearings; serving as liaisons between City management and labor organization leadership; conducting administrative investigations and special studies; and representing the Mayor in various assignments.

Charter Section 117 (a) states the Unclassified Service shall include:

- 17. Managerial employees having significant responsibilities for formulating or administering departmental policies and programs*

The Labor Relations Office hereby requests the advisory review and comment of the Civil Service Commission regarding the exemption of these positions from the Classified Service.



Scott Chadwick

cc: Rick Reynolds, Assistant Chief Operating Officer

**CITY OF SAN DIEGO
MEMORANDUM**

DATE: November 7, 2006
TO: Honorable Mayor and Council
FROM: Rich Snapper, Personnel Director
SUBJECT: Exemption of a Principal Accountant Position from the Classified Service

On November 2, 2006, the Civil Service Commission reviewed a request of the Assistant Retirement Administrator to exempt a Principal Accountant Position from the Classified Service. This position will perform as the Internal Auditor and will be appointed by and responsible to the SDCERS Audit Committee. The Internal Auditor will have significant responsibilities to perform complex, detailed assignments in external audits, internal audits, financial statements, accounting systems and internal controls and reporting responsibilities.

Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council."

Upon review of the duties and responsibilities of this position, the Commission finds that it meets the intent of Charter Section 117. If additional information would be of assistance in your consideration of this matter, staff is available to respond with details as necessary.



Rich Snapper
Personnel Director

RS:PH:wp

Attachment

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: October 27, 2006

TO: Civil Service Commission

FROM: Rich Snapper, Personnel Director

SUBJECT: Request to Exempt a Principal Accountant Position from the Classified Service

The Assistant Retirement Administrator has requested that a new Principal Accountant position be exempted from the Classified Service.

This position will perform as the Internal Auditor and will be appointed by and responsible to the SDCERS Audit Committee. The Internal Auditor will have significant responsibilities to perform complex, detailed assignments in the following areas: external audits, internal audits, financial statements, accounting systems and internal controls and reporting responsibilities.

Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council."

Upon review of the duties and responsibilities of this position, staff finds that it meets the intent of Charter Section 117. Based on the above, it is recommended that this request be approved.



Rich Snapper
Personnel Director

Attachment

RS:PH:nf

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**CITY OF SAN DIEGO
MEMORANDUM**

DATE: November 7, 2006
TO: Honorable Mayor and Council
FROM: Rich Snapper, Personnel Director
SUBJECT: Exemption of a Program Coordinator Position from the Classified Service

On November 2, 2006, the Civil Service Commission reviewed a request of the Assistant Retirement Administrator to exempt a Program Coordinator Position from the Classified Service. The position will perform as the Information Systems Division Manager and will serve as a member of SDCERS executive management team. This position will participate in critical management decisions and will be accountable for developing and implementing assigned elements of the long range strategic business plan.

Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council."

Upon review of the duties and responsibilities of this position, the Commission finds that it meets the intent of Charter Section 117. If additional information would be of assistance in your consideration of this matter, staff is available to respond with details as necessary.



Rich Snapper
Personnel Director

RS:PH:wp

Attachment

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: October 27, 2006

TO: Civil Service Commission

FROM: Rich Snapper, Personnel Director

SUBJECT: Request to Exempt a Program Coordinator Position from the Classified Service

The Assistant Retirement Administrator has requested that a new Program Coordinator position be exempted from the Classified Service.

This position will perform as the Information Systems Division Manager and will report to the SDCERS Retirement Administrator. As a member of the executive management team, this position will participate in critical management decisions and will be accountable for developing and implementing assigned elements of the long range strategic business plan.

Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council."

Upon review of the duties and responsibilities of this position, staff finds that it meets the intent of Charter Section 117. Based on the above, it is recommended that this request be approved.



Rich Snapper
Personnel Director

RS:PH:nf

Attachments

**CITY OF SAN DIEGO
MEMORANDUM**

DATE: November 7, 2006
TO: Honorable Mayor and Council
FROM: Rich Snapper, Personnel Director
SUBJECT: Exemption of Assistant Retirement General Counsel Position from the
Classified Service

On November 2, 2006, the Civil Service Commission reviewed a request of the Assistant Retirement Administrator to exempt Assistant Retirement General Counsel Position from the Classified Service. The position will serve as the Chief Compliance Officer and will report directly to the SDCERS Board of Administration. As a member of SDCERS executive staff, the position will be centrally involved in the establishment and monitoring of compliance with federal, state and local laws governing pension plans and tax law, policies and procedures of the Board and SDCERS and appropriate standards of ethics and conduct within the SDCERS organization.

Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council."

Upon review of the duties and responsibilities of this position, the Commission finds that it meets the intent of Charter Section 117. If additional information would be of assistance in your consideration of this matter, staff is available to respond with details as necessary.



Rich Snapper
Personnel Director

RS:PH:wp

Attachment

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: October 27, 2006

TO: Civil Service Commission

FROM: Rich Snapper, Personnel Director

SUBJECT: Request to Exempt an Assistant Retirement General Counsel Position
from the Classified Service

The Assistant Retirement Administrator has requested that a new Assistant Retirement General Counsel position be exempted from the Classified Service.

This position will serve as the Chief Compliance Officer and will report directly to the SDCERS Board of Administration. The position will also serve as a member of SDCERS executive staff and be centrally involved in the establishment and monitoring of compliance with federal, state and local laws governing pension plans and tax law, policies and procedures of the Board and SDCERS and appropriate standards of ethics and conduct within the SDCERS organization.

Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council."

Upon review of the duties and responsibilities of this position, staff finds that it meets the intent of Charter Section 117. Based on the above, it is recommended that this request be approved.



Rich Snapper
Personnel Director

RS:PH:nf

Attachment

**CITY OF SAN DIEGO
MEMORANDUM**

DATE: March 13, 2007

TO: Honorable Mayor and Council

FROM: Rich Snapper, Personnel Director

SUBJECT: Exemption of a Council Committee Consultant Position from the Classified Service

On March 1, 2007, the Civil Service Commission reviewed a request from Councilmember Kevin Faulconer to exempt a Council Committee Consultant position from the Classified Service. This position will work in Council Administration and will report to the Audit Committee Chairperson. The position will perform research and analysis of issues and make recommendations to the Audit Committee.

Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council."

Upon review of the duties and responsibilities of this position, the Commission finds that it meets the intent of Charter Section 117. If additional information would be of assistance in your consideration of this matter, staff is available to respond with details as necessary.



Rich Snapper
Personnel Director

RS:PH:wp

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: February 23, 2007
TO: Civil Service Commission
FROM: Rich Snapper, Personnel Director
SUBJECT: Request to Exempt a Council Committee Consultant Position from the
Classified Service

Attached is a request from Councilmember Kevin Faulconer to exempt a Council Committee Consultant position from the Classified Service.

This position will work in Council Administration and will report to the Audit Committee Chairperson. The position will perform research and analysis of issues and make recommendations to the Audit Committee.

Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering department policies and programs. Each such position shall be exempt from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council."

Upon review of the duties and responsibilities of this position, staff finds that it meets the intent of Charter Section 117. Based on the above, it is recommended that this request be approved.



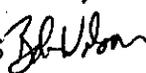
Rich Snapper
Personnel Director

Attachment

**SAN DIEGO CITY EMPLOYEES RETIREMENT SYSTEM
MEMORANDUM**

DATE: October 24, 2006

TO: Civil Service Commission via Rich Snapper, Personnel Director

FROM: Bob Wilson, CFO / HR Director, SDCERS 

SUBJECT: Request to Exempt Internal Auditor Position from the Classified Service

The San Diego City Employees' Retirement System (SDCERS) is requesting that one position in the classification of Principal Accountant, for the position of Internal Auditor to the SDCERS Audit Committee, be established and exempted from the Classified Service in accordance with Charter Section 117. Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering departmental policies and programs. Each such position shall be exempted from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and the approval of the City Council."

The SDCERS Board of Administration approved the addition of an internal auditor position in its Fiscal Year 2007 budget. The position was created to be a direct appointee for the Audit Committee of the Board, which itself was restructured to create an independent role for the Board in the conduct of both its independent external annual audit as well as the conduct of internal operational and financial audits of SDCERS and the three SDCERS plan sponsors.

By way of background, in Fiscal Year 2006, SDCERS commissioned an investigation that was conducted by Navigant Consulting, Inc. As part of the investigation, Navigant evaluated the SDCERS governance, staffing, and internal controls processes. After receiving the Navigant Report, the SDCERS Board President appointed the Navigant Report Committee to study the report's findings and recommendations and make Committee recommendations to the full Board. Navigant commented on the structure of Board Committees and internal I audit oversight, which led to the Board directing the creation of an on-staff internal auditor.

The Internal Auditor will be appointed by and responsible to the Audit Committee. The Internal Auditor will have significant responsibilities to perform complex, detailed assignments that require a significant level of experience and expertise. The Internal Auditor must advise the Audit Committee in the following areas:

- **External Audit:** Advise the committee on the selection and performance of external audit services; evaluate findings and recommendations of management letters; review with the Committee and the Board matters regarding the audit and required matters to be communicated under generally accepted audit standards.
- **Internal Audit:** Prepare audit plans, evaluate staffing, priority, budget and conduct of internal audits; prepare detailed internal audit reports and recommendations to the Committee; follow up to ensure recommendations have been appropriately implemented.
- **Financial Statements:** Review annual financial statements and disclosures in the Comprehensive Annual Financial Report (CAFR); evaluate proper application of accounting principles, professional and regulatory pronouncements; independently advise the Committee on the completeness and accuracy of all financial disclosures.
- **Accounting Systems and Internal Controls:** Evaluate, perform complex audits, write reports and make recommendations on internal audit functions as planned with the Committee, including internal operations of SDCERS as well as the quality, accuracy and completeness of information provided by plan sponsors; evaluate effectiveness of internal control systems, including information technology applications and security systems.
- **Reporting Responsibilities:** Regularly report to the Committee on all activities and performed; prepare reports to the Committee with findings and recommendations.

The Internal Auditor will be one of three positions who are direct appointees of the Board (the others being the Chief Executive Officer/Retirement Administrator and the Chief Compliance officer). The Internal Auditor will have a significant amount of independence to perform the assigned duties and must exercise significant judgment in the conduct of his duties.

In establishing the role, it is possible that the function will expand to include subordinate positions in the future as the position matures. The position will be allocated staff resources as needed based on the work plan laid out by the Committee. The Internal Auditor will have direct unfettered access to the SDCERS executive management team.

The SDCERS Board of Administration has approved the attached organization chart, which reflects inclusion of this position, in its review and approval of the fiscal year 2007 budget. SDCERS is a \$4.5 Billion Retirement Fund that administers the funds and benefits for nearly 19,000 active and retired members of its three plan sponsors, the City of San Diego, the San Diego Unified Port District, and the San Diego Regional Airport Authority. The System has an annual administrative operating budget of \$13 million, and employs 62 staff.

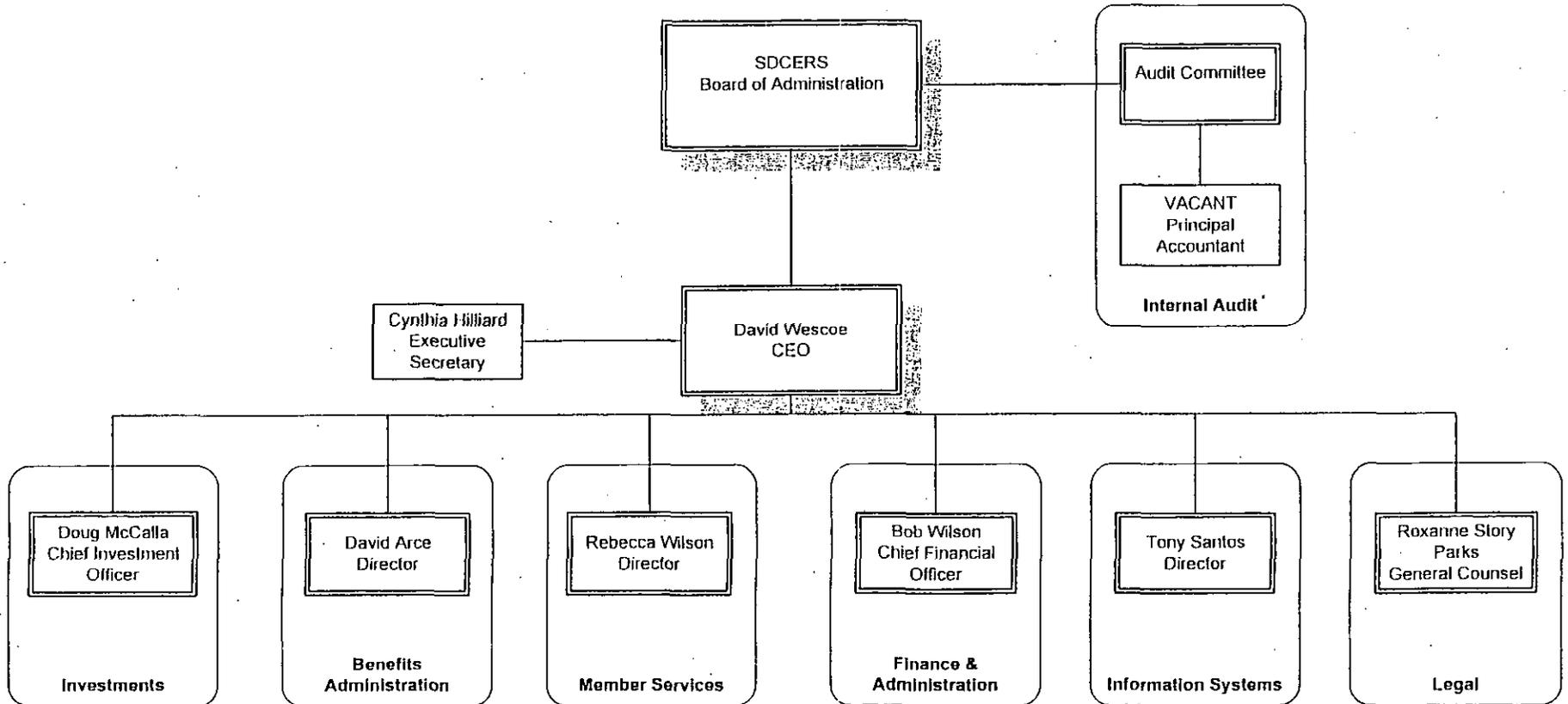
October 24, 2006
Civil Service Commission/Wilson
Page 3

Based on the scope of responsibilities assigned, significant authority, depth of knowledge and experience required, and the explicit direction of the SDCERS Board, we strongly request that the position in the classification of Principal Accountant to serve as the SDCERS Internal Auditor be established and exempted from the Classified Service in accordance with Charter Section 117.

Attachment: Division Organization Chart

cc: Peter Prevolos, Board President, SDCERS Board of Administration
David Wescoe, Retirement Administrator

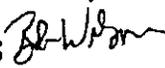
SDCERS



**SAN DIEGO CITY EMPLOYEES RETIREMENT SYSTEM
MEMORANDUM**

DATE: October 24, 2006

TO: Civil Service Commission via Rich Snapper, Personnel Director

FROM: Bob Wilson, CFO / HR Director, SDCERS 

SUBJECT: Request to Exempt Division Manager Position from the Classified Service

The San Diego City Employees' Retirement System (SDCERS) is requesting that one position in the classification of Program Coordinator, for the position of Information Systems Division Manager be established and exempted from the Classified Service in accordance with Charter Section 117. Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering departmental policies and programs. Each such position shall be exempted from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and the approval of the City Council."

Under the new Retirement Administrator, SDCERS has implemented a reorganization of its division management structure (see attachment). In the reorganization, the information technology and computer services functions have been split from its previous division organization, previously titled *Financial and Technical Services*. The span of responsibilities and the increased demands in the technology area warranted creating a separate Information Technology Division.

As a member of the executive management team, this position reports directly to the CEO/Retirement Administrator. This manager participates in critical management decisions, and is accountable for developing and implementing assigned elements of the SDCERS long range strategic business plan. This position directs professional staff in the division as well as the work of information technology professional staff contracted full-time through the San Diego Data Processing Corporation.

This position is responsible for two critical computer applications called the Membership Benefit System (MBS) and the Electronic Document Management System (EDMS). This division manager makes policy decisions in the development and maintenance of these critical applications. In addition to directing and managing departmental and SDDPC staff, the position is also responsible for directing the work of contract vendors and consultants who developed and maintain these applications.

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The SDCERS Board of Administration has approved the attached organization chart, which reflects inclusion of this position, in its review and approval of the fiscal year 2007 budget. SDCERS is a \$4.5 Billion Retirement Fund that administers the funds and benefits for nearly 19,000 active and retired members of its three plan sponsors, the City of San Diego, the San Diego Unified Port District, and the San Diego Regional Airport Authority. The System has an annual administrative operating budget of \$13 million, and employs 62 staff.

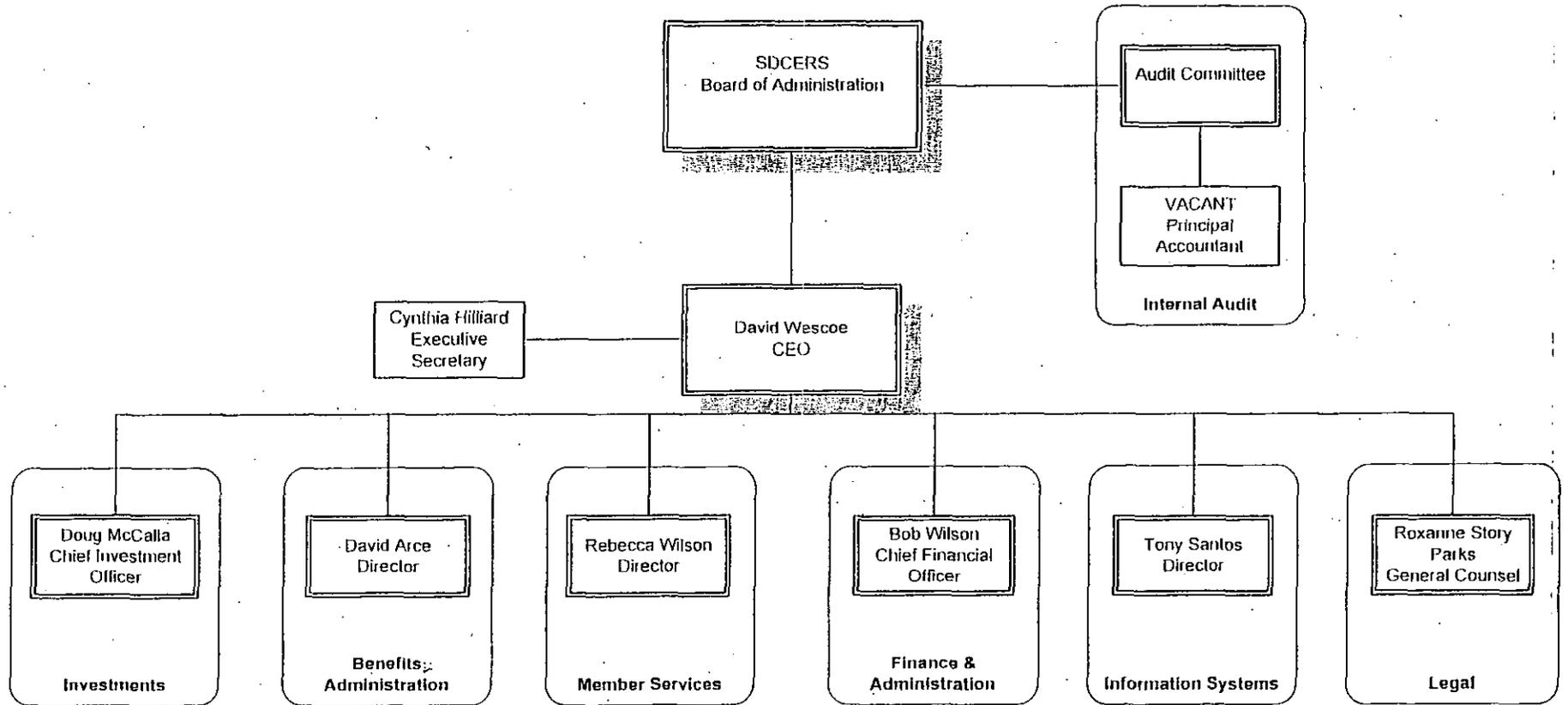
The classification of this position in the SDCERS organization chart is consistent with other division management positions. The scope of responsibilities and the assurance of segregation of duties from the Financial and Administration Division will improve the internal control functions of the System.

Based on the scope of responsibilities assigned, participation in the executive management team, the critical importance of the technology functions to SDCERS members who pay contributions to and receive benefits from the Retirement Trust Fund, and the concurrence of the SDCERS Board, we strongly request that the position of Information Systems Division Manager in the classification of Program Coordinator be established and exempted from the Classified Service in accordance with Charter Section 117.

Attachment: Division Organization Chart

cc: Peter Preovolos, Board President, SDCERS Board of Administration
David Wescoe, Retirement Administrator

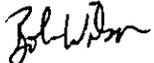
SDCERS



**SAN DIEGO CITY EMPLOYEES RETIREMENT SYSTEM
MEMORANDUM**

DATE: October 24, 2006

TO: Civil Service Commission via Rich Snapper, Personnel Director

FROM: Bob Wilson, CFO / HR Director, SDCERS 

SUBJECT: Request to Exempt Compliance Officer Position from the Classified Service

The San Diego City Employees' Retirement System (SDCERS) is requesting that one position in the classification of Retirement Assistant General Counsel, for the position of Chief Compliance Officer, be established and exempted from the Classified Service in accordance with Charter Section 117. Charter Section 117 states that the Unclassified Service shall include "managerial employees having significant responsibilities for formulating and administering departmental policies and programs. Each such position shall be exempted from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and the approval of the City Council."

In January 2006, the SDCERS Board of Administration appointed the Navigant Report Committee (NRC). The NRC, a subcommittee of the Board, was charged with studying the findings and recommendations contained in the Navigant Consulting investigative report that it submitted to the Board at its January 20, 2006 meeting. Navigant recommended that the Board designate a member of executive staff to serve as Compliance Officer for SDCERS to assess and report to the Board on compliance with critical policies and procedures. This was approved by the Board in April 2006.

In September 2006, the Board approved Board Rule 4.20 (attached) to establish the duties of the Chief Compliance Officer. In discussion of the duties, the Board also approved establishing the position of Chief Compliance Officer independent of the General Counsel.

The Chief Compliance Officer will report directly to the Board of Administration. The Chief Compliance Officer will also serve as a member of SDCERS executive staff and be centrally involved in the establishment and monitoring of compliance with federal, state and local laws governing pension plans and tax law, policies and procedures of the Board and SDCERS, and appropriate standards of ethics and conduct within the SDCERS organization.

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SDCERS status as a tax exempt public pension plan is critically dependent on full compliance with federal tax laws. The Chief Compliance Officer will be in the critical position of monitoring that SDCERS sets policies and procedures, and performs in a manner that complies with all applicable legal regulations to preserve the tax exempt status of the Fund.

The Chief Compliance Officer will be a direct appointee of the SDCERS Board.

SDCERS is a \$4.5 Billion Retirement Fund that administers the funds and benefits for nearly 19,000 active and retired members of its three plan sponsors, the City of San Diego, the San Diego Unified Port District, and the San Diego Regional Airport Authority. The System has an annual administrative operating budget of \$13 million, and employs 62 staff.

Based on the scope of responsibilities assigned by the Board, the appointment and reporting relationship directly to the Board, participation in the executive management team, the critical importance of the compliance process to assure continued tax exempt status of the Retirement Trust Fund, and the concurrence of the SDCERS Board, we strongly request that the position of Chief Compliance Officer in the classification of Retirement Assistant General Counsel be established and exempted from the Classified Service in accordance with Charter Section 117.

Attachment: Staff report, Board Rule 4.20, 9/11/06 and adoption, 9/22/06.

cc: Peter Preovolos, Board President, SDCERS Board of Administration
David Wescoe, Retirement Administrator

**SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM
STAFF REPORT
LEGAL DIVISION**

DATE: September 11, 2006
TO: The Business and Governance Committee
FROM: Roxanne Story Parks, ^{MS} Interim General Counsel
SUBJECT: Proposed Board Rules 4.10 and 4.20 Defining Duties of General Counsel and Compliance Officer

RECOMMENDATION:

Adopt proposed Board Rule 4.10 and 4.20 setting forth the duties of the General Counsel and Compliance Officer, and providing that the General Counsel may serve as the Compliance Officer.

EXECUTIVE SUMMARY:

Navigant recommended that the Board designate a member of executive staff, possibly the General Counsel, to serve as Compliance Officer for SDCERS to assess and report to the Board compliance with critical policies and procedures. (Navigant Recommendation 14)

Upon the recommendation of the Navigant Report Committee, the Board voted unanimously (11-0) in April to "designate General Counsel (Chief Legal Officer) as Compliance Officer to report directly to the Board." Based upon this direction, staff developed job descriptions for the General Counsel and Compliance Officer with assistance from Fiduciary Counsel. EFL used these job descriptions in its recruiting materials for the General Counsel/Compliance Officer position. Proposed Board Rules 4.10 and 4.20, set forth below, are consistent with the above Board direction and the EFL recruiting materials.

STRIKE-OUT/REDLINE:

**Division 4 - Retirement Administrator, General Counsel
and Compliance Officer**

Rule 4.00 **Duties of the Retirement Administrator** No change.

Rule 4.10 **Duties of the General Counsel**

Under the direction of the Retirement Administrator, the General Counsel:

- (a) provides professional direction to attorney staff and outside counsel;
- (b) formulates and directs the execution of SDCERS' legal policy;
- (c) prepares and monitors the legal division's budget;
- (d) provides legal advice to the Board of Administration and staff in the areas of pension and trust law, tax law, benefits, law, investments, corporate governance and the provisions of the City Charter and Municipal Code relating to SDCERS;
- (e) provides recommendations and advice concerning legal rights, remedies, alternatives and consequences;
- (f) represents or arranges for representation of the Board in legal proceedings to which the Board is a part;
- (g) advises the Board regarding laws imposing requirements on the Board, including the fiduciary responsibilities of the Board and its members, open meetings law, open records, law, administrative law, Roberts Rules of Order, Proposition 162 and the legal relationship between the City and the Board;
- (h) attends meetings of the Board and its standing and special committees;
- (i) researches, writes and reviews legal opinions;
- (j) drafts and reviews legal documents including pleadings, motions, contracts, resolutions and ordinances; and
- (k) participates in the selection, and monitors the performance, of outside counsel.

Rule 4.20 Duties of the Compliance Officer

- (a) Under the direction of the Board, the Compliance Officer:
 - (1) develops, initiates, maintains, and revises policies and procedures to prevent illegal, unethical or improper conduct; manages day-to-day operation of the compliance program; collaborates with other departments to implement compliance policies and procedures;
 - (2) develops and periodically reviews and updates standards of ethics and conduct to ensure continuing effective guidance to the Board, management, and employees;

- (3) collaborates with other departments to direct compliance issues to appropriate channels for investigation and resolution;
- (4) coordinates with fiduciary counsel on appropriate issues;
- (5) ensures that compliance issues and concerns within the organization are being appropriately evaluated, investigated and resolved;
- (6) responds to alleged violations of rules, regulations, policies, procedures, and standards of ethics and conduct by evaluation or recommending the initiation of investigative procedures; develops and oversees a system for uniform handling of such violations;
- (7) Identifies potential areas of compliance vulnerability and risk; develops/implements corrective action plans for resolution of problematic issues, and provides general guidance on how to avoid or deal with similar situations in the future;
- (8) provides reports on a regular basis, and as directed or requested, to keep the Audit Committee of the Board and senior management informed of the operation and progress of compliance efforts;
- (9) ensures proper reporting of violations of potential violations to duly authorized enforcement agencies as appropriate and/or required;
- (10) reports directly to the Board on all pending issues; and
- (11) works with the Board and management to develop an effective compliance training program for Board members, managers and employees, including appropriate introductory training for new individuals.

(b) The General Counsel may serve as the Compliance Officer.

YES: Sheffler, Preovolos, Meyer, Lamberth,
Kennedy, Kipperman, Hebrank, SawyerKnoll
NO: Sullivan, Flynn, Thomson
ABSTAIN: None
ABSENT: Davis, Murray

Motion to approve passed. 8-3

2. Staff's recommendation to refer Kenneth Vasquez' Re-Examination results to hearing.

Continued.

No action requested

1. Staff report on Affidavit project.

VII. Business & Governance Committee – Mark Sullivan, Chair

A. Navigant Committee Report

1. July 2006 Financial Statements.

B. New business

Action requested

1. Recommendation to amend Division 4 of Board Rules to define duties of General Counsel and Compliance Officer.

Motion to approve.

Motion made by: Sullivan
Second: SawyerKnoll

Motion to approve carried by the following vote:

YES: Sheffler, Sullivan, Flynn, Thomson, Preovolos, Meyer,
Kipperman, Hebrank, Lamberth, Kennedy,
SawyerKnoll
NO: None
ABSTAIN: None
ABSENT: Murray, Davis

Motion to approve passed. 11-0



**COUNCILMEMBER KEVIN FAULCONER
CITY OF SAN DIEGO
SECOND DISTRICT**

MEMORANDUM

DATE: February 2, 2007
TO: Rich Snapper, Director, Human Resources Department
FROM: Councilmember Kevin Faulconer *Kevin Faulconer*
SUBJECT: Addition of One Unclassified Council Committee Consultant Position

I respectfully request the addition of one Council Committee Consultant position in the Council Administration department (029). This position will perform research and analysis of issues and make policy recommendations to the Audit Committee. The position will report to the Audit Committee Chairperson.

If possible, I would ask that this request be docketed for the February 2007 Civil Service Commission meeting.

Thank you for your assistance with this item.

cc: Lori Witzel, Council Administration

SAN DIEGO CITY
10405 SAN DIEGO MISSION RD., STE. 201
PHONE 619.563-6101



FIRE FIGHTERS
SAN DIEGO, CALIFORNIA 92108
FAX 619.563-0351

LOCAL 145, I.A.F.F.

Affiliated with: INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AFL-CIO, SAN DIEGO IMPERIAL COUNTIES LABOR COUNCIL, CALIFORNIA LABOR FEDERATION, CALIFORNIA C.O.P.E., SAN DIEGO COUNTY C.O.P.E., CALIFORNIA PROFESSIONAL FIRE FIGHTER'S P.A.C.

April 12, 2007

Council President Scott Peters
City of San Diego
202 C Street, 10th floor
San Diego, CA 92101

**SUBJ: Request for One Week Continuance of Item 203 on the
Docket for Monday, April 16, 2007**

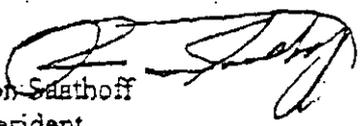
Dear President Peters:

The purpose of this letter is to request a one week continuance of Item #203, Impasse Procedure, to Monday, April 23, 2007. The basis for our request follows.

Local 145 anticipates a very large turnout for the Impasse hearing currently scheduled for Monday, April 16th. To accommodate the large turnout, Local 145 is asking that this item be continued one week to be placed on the docket of Monday, April 23. This will allow an alternative location to be identified and this item to be set for a time certain hearing. Additionally, it has come to our attention that there may not be a full council on April 16th; Local 145 believes such an important issue deserves the attention of the full City Council.

For these reasons we respectfully request consideration of a one-week continuance of Item 203.

Respectfully,


Ron Sathoff
President