


City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2010 SEP 30 PM 3:05

RESOLUTION No. 83024 C.M.S.

Introduced by Councilmember _____

RESOLUTION RECOMMENDING TO THE CIVIL SERVICE BOARD THAT THE FOLLOWING CLASSIFICATIONS BE EXEMPTED FROM CIVIL SERVICE: CABLE TV STATION MANAGER; CITY AUDITOR, ASSISTANT; CURATOR OF ART, CHIEF; CURATOR OF EDUCATION, CHIEF; CURATOR OF HISTORY, CHIEF; CURATOR OF NATURAL SCIENCE, CHIEF; DEPUTY DIRECTOR, CITY PLANNER; DEPUTY DIRECTOR, ECONOMIC DEVELOPMENT & EMPLOYMENT; DEPUTY DIRECTOR, HOUSING; DEPUTY DIRECTOR, PROGRAM PLANNING & DEVELOPMENT; DEPUTY DIRECTOR/BUILDING OFFICIAL; FIRE DIVISION MANAGER; MANAGER, AFFIRMATIVE ACTION; MANAGER, AGENCY ADMINISTRATIVE; MANAGER, BUILDING SERVICES; MANAGER, CAPITAL IMPROVEMENT PROGRAM; MANAGER, CLAIMS & RISK; MANAGER, CONTRACT & EMPLOYMENT SERVICES; MANAGER, ELECTRICAL SERVICES; MANAGER, EMERGENCY SERVICES; MANAGER, ENVIRONMENTAL SERVICES; MANAGER, EQUIPMENT SERVICES; MANAGER, INFORMATION SYSTEMS; MANAGER, LEGAL ADMINISTRATIVE SERVICES; MANAGER, MUSEUM OPERATIONS; MANAGER, MUSEUM SERVICES; MANAGER, PARK SERVICES; MANAGER, PARKS & RECREATION ZONE; MANAGER, PLANNING & BUILDING OPERATIONS; MANAGER, RECREATION SERVICES; MANAGER, SENIOR SERVICES; MANAGER, TREASURY; MANAGER, YOUTH SERVICES; PROJECT MANAGER III; PUBLIC WORKS OPERATIONS MANAGER; REVENUE & TAX ADMINISTRATOR (FORMERLY: MANAGER, REVENUE); AND SPECIAL ASSISTANT TO THE MAYOR

WHEREAS, Article IX, Section 902 (f) of the Charter of the City of Oakland requires a recommendation from Council to exempt job classifications from Civil Service; and

WHEREAS, the classifications listed above have historically been treated by the City as exempt from Civil Service; and

WHEREAS, when Ordinance No. 12187 CMS (the Salary Ordinance) was amended in 2000 through Ordinance No. 12287 CMS (October 17, 2000), several classifications in representation unit UM1 were listed as exempt from Civil Service without a prior meet and confer with the affected union, the International Federation of Professional and Technical Engineers, Local 21 (Local 21); and

WHEREAS, in 2009 and 2010 City management met with Local 21 and came to agreement to recommend that the classifications listed above be exempted from Civil Service through the process required by the City Charter; and

WHEREAS, the City's appointing authorities require the fullest ability to select staff and to ensure that the skills, experience, and knowledge of the staff closely align with the requirements of the Mayor, City Council, and citizens of Oakland; and

WHEREAS, the nature and scope of responsibilities in management classifications are broad and individuals in these positions must deal with the most challenging and complex policy issues; and

WHEREAS, management level positions are responsible for sensitive and confidential matters that require substantial tact, discretion, and diplomacy; and

WHEREAS, management level positions receive a high level of compensation based upon their technical and programmatic expertise; and

WHEREAS, management level classifications have the authority to speak on behalf of the City in matters requiring trust and confidence in staff; and

WHEREAS, the public perceives the authority and responsibility of these positions to be influential; now, therefore, be it

RESOLVED: That City Council recommends to the Civil Service Board that the following classifications be exempted from Civil Service: Cable TV Station Manager; City Auditor, Assistant; Curator of Art, Chief; Curator of Education, Chief; Curator of History, Chief; Curator of Natural Science, Chief; Deputy Director, City Planner; Deputy Director, Economic Development & Employment; Deputy Director, Housing; Deputy Director, Program Planning & Development; Deputy Director/Building Official; Fire Division Manager; Manager, Affirmative Action; Manager, Agency Administrative; Manager, Building Services; Manager, Capital Improvement Program; Manager, Claims & Risk; Manager, Contract & Employment Services; Manager, Electrical Services; Manager, Emergency Services; Manager, Environmental Services; Manager, Equipment Services; Manager, Information Systems; Manager, Legal Administrative Services; Manager, Museum Operations; Manager, Museum Services; Manager, Park Services; Manager, Parks & Recreation Zone; Manager, Planning & Building Operations; Manager, Recreation Services; Manager, Senior Services; Manager, Treasury; Manager, Youth Services; Project Manager III; Public Works Operations Manager; Revenue & Tax Administrator (Formerly: Manager, Revenue); and Special Assistant to the Mayor; and be it

FURTHER RESOLVED: that the Civil Service Board is hereby requested to approve such exemptions.

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 19 2010, 20

PASSED BY THE FOLLOWING VOTE:

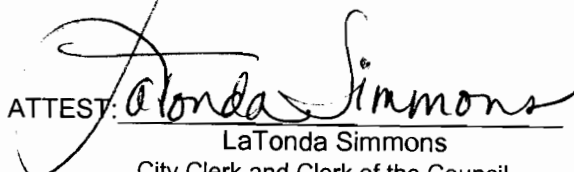
AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, ~~REID~~, and PRESIDENT BRUNNER - 7

NOES - 0

ABSENT - 0

ABSTENTION - Reid-1

ATTEST:



LaTonda Simmons

City Clerk and Clerk of the Council
of the City of Oakland, California

APPENDIX J

SIDE LETTER

REGARDING CIVIL SERVICE STATUS OF UM1

1. The parties will address the allocation of classes in UM1 unit in accordance with the following procedures and dates.

First Level – Primary Review

The parties shall exercise their best efforts to reach agreement on which classifications and positions currently in the UM1 bargaining unit should be reallocated to the UM2 bargaining unit. The parties shall complete their discussions not later than August 4, 2009, unless extended by mutual agreement.

Second Level – Mediation

Union and City agree that for classes whose allocation remains in dispute, further discussion shall be facilitated by the State Mediation and Conciliation Service (SMCS) with the specific mediator to be agreed upon by both parties, subject to availability. This facilitated process shall be completed no later than September 15, 2009.

Upon the completion of each level above: a) the City may proceed to seek civil service exemption of any class or position the parties agree is to remain in the UM1 bargaining unit; b) the City shall move to the UM2 bargaining unit all classifications the parties agree to treat as classified.

As to classifications or positions on which the Union and the City Administrator reach agreement on unit placement, the following shall occur at the earliest date possible:

- All classifications remaining within the UM1 bargaining unit shall be referred to the Civil Service Board for exemption from the Competitive Civil Service, if necessary. The Union agrees not to assert Civil Service status nor challenge the exemption of these classifications from the Competitive Civil Service.
- All permanent employees in classifications within bargaining units TA1, TF1, TW1, TM2, UH1, and UM2, with the exception of currently exempt classifications in the Offices of the Mayor and City Council as specified in Article 17 of the MOU, shall be part of the Competitive Civil Service and

governed by the Civil Service Rules. The City agrees not to assert nor seek exemption of these classifications from the Competitive Civil Service. Pursuant to Civil Service Rule 3.06, the City agrees to request that the Civil Service Board accept into the Competitive Civil Service any classifications within these bargaining units that are currently exempt.

- The parties agree that Civil Service status applies to entire classifications and not to individual positions. In the event the parties determine that some positions within a particular existing classification currently in the UM1 bargaining unit should be exempt while others should be classified, either the incumbents designated to be classified shall be reclassified in accordance with Civil Service Rule Sec 3.05 where appropriate, or the incumbents designated to be exempt shall be assigned to new or existing exempt classifications.
- Represented employees in positions that are reallocated to the UM2 bargaining unit (and thus covered by Civil Service Rules) shall be granted seniority based on their cumulative service in that classification, subject to any other provisions in the Civil Service Rules. (Example: a person hired or promoted into such a classification on January 1, 2005 will be considered to have 4.5 years of service in that classification as of June 30, 2009).
- Where the parties agree that some positions in a classification may be appropriately exempted from the Competitive Civil Service while others may be appropriately included within the Competitive Civil Service, the City agrees to conduct appropriate classification/unit placement studies. Such studies shall be completed by November 15, 2009, and may be heard by the Civil Service Board in December 2009, or as soon thereafter as the Board calendar permits.

Third Level – Remaining Disputes

Those classes for which no agreement is reached as a result of the processes described in this agreement shall remain in the UM1 unit. The City may seek civil service exemption of such classes, and the Union reserves its right to object before the Board. For such classes, if the Board determines the class is not exempt from civil service, the classification shall be placed in the UM2 unit.

The Union agrees not to assert in any legal or administrative proceedings the applicability of Civil Service or Personnel Rules to any classes allocated to the UM1 unit as of July 1, 2009 until November 15, 2009, unless the date for completion of the process is extended by mutual agreement.