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CITY OF OAKLAND



2009 FEB -5 PM 10:34

ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

OFFICE OF THE CITY
ATTORNEY

February 10, 2000

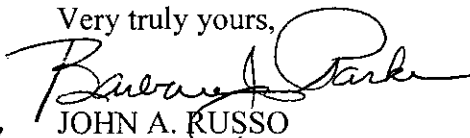
HONORABLE FINANCE AND MANAGEMENT COMMITTEE
Oakland, California

Subject: Ordinance (1) Amending the Salary Ordinance to Require council Approval of Certain Form of Compensation and Certain Terms in Hiring Agreements for Agency and Department Heads Who are Appointed by the City Administrator in Circumstances Specified in the Ordinance and (2) Supplementing and Amending Ordinance NOs. 12187 C.M.S. and 12903 C.M.S.

Dear Chairperson Quan and Members of the Committee:

This Office has prepared the subject ordinance in accordance with the requests of President Brunner and Chairperson Quan on Thursday, February 5, 2009. This Office had only a few hours to draft the language. Accordingly, the City Attorney's Office has not had an opportunity to determine whether the provisions of the proposed ordinance are consistent with the requirements and mandates of the City Charter.

Very truly yours,

for 
JOHN A. RUSSO
City Attorney

FILED
OFFICE OF THE CITY CLERK
INTRODUCED BY COUNCILMEMBER _____

APPROVED AS TO FORM AND LEGALITY

2009 FEB -5 PM 10:34

City Attorney

DRAFT

ORDINANCE NO. _____ C.M.S.

An Ordinance (1) Amending the Salary Ordinance to Require Council Approval of Certain Forms of Compensation and Certain Terms in Hiring Agreements for Agency and Department Heads Who are Appointed by the City Administrator in Circumstances Specified in the Ordinance and (2) Supplementing and Amending Ordinance Nos. 12187 C.M.S. and 12903 C.M.S.

WHEREAS, Oakland City Charter section 207 charges the City Council with fixing the compensation of all City employees, officers and officials unless otherwise provided by the Charter; and

WHEREAS, the Council has established salary ranges for employees and adopted salary ordinances that grant the City Administrator the discretion to (1) set the initial salary of employees who she/he hires at any point in the salary range for the classification in question, if there has been unusual difficulty in recruiting and (2) grant severance pay, as a hiring incentive to employees who are exempt from Civil Service and must be terminated through no fault of the employee, equivalent to 3 months of salary and up to six months; and (3) grant certain Executive Leave and bonus vacation days at the time of hiring employees who are exempt from Civil Service; and

WHEREAS, the Council desires to further limit the discretion of the City Administrator during these challenging economic times which have resulted in significant budget deficits and layoffs of employees; now therefore

THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Sec. 1.00 Purpose. This ordinance further limits the authority and discretion of the City Administrator solely with respect to fixing compensation for ~~department heads~~department heads and agency directors.

Sec. 1.10 ~~Initial~~Initial Salary for Agency and Department Heads.

ALTERNATIVE NO. 1 – RETAINS THE CURRENT LANGUAGE WHICH GIVES THE CITY ADMINISTRATOR AUTHORITY TO SET THE INITIAL SALARY OF DEPARTMENT AND AGENCY HEADS AT ANY POINT IN THE SALARY RANGE IF THERE HAS BEEN UNUSUAL DIFFICULTY IN RECRUITING

~~Except as otherwise provided,~~ The initial salary of an employee agency or department head in the City shall be the salary attached to the lowest rate of the salary schedule established for the classification to which he/she is appointed; provided however, that the appointing authority may appoint a new employee agency or department head at any step in the applicable salary schedule up to the midpoint of the salary range for the classification involved if there has been unusual difficulty in recruiting competent employees at the lowest rate of said salary schedule and the higher rate is commensurate with the education and experience of the said appointee.

ALTERNATIVE NO. 2 – LIMITS CITY ADMINISTRATOR'S AUTHORITY TO SET INITIAL SALARY FOR DEPARTMENT AND AGENCY HEADS TO THE MIDPOINT OF SALARY RANGE

~~Except as otherwise provided,~~ The initial salary of an agency or department head employee in the City shall be the salary attached to the lowest rate of the salary schedule established for the classification to which he/she is appointed; provided however, that the appointing authority may appoint a new employee at any step in the applicable salary schedule up to the midpoint of the salary range for the classification involved if there has been unusual difficulty in recruiting competent employees at the lowest rate of said salary schedule and the higher rate is commensurate with the education and experience of the said appointee. Any initial salary higher than the midpoint in the salary range for the classification in question must be approved by the City Council.

ALTERNATIVE NO. 3 – THE COUNCIL MUST APPROVE TERMS AND COMPENSATION FOR DEPARTMENT AND AGENCY HEADS OTHER THAN THOSE PROVIDED IN THE MEMORANDA OF UNDERSTANDING BETWEEN THE CITY AND ITS RECOGNIZED MISCELLANEOUS EMPLOYEE ORGANIZATIONS, THAT THE CITY ADMINISTRATOR HAS THE AUTHORITY TO GRANT TO UNREPRESENTED EMPLOYEES UNDER SECTION 2.20 OF ORDINANCE NO. 12187; AND THE CITY ADMINISTRATOR MUST SET THE SALARY AT THE LOWEST RATE IN THE SALARY RANGE FOR THE CLASSIFICATION

~~Except as otherwise provided,~~ The initial salary of an department or agency head employee in the City shall be the salary attached to the lowest rate of the salary schedule established for the classification to which he/she is appointed. Any initial salary above the lowest rate of the applicable salary schedule for the classification must be approved by the City Council. The City Council must approve any hiring agreement that provides terms or compensation for department or agency heads other than those provided in the memoranda of understanding between the City and its recognized miscellaneous employee organizations; provided. This provision expressly removes the City Administrator's discretion under section 2.20 of Ordinance No. 12187 C.M.S. to offer unrepresented employees any terms and conditions of employment, such as Executive

Leave and Severance Pay that differ from those provided under the Memoranda of Understanding between the City and recognized miscellaneous employees, organizations, however, that the appointing authority may appoint a new employee at any step in the applicable salary schedule for the classification involved if there has been unusual difficulty in recruiting competent employees at the lowest rate of said salary schedule and the higher rate is commensurate with the education and experience of the said appointee.

ALTERNATIVE NO. 4 – RETAIN CURRENT PROVISIONS OF ORDINANCE NOS. 12187 AND 12903 BUT THE CITY ADMINISTRATOR'S DISCRETION TO APPOINT ABOVE EITHER LOWEST RATE OR MIDPOINT AS WELL AS THE AUTHORITY TO GRANT SEVERANCE PAY AND EXECUTIVE LEAVE IS SUSPENDED WHEN THE CITY HAS A BUDGET DEFICIT

When the City has a budget deficit, the City Administrator's discretion to set the initial salary of a new department or agency head shall be as follows: (1) the salary may be set at any point in the salary range for the classification up to and including the midpoint of the range OR (2) the salary may be set only at the lowest rate in the salary range for the classification in question. Further, when the City has a budget deficit, the City Administrator must obtain City Council approval to provide terms and conditions of employment to department and agency heads that differ from those provided under the Memoranda of Understanding between the City and its recognized miscellaneous employee organizations, such as severance pay and Executive Leave which the City Administrator has authority to grant under Ordinance Nos. 12187 and 12903.

Sec. 1.20 Conflicts. If there is any conflict between the provisions of this Ordinance and Ordinance Nos. 12187 and 12903 which this Ordinance supplements and amends, this Ordinance's provisions shall govern.

Sec. 1.30 Amendments. Amendments to any provision of this ordinance shall hereinafter be entitled "Amendments to the Salary Ordinance".

IN COUNCIL, OAKLAND, CALIFORNIA _____

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID
NOES
ABSENT
ABSTENTION

ATTEST _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
Of the City of Oakland, California