

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLUSA PROVIDING ORDERLY PROCEDURES FOR THE ADMINISTRATION OF EMPLOYER-EMPLOYEE RELATIONS BETWEEN THE CITY AND ITS EMPLOYEE ORGANIZATIONS AND FOR RESOLVING DISPUTES REGARDING WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

WHEREAS Chapter 10, Division 4, Title 1 of the Government Code of the State of California was amended effective January 1, 1969 for the purpose of promoting improved employer-employee relations between public employers and their employees by establishing uniform and orderly methods of communication between employees and the public agencies by which they are employed; and

WHEREAS Government Code Section 3507 empowers a City to adopt reasonable rules and regulations after consultation in good faith with representatives of its employee organizations for the administration of employer-employee relations; and

WHEREAS the City of Colusa desires to adopt such reasonable rules and regulations as authorized by law:

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF COLUSA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. TITLE OF RESOLUTION

This Resolution shall be known as the Employer-Employee Relations Resolution of the City of Colusa.

SECTION 2. STATEMENT OF PURPOSE

The purpose of this Resolution is to implement Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned "Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations and for resolving disputes regarding wages, hours, and other terms and conditions of employment.

SECTION 3. DEFINITIONS

As used in this Resolution, the following terms shall have the meanings indicated:

(A.) APPROPRIATE UNIT -- means a unit established pursuant to Section 10 of this Resolution.

(B.) CITY -- means the City of Colusa, a municipal corporation, and where appropriate herein, "City" refers to the City Council, the governing body of said City, or any duly authorized management employee as herein defined.

(C.) CONSULT OR CONSULTATION IN GOOD FAITH — means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions.

(D.) EMPLOYEE — means any person regularly employed by the City except those persons elected by popular vote.

(E.) EMPLOYEE, CONFIDENTIAL — means an employee who is privy to decisions of City management affecting employer-employee relations.

(F.) EMPLOYEE, MANAGEMENT — means:

(1) Any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to the chief executive officer and department heads; and

(2) Any employee having authority to exercise independent judgment to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other employees, or having the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(G.) EMPLOYEE, PROFESSIONAL — means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.

(H.) EMPLOYEE ORGANIZATION — means any organization which includes employees of the City and which has as one of its primary purposes representing such employees in their employment relations with the City.

(I.) EMPLOYER-EMPLOYEE RELATIONS — means the relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between City management and employees or employee organizations.

(J.) GRIEVANCE — as this term is defined in Section 14 (A).

(K.) IMPASSE — means (1) a deadlock in the annual (or periodic) discussions between a majority representative and the City over any matters concerning which they are required to meet and confer in good faith, or over the scope of such subject matter; or (2) any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the Municipal Employee Relations Officer made pursuant to Sections 9, 10 or 11 of this Resolution.

(L.) MAJORITY REPRESENTATIVE -- means an employee organization, or its duly authorized representative, that has been granted formal recognition by the Municipal Employee Relations Officer as representing the majority of employees in an appropriate unit.

(M.) MEDIATION OR CONCILIATION -- means the efforts of an impartial third person, or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution to an impasse, through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.

(N.) MEET AND CONFER IN GOOD FAITH -- (sometimes referred to herein as "meet and confer" or "meeting and conferring") -- means performance by duly authorized City representatives and duly authorized representatives of an employee organization recognized as the majority representative of their mutual obligation to meet at reasonable times and to confer in good faith regarding matters within the scope of representation, including wages, hours, and other terms and conditions of employment, in an effort to: (1) reach agreement on those matters within the authority of such representatives and (2) reach agreement on what will be recommended to the City Council on those matters within the decision making authority of the City Council. This does not require either party to agree to a proposal or to make a concession.

(O.) MUNICIPAL EMPLOYEE RELATIONS OFFICER -- means the City's principal representative in all matters of employer-employee relations designated pursuant to Section 12, or his duly authorized representative.

(P.) PEACE OFFICER -- as this term is defined in Section 830, California Penal Code.

(Q.) RECOGNIZED EMPLOYEE ORGANIZATIONS -- means an employee organization which has been acknowledged by the Municipal Employee Relations Officer as an employee organization that represents employees of the City. The rights accompanying recognition are either:

(1) Formal Recognition -- which is the right to meet and confer in good faith as the majority representative in an appropriate unit; or

(2) Informal Recognition - which is the right to consultation in good faith by all recognized employee organizations.

(R.) RESOLUTION -- means, unless the context indicates otherwise, the Employer-Employee Relations Resolution of the City of Colusa.

(S.) SCOPE OF REPRESENTATION -- means all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. City Rights (Section 5) are excluded from the scope of representation.

SECTION 4. EMPLOYEE RIGHTS

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by any employee organization because of his exercise of these rights.

SECTION 5. CITY RIGHTS

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

SECTION 6. MEET AND CONFER IN GOOD FAITH — SCOPE

(A.) The City, through its representatives, shall meet and confer in good faith with representatives of formally recognized employee organizations with majority representation rights regarding matters within the scope of representation including wages, hours and other terms and conditions of employment within the appropriate unit.

(B.) The City shall not be required to meet and confer in good faith on any subject preempted by Federal or State law, nor shall it be required to meet and confer in good faith on Employee or City Rights as defined in Sections 4 and 5. Proposed amendments to this Resolution are excluded from the scope of meeting and conferring.

SECTION 7. CONSULTATION IN GOOD FAITH — SCOPE

All matters affecting employer-employee relations, including those that are not subject to meeting and conferring, are subject to consultation. The City, through its representatives, shall consult in good faith with representatives of all recognized employee organizations on employer-employee relations matters which affect them. Advance notice on matters subject to consultation, but outside the scope of representation, is desirable but not mandatory.

SECTION 8. ADVANCE NOTICE

Reasonable written notice shall be given to each recognized employee organization affected of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council or by any board or commission of the City, and each shall be given the opportunity to meet with such body prior to adoption.

In cases of emergency when the City or any board or commission of the City determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the City or the board or commission of the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation.

SECTION 9. PETITION FOR RECOGNITION

There are two levels of employee organization recognition - formal and informal. The recognition requirements of each are set forth below.

(A.) FORMAL RECOGNITION — THE RIGHT TO MEET AND CONFER IN GOOD FAITH

AS MAJORITY REPRESENTATIVE: An employee organization that seeks formal recognition for purposes of meeting and conferring in good faith as the majority representative of employees in an appropriate unit shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

- (1) Name and address of the employee organization.
- (2) Names and titles of its officers.
- (3) Names of employee organization representatives who are authorized to speak on behalf of its members.
- (4) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.
- (5) A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with, a regional or state, or national or international organization, and, if so, the name and address of each such regional, state or international organization.

(6) Certified copies of the employee organization's constitution and by-laws.

(7) A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purposes.

(8) A statement that the employee organization recognizes that the provisions of Section 923 of the Labor Code are not applicable to City employees.

(9) A statement that the employee organization has no restriction on membership based on race, color, creed, sex, or national origin.

(10) The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.

(11) A statement that the employee organization has in its possession written proof, dated within six months of the date upon which the petition is filed, to establish that employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Municipal Employee Relations Officer or to a mutually agreed upon disinterested third party.

(12) A request that the Municipal Employee Relations Officer recognize the employee organization as the majority representative of the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation.

(B.) INFORMAL RECOGNITION -- THE RIGHT TO CONSULT IN GOOD FAITH:

An employee organization that seeks recognition for purposes of consultation in good faith shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

(1) All of the information enumerated in (A.) (1) through (9) of this Section inclusive.

(2) A statement that the employee organization has in its possession written proof, dated within six months of the date upon which the petition is filed, to establish that employees have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Municipal Employee Relations Officer or to a mutually agreed upon disinterested third party.

(3) A request that the Municipal Employee Relations Officer recognize the employee organization for the purpose of consultation in good faith.

(C) The petition, including all accompanying documents, shall be verified, under oath, by the Executive Officer and Secretary of the organization that the statements are true. All changes in such information shall be filed forthwith in like manner.

(D.) The Municipal Employee Relations Officer shall grant recognition, in writing, to all employee organizations who have complied with either Sections 9 (A.) or (B.) and, in addition, Section 9 (C.) for purposes of consultation in good faith for its members. Employee organizations seeking formal recognition as majority representative must, in addition, establish to the satisfaction of the Municipal Employee Relations Officer that it represents a majority of the employees in the manner prescribed in Section 11 (A.) below. No employee may be represented by more than one recognized employee organization for the purposes of this Resolution.

SECTION 10. APPROPRIATE UNIT

(A.) The Municipal Employee Relations Officer, after reviewing the petition filed by an employee organization seeking formal recognition as majority representative, shall determine whether the proposed unit is an appropriate unit. The principal criterion in making this determination is whether there is a community of interest among such employees. The following factors, among others, are to be considered in making such determination:

(1) Which unit will assure employees the fullest freedom in the exercise of rights set forth under this Resolution.

(2) The history of employee relations: (i) in the unit; (ii) among other employees of the City; and (iii) in similar public employment.

(3) The effect of the unit on the efficient operation of the City and sound employer-employee relations.

(4) The extent to which employees have common skills, working conditions, job duties or similar educational requirements.

(5) The effect on the existing classification structure of dividing a single classification among two or more units.

Provided, however, no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.

(B.) In the establishment of appropriate units, (1) professional employees shall not be denied the right to be represented separately from non-professional employees; and (2) management and confidential employees who are included in the same unit with non-management or non-confidential employees may not represent such employees on matters within the scope of representation.

SECTION 11. RECOGNITION OF EMPLOYEE ORGANIZATIONS AS MAJORITY REPRESENTATIVE - FORMAL RECOGNITION

(A.) The Municipal Employee Relations Officer shall:

(1) Determine the majority representative of City employees in an appropriate unit by arranging for a secret ballot election or by any other reasonable method which is based upon written proof, and is designed to ascertain the free choice of a majority of such employees. The employee organization found to represent a majority of the employees in an appropriate unit shall be granted formal recognition and is the only employee organization entitled to meet and confer in good faith on matters within the scope of representation for employees in such unit. This shall not preclude other recognized employee organizations, or individual employees, from consulting with management representatives on employer-employee relations matters of concern to them.

(2) Revoke the recognition rights of a majority representative, which has been found by secret ballot election no longer to be the majority representative.

(B.) The recognition rights of the majority representative designated in accordance with this Section shall not be subject to challenge for a period of not less than twelve months following the date of such recognition.

SECTION 12. DESIGNATION OF MUNICIPAL EMPLOYEE RELATIONS OFFICER

The City Council shall designate, by Resolution, a Municipal Employee Relations Officer who shall be the City's principal representative in all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment.

The Municipal Employee Relations Officer so designated is authorized to delegate these duties and responsibilities.

SECTION 13. RESOLUTION OF IMPASSES

Impasse procedures may be invoked only after the possibility of settlement by direct discussion has been exhausted.

The impasse procedures are as follows:

(A.) MEDIATION (OR CONCILIATION) (Defined in Section 3-M) —

All mediation proceedings shall be private. The Mediator shall make no public recommendations nor take any public position concerning the issues.

(B.) A DETERMINATION BY THE CITY COUNCIL — after a hearing on the merits of the dispute.

(C.) Any other dispute resolving procedures to which the parties mutually agree or which the City Council may order.

Any party may initiate the impasse procedure by filing with the other party (or parties) affected a written request for an impasse meeting together with a statement of its position on all disputed issues. An impasse meeting may then be scheduled by the Municipal Employee Relations Officer forthwith after the date of filing of the written request for such meeting, with written notice to all parties affected. The purpose of such impasse meeting is twofold:

(1) To permit a review of the position of all parties in a final effort to reach agreement on the disputed issues, and (2) if agreement is not concluded, to mutually select the specific impasse procedure to which the dispute may be submitted; in the absence of agreement between the parties on this point, the matter may be referred to the City Council.

The fees and expenses, if any, of mediators or of any other impasse procedure, shall be payable one-half by the City and one-half by the employee organization or employee organizations.

SECTION 14. GRIEVANCES

(A.) A grievance is any dispute concerning the interpretation or application of this Resolution, or of rules or regulations governing personnel practices or working conditions, or of the practical consequences of a City rights' decision on wages, hours and other terms and conditions of employment.

(B.) Grievances shall be processed in accordance with procedures established by the City.

SECTION 15. MEMORANDUM OF UNDERSTANDING

When the meeting and conferring process is concluded between the City and a formally recognized employee organization representing a majority of the employees in an appropriate unit, all agreed upon matters shall be incorporated in a written memorandum of understanding signed by the duly authorized City and majority representatives.

As to those matters within the authority of the City Council, the memorandum of understanding shall be submitted to the City Council for determination.

SECTION 16. RULES AND REGULATIONS

The City Council may adopt such Rules and Regulations necessary or convenient to implement the provisions of this Resolution and Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq.).

SECTION 17. CONSTRUCTION

(A.) Nothing in this Resolution shall be construed to deny any person or employee the rights granted by Federal and State laws.

(B.) The rights, powers and authority of the City Council in all matters, including the right to maintain any legal action, shall not be modified or restricted by this Resolution.

(C.) The provisions of this Resolution are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq.) as amended in 1968.

SECTION 18. SEPARABILITY

If any provision of this Resolution, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

The foregoing Resolution was passed and adopted by the following vote at an adjourned regular meeting of the City Council of the City of Colusa held on September 28, 1970.

Ayes: Councilmen Bailey, Livermore, Rockwell, Smith.

Noes: None.

Absent: None.