

Council Meeting of
September 11, 2007

Honorable Mayor and
Members of the City Council
City Hall
Torrance, California

SUBJECT: City Manager - Set a Compliance Schedule to Comply with a Writ of Mandate from the Los Angeles Superior Court in a Personnel Matter

RECOMMENDATION:

The City Manager recommends that the City Council comply with the writ of mandate issued by the Los Angeles Superior Court ordering the City to hold a hearing regarding the extent to which Petitioner, a former Torrance police officer, has a revived interest in employment. Specifically, the City Manager recommends that the City Council set a briefing schedule and hearing date as follows:

- (1) Order Petitioner and Respondent to exchange and file briefs with the City Council by 5:00 p.m. September 17, 2007, outlining their respective positions regarding the Petitioner's revived interest in employment.
- (2) Allow the parties to file reply briefs, if they so choose. Order that reply briefs be submitted and exchanged between the parties and submitted to the City Council no later than 5:00 p.m. September 21, 2007.
- (3) Set a hearing regarding the status of the Petitioner's revived interest in employment for September 25, 2007.

BACKGROUND/ANALYSIS:

Petitioner was employed by the City of Torrance as a police officer. In 1998, he was found guilty of one felony count of Penal Code Section 136.1(c)(1) – Dissuading A Witness By Force Or Fear; one felony count of 136.1(b)(2) – Dissuading A Witness From Assisting In The Prosecution; and one Misdemeanor

Count of 243(e)(1) - Spousal Battery. Accordingly, Petitioner was terminated from the Torrance Police Department.

Petitioner filed a timely appeal to the Civil Service Commission, which subsequently sustained the decision of the department and the administrative hearing officer on January 15, 1999. Petitioner then appealed to the City Council, which upheld the decision of the Civil Service Commission on April 13, 1999. Thereafter, Petitioner filed several appeals to his felony convictions, one of which led to the convictions being overturned, effective May 22, 2005.

In light of the reversal of his convictions, Petitioner then requested an appeal to both the City Council and the Civil Service Commission, which the City and the Commission denied.

On or about August 16, 2005, Petitioner filed a writ to the Los Angeles Superior Court, requesting that the Court overturn the City Council's former decision upholding the termination of Petitioner. Petitioner also requested immediate reinstatement and back pay, or alternatively a hearing before the City Council.

The Superior Court rejected Petitioner's request to overturn the City Council's decision upholding the termination of Petitioner. The Court further rejected Petitioner's request for reinstatement. However, on June 18, 2007, the Court issued a writ ordering the City to conduct a hearing to determine the status of Petitioner's revived interest in employment. The City was served with the writ on July 16, 2007.

The writ further orders that the City "return" to the Court within sixty days of service of the Writ. Upon return to Court the City must explain how the City has complied with the order. In order to comply with the Writ, the City Manager is recommending that Council set a compliance schedule.

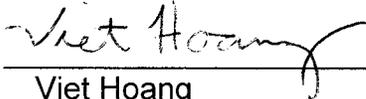
Staff recommends September 25, 2007 as the date for this matter to be heard by the City Council. The recommended hearing date has been selected based on the availability of both parties' attorneys.

Given the complex legal issues involved staff recommends that the parties be given an opportunity to brief their respective positions. A briefing schedule is also recommended. Petitioner will determine whether the hearing will be conducted on an open or closed basis. The hearing will not be televised.

In hearing this matter, the Council will receive a copy of the Writ, the Findings of Facts and Conclusions of Law issued by the Commission, the initial and reply briefs submitted to the City Council, and any written exceptions of the parties. The Council will also hear oral argument. Copies of these materials will be distributed to your Honorable Body prior to the September 25, 2007 hearing for your review.

Respectfully Submitted,

LEROY J. JACKSON
CITY MANAGER

By: 
Viet Hoang
Acting Civil Service Manager

CONCUR:


John L. Fellows III
City Attorney

CONCUR:


LeRoy J. Jackson
City Manager

ATTACHMENT: A) Writ of Mandate (redacted)

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

[REDACTED])	Case No. [REDACTED]
)	
Petitioner,)	WRIT OF MANDATE
)	
vs.)	
)	
CITY OF TORRANCE, CITY OF TORRANCE CIVIL SERVICE COMMISSION,)	
)	
Respondents.)	
)	

TO: RESPONDENTS, CITY OF TORRANCE (COUNCIL) AND CITY OF TORRANCE CIVIL SERVICE COMMISSION; AND RESPONDENTS IN INTERVENTION, LEROY JACKSON AND JAMES HERRON:

Judgment having been entered ordering that a peremptory writ of mandate be issued from this Court,

YOU ARE HEREBY COMMANDED:

A. to conduct a hearing as set forth in *Tuffli v. San Diego Unif. Sch. Dist.*, 30 Cal.App.4th 1398, to determine the status of Petitioner's revived interest in employment with the City of Torrance in light of the reversal of Petitioner's felony conviction. Petitioner, being a

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1 permanent employee before he was discharged, is entitled to same due
2 process as other permanent employees of Torrance;

3 B. If you find no legal cause for not reinstating Petitioner to his
4 employment as a peace officer with the City of Torrance, you shall also
5 determine the amount of back pay and other benefits, if any, that
6 Petitioner may be entitled to receive, commencing June 9, 2005;

7 C. A return shall be made to this Court no later than 60 days from
8 service of the peremptory writ of mandate upon the City Council pursuant
9 to Code of Civil Procedure section 1096.

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11 DATED: JUN 18 2007, 2007



12 John A. Clarke, Clerk

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14 K. W. Kam
15 By: Deputy Clerk

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DIJ:dl

PROOF OF SERVICE

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 367 North Second Ave., Upland, California 91786.

On July 13, 2007, I served the following documents described as: **WRIT OF MANDATE** on the interested parties in this action by placing a true and correct copy of each document thereof, enclosed in a sealed envelope addressed as follows:

*Attorneys for Respondents in Intervention, LEROY JACKSON, as City Manager of the City of Torrance, and JAMES HERREN, as Chief of Police of the City of Torrance*¹

J. Scott Tiedemann
Jennifer K. Palagi
LIEBERT CASSIDY WHITMORE
6033 W. Century Blvd., Suite 500
Los Angeles, CA 90045
Tel: (310) 981-2000
Fax: (310) 337-0837

*Respondents CITY OF TORRANCE, CITY OF TORRANCE CIVIL SERVICE COMMISSION*²

City of Torrance
City Hall
3031 Torrance Blvd.
Torrance, CA 90503
(310) 328-5310

City of Torrance Civil Service Commission
Stacey Lewis, Civil Service Manager
3031 Torrance Blvd.
Torrance, CA 90503
(310) 618-2968

I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date in the United States mail at Upland, California. (See Footnote 1)

By Personal Service, I caused such envelope to be delivered by hand to the above addressee(s). (See Footnote 2)

PERSONALLY SERVED ON Bruce Morgan
7-16-07
Bruce Morgan

By overnight courier, I caused the above-referenced document(s) to be delivered to an overnight courier service (UPS), for delivery to the above addressee(s).

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on July 13, 2007 in Upland, California.

Christine Swartz
Christine Swartz

¹ BY MAIL ONLY

² BY PERSONAL SERVICE

