

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

Members of the Council:

SUBJECT: City Manager – Adopt ORDINANCE to amend Article 8 (Employer-Employee Relations) Section 14.8.24 (Resolution of Impasse on Agreement Terms) of the Torrance Municipal Code. Expenditure: None

RECOMMENDATION

Recommendation of the City Manager that City Council adopt an ORDINANCE to amend Article 8 (Employer-Employee Relations), Section 14.8.24 (Resolution of Impasse on Agreement Terms) of the Torrance Municipal Code to include time restrictions on mediation and fact finding.

Funding

Not applicable.

BACKGROUND AND ANALYSIS

The Meyers-Milias-Brown Act (MMBA) was adopted in California in 1968. The act requires employers and recognized employee organizations to meet and negotiate in good faith with one another on matters that are within the scope of representation, including hours, wages and working conditions. Since the adoption of the MMBA, local agencies established Employer-Employee Relations ordinances to allow for the formation of employee groups, define the process of bargaining, as well as provide a mechanism for impasse resolution. According to the MMBA, impasse is the point in negotiations at which one or both parties determine that no further progress can be made toward reaching an agreement. Staff must note that the only impasse resolution procedure authorized under the MMBA is mediation, but agencies are allowed to adopt other procedures such as arbitration or fact-finding. In Torrance, when the City established its Employer-Employee Relations ordinance in the late 1960's, City leaders included mediation, as well as advisory fact finding in the impasse resolution process. Today, the City of Torrance is one of the few agencies to provide for advisory fact finding as part of the impasse resolution. The current impasse resolution does not place time restrictions on impasse resolution, thus creating the potential for a lengthy and expensive process prior to taking the City's Last, Best and Final Offer to the City Council for consideration and potential unilateral implementation.

On January 12, 2011, the City's Chief Labor Negotiator sent notice to all employee groups indicating that the City Manager in accordance with California Government Code Section 3507 will recommend to the City Council a modification of the City's Municipal Code Section 14.8.24. The attached Civil Service Item from April 11, 2011 provides background information regarding the City's current impasse procedure (Attachment C). The formal process required to change the City's impasse resolution is the adoption of an ordinance to amend the Employer-Employee Relations article of the Torrance Municipal Code by a super majority vote of the City Council (5 Council members must vote yes).

Under Government Code Section 3507, the City is required to meet and consult in good faith with all impacted employee groups prior to making changes to any local ordinance impacting employee organizations. To comply with the Government Code, staff scheduled meetings with the majority of the City's employee organizations to seek input regarding the proposed ordinance change. The City's initial proposal was to eliminate fact-finding while limiting mediation to 30 days. Upon completion of the meetings, it was apparent that employee groups supported the retention of both mediation and fact-finding. However, the employee groups were not opposed to placing timelines to both mediation and fact-finding.

Based on the feedback received from employee groups and in the interest of maintaining positive employer-employee relations, staff modified the City Manager's initial proposal to maintain the existing process with the placement of timelines. Staff verified the feasibility of the timelines with the California State Conciliation and Mediation Service (CSCMS) prior to making the recommendation to change the current City ordinance. The modified proposal includes mediation of 60 days and advisory fact-finding limited to 120 days.

The final proposed ordinance change was presented to the Civil Service Commission for review and comment on March 28, 2011. At the meeting, the Commission engaged in a discussion of the proposed modification and moved, by a vote of 4-2, to return the amendment to staff for further revision. The Commissioners who voted in support of the motion had concerns related to the definition and declaration of "impasse" and the process as defined in the ordinance. Staff indicated that the role of the Commission was advisory in nature with the opportunity to provide comment to the City Council for consideration prior to approval of any proposed amendment to the Torrance Municipal Code.

On April 11, 2011, staff will return to the Civil Service Commission for a follow up discussion with notification that the proposed ordinance change is going to be considered by the City Council on April 12, 2011 (see Attachment D for the Civil Service Commission Item of April 11.) The Civil Service Commission meeting minutes and comments will be available to the City Council on Tuesday prior to consideration of the item. Staff must emphasize to Your Honorable Body that certain potential changes such as placing declaration requirements of impasse are outside the scope of the impasse procedure and may require meet and confer to implement. The City Manager is not recommending any changes beyond the inclusion of time restrictions on the impasse resolution process.

RECOMMENDATION

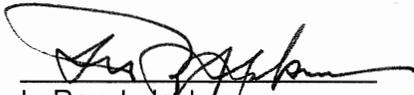
Staff recommends that Your Honorable Body approve the modification of the Torrance Municipal Code Section 14.8.24 as set forth in Attachment B. The proposed changes place reasonable time restrictions on the impasse process and without changing the structure of the existing process.

Respectfully submitted,

LeROY J. JACKSON
CITY MANAGER

By 
Aram Chaparyan
Assistant to the City Manager

CONCUR:


LeRoy J. Jackson
City Manager

- Attachments: A) TMC Section 14.8.24 "Resolution of Impasse on Agreement Terms" (Current)
B) Proposed Ordinance to amend Section 14.8.24 of the Torrance Municipal Code Relating to the Resolution of Impasse on Agreement Terms (New)
C) Civil Service Commission Item from April 11, 2011
D) Meeting Notes from the April 11, 2011 Civil Service Commission Meeting – Available Tuesday, April 12, 2011

SECTION 14.8.24. - RESOLUTION OF IMPASSE ON AGREEMENT TERMS.

- a) If the appropriate management representatives and the representatives of a recognized employee organization reach an, the matter may be submitted for mediation to the California State Conciliation Service by either party. All mediation proceedings shall be private.
- b) Either party may request fact-finding in accordance with this section in connection with any disputed matter.
- c) A fact-finder so requested shall be selected by the parties from a list of arbitrators supplied by State Conciliation Service.
 1. The recommendations of the fact-finder or fact-finders shall be limited to the issues originally referred for dispute settlement.
 2. Fact-finding proceedings shall be private.
 3. he fact-finding report shall be filed with the parties in interest.
- d) The fees and expenses, if any, of mediators and fact-finders shall be shared equally by the parties involved. The City shall furnish meeting space and recording and transcribing services when requested for such proceedings.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
TORRANCE AMENDING SECTION 14.8.24 OF THE TORRANCE
MUNICIPAL CODE RELATING TO THE RESOLUTION OF IMPASSE
ON AGREEMENT TERMS.**

The City Council of the City of Torrance does ordain as follows:

SECTION 1

That Section 14.8.24 of the Torrance Municipal Code is amended to read in its entirety as follows:

“SECTION 14.8.24. RESOLUTION OF IMPASSE ON AGREEMENT TERMS.

- a)** If the appropriate management representatives and the representatives of a recognized employee organization reach an impasse, either party may, within 5 working days of impasse, notify the other party that the matter is to be submitted for mediation to the California State Conciliation Service. All mediation proceedings will be private. The mediation must be completed within 60 days of submitting the request to the California State Conciliation Service except by mutual agreement of both parties. Failure to schedule and mediate within 60 days will move the matter to the City Council, as described in subsection (e) below.
- b)** Either party may request fact-finding within 5 working days in accordance with this section in connection with any disputed matter after completion of mediation. The fact-finding must be completed within 120 days after completion of mediation except by mutual agreement of the parties. Failure to schedule and obtain the fact-finding report within 120 days after completion of mediation will move the matter to the City Council, as described in subsection (e) below.
- c)** A fact-finder so requested shall be selected by the parties from a list of arbitrators supplied by the California State Conciliation Service.

 - 1. The recommendation of the fact-finder will be limited to the issues originally referred for dispute settlement.
 - 2. Fact-finding proceedings will be private.
 - 3. The fact-finding report will be filed with the parties.
- d)** The fees and expenses of the mediator and fact-finder will be shared equally by the parties involved. The City will furnish meeting space and recordings and transcribing services when requested for such proceedings.”
- e)** If the appropriate management representatives and the representatives of a recognized employee organization are unable to reach agreement during mediation or fact-finding, the matter will be submitted to the City Council for resolution.”

SECTION 2

Any provisions of the Torrance Municipal Code or its appendices, or any other ordinances of the City inconsistent with this ordinance, to the extent of the inconsistencies and no further, are repealed.

SECTION 3

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

SECTION 4

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED AND APPROVED the ___ day of _____, 2011.

ADOPTED AND PASSED this ___ day of _____, 2011.

Frank Scotto, Mayor

ATTEST:

Sue Herbers, CMC, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Patrick Q. Sullivan,
Assistant City Attorney

	<p>Civil Service Commission</p>
<p>The Civil Service Commission is an advisory body to the City Council that meets on the second and fourth Mondays of each month at 6:00 p.m. in the Council Chambers and on other Mondays as required. All meetings are open to the public except for those portions related to personnel issues that under law may be considered in closed session. Those who wish to speak on any matter on the agenda are asked to complete a "Speaker Information" card (available at the meeting) and relay it to the staff before leaving the meeting.</p> <p>Staff reports are available for review at the Human Resources office, Civic Center Main Library and the City Clerk's Office. Direct any other questions or concerns to the Civil Service Manager, Laura Lohnes at 310.618.2967. Agendas are posted on the City of Torrance Home Page www.torranceCA.gov.</p> <p>In compliance with the Americans with Disabilities Act, if special assistance is needed to participate in this meeting, please call 310.618.2967. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28CFR 35.102-104 ADA Title II]</p> <p>HOURS OF OPERATION Monday through Friday from 7:30 a.m. to 5:30 p.m. Offices are closed alternate Fridays.</p> 	

CIVIL SERVICE COMMISSION

CITY COUNCIL CHAMBERS – CITY HALL
3031 TORRANCE BOULEVARD
TORRANCE, CALIFORNIA 90503

MONDAY, April 11, 2011
6:00 P.M.

AGENDA

CALL TO ORDER

ROLL CALL / MOTIONS FOR EXCUSED ABSENCE

FLAG SALUTE

REPORT FROM STAFF ON POSTING OF AGENDA

ORAL COMMUNICATIONS #1 (Limited to a 30 minute period)

Comments on this portion of the agenda are limited to items not on the agenda and to no longer than three (3) minutes per speaker. Under the provisions of the Brown Act, the Commission is prohibited from taking action or engaging in discussion on any item not appearing on the posted agenda.

WRITTEN COMMUNICATIONS

1. Review and comment on proposed amendment to the Torrance Municipal Code Section 14.8.24 and review of proposed revision to the Civil Service Policy for the Delegation to a Hearing Officer to include procedures for the selection of mediators and fact-finders.

HEARING

2. Appeal of suspension of Jose Cuevas. Consideration of Public Employee may be conducted in a closed session per California Government Code 54957. This item will be considered in closed session if requested by the employee at the start of the hearing.

ORAL COMMUNICATIONS #2

Comments on this portion of the agenda are limited to items not on the agenda and to no longer than three (3) minutes per speaker. Under the provisions of the Brown Act, the Commission is prohibited from taking action or engaging in discussion on any item not appearing on the posted agenda.

ADJOURNMENT

ROLL CALL: Daniel, Dean, Doty, Skoll, Stadler, Wright, Wood

April 4, 2011

Commission Meeting
April 11, 2011

Honorable Chair and Members
of the Civil Service Commission
City Hall
Torrance, California

Honorable Members:

SUBJECT: Review and comment on proposed amendment of the Torrance Municipal Code Section 14.8.24 and review of proposed revision to the Civil Service Policy for the Delegation to Hearing Officer to include procedures for selection of mediators and fact-finders.

BACKGROUND

At the Commission meeting held on March 28, 2011, staff presented a proposed amendment to Torrance Municipal Code (TMC) Section 14.8.24 which included time restrictions on mediation and fact-finding. (See Attachment A, which is the original staff report, and Attachment B, which contains an excerpt of the minutes). At that time, the Commission engaged in a discussion of the proposed modification and moved, by a vote of 4 -2, to return the amendment to staff for further discussion, consultation and possible amendments. Specifically, Commissioner Daniel raised questions regarding the definition and declaration of impasse, the procedures for notifying parties of mediation and fact-finding, as well as the recommendation to conduct fact-finding prior to mediation. In accordance with this direction, staff reviewed the scope of the proposed ordinance, correspondence sent to employee groups, and published guidance regarding the conduct of labor relations between public agencies and employee groups.

ANALYSIS

The Torrance Municipal Code Section 14.8.2 defines the term impasse as follows: "Impasse means a failure to reach agreement over a protracted period of time between a recognized employee organization and the City over any matter within the scope of representation, or over the scope of such matter at issue." Should the City define impasse as a precise term in which negotiations must be concluded, the City would then need to negotiate that definition into each of the Memorandum of Understanding for the City's 10 employee groups (see Attachment C for a sample of impasse definition language as contained in an a Memorandum of Understanding between Los Angeles County and the Los Angeles Deputy Sheriffs). If the proposed amendment to 14.8.24 included a time-triggered definition of impasse, it would be in conflict with the definition contained in 14.8.2 and it would be unenforceable since the terms of negotiation are defined in approved Memorandums of Understanding. Thus staff has not incorporated any revisions regarding the definition of impasse in the proposed ordinance as included in Attachment D of this report.

In regards to procedures for notifying parties concerning the selection and scheduling of mediators and fact-finders, staff agrees that all parties should be fully informed of the steps to

be taken regarding the initiation of mediation and fact-finding; however, staff does not feel that these steps need to be included in an ordinance, but that these steps should be contained in a stand alone policy of the Civil Service Commission. The Civil Service Commission currently has policies that control the administration of hearings, the selection of a hearing officer, and the special administration of examinations, etc. These policies can be easily amended by approval of the Commission and consultation with the affected employee groups but they do not need to be adopted or amended by City Council ordinance. The Civil Service Commission has the authority to create such procedures in accordance with TMC section 13.10.8 entitled, "Rules and Regulations." To address the steps required to obtain mediators or fact-finders, staff has updated the procedure for selection of a hearing officer to include procedures for the selection of mediators and fact-finders. Both the original and revised procedures are included in this report as Attachments E and F, respectively.

To enact an ordinance that requires fact-finding before mediation limits the flexibility of both parties to end the impasse in the most effective manner possible. In some cases, mediation may be successful in resolving impasse without the time and expense required by fact-finding. In addition, the only impasse resolution procedure authorized by the Meyer-Milias-Brown Act (MMBA) is mediation and there is no requirement in MMBA to precede mediation with fact-finding.¹ In preparation for the revision of the impasse procedure, the City conducted a survey of local cities comparable in size and structure to the City of Torrance (see attachment G). Not one of these cities requires fact-finding prior to mediation. In fact, the City of Torrance is the only city that includes fact-finding in their impasse procedures. Also, when meeting with the employee groups, no interest was indicated in requiring fact-finding prior to mediation. Because the City wishes to retain the maximum flexibility in resolving impasses, and because there is no legal requirement or local standard, or interest by the employee groups for conducting fact-finding prior to mediation; the City has not revised the proposed modification to TMC 14.8.24 to include fact-finding prior to mediation.

Staff also wishes to provide a brief background on the process of engaging the employee groups in developing the proposed ordinance change before your Honorable Body for comment and review. On January 12, 2011, the City's Chief Labor Negotiator sent a notice to all employee groups indicated that the City Manager will recommend a modification of the City's impasse resolution to the City Council (See Attachment H for sample of letter sent to employee groups). The appropriate California Code Section was referenced in regards to the requirement to meet and consult with employee organizations. The City's initial proposal on January 12, 2011 deleted the fact-finding component from the impasse resolution based on input from the employee groups. Upon meet and consulting with employee groups, City staff recommended that fact-finding be maintained as part of the impasse resolution with the stipulation that a time period to define to expedite the process. City employee groups concurred with staff recommendation to maintain the current requirements of the impasse resolution with the only exception of adding time limits in the process. The City's intent was never to define specific guidelines to either define the term impasse or to impose negotiation time limits. City staff feel

¹ Section 3505.2 of the Government Code known as the Meyer-Milias-Brown Act (MMBA) states that the "public agency and the recognized employee organization or organizations together may agree on the appointment of a mediator mutually agreeable to the parties." Further guidance on the subject suggests that "The only impasse resolution procedure authorized under the MMBA is mediation, but agencies may adopt other procedures such as arbitration or fact finding." See page 15 of the Second Edition of the *Pocket Guide to the Basics of Labor Relations*, published in September 2009 by the California Public Employee Relations Institute for Research on Labor Relations.

that they have met the good faith standard in obtaining input from employee groups by modifying the City's initial proposal.

RECOMMENDATION

Staff will be bringing forward this proposed amendment to the City Council on April 12, 2011. The agenda item for the City Council's consideration will include this staff report in its entirety and supplemental material will be made available to the City Council with a record of Commission's comment regarding the proposed ordinance. Staff respectfully recommends that your Honorable Body review the proposed amendment of the Torrance Municipal Code Section 14.8.24 as set forth in Attachment C and provide comment to the City Council. In addition, staff recommends that your Honorable Body review and comment on the procedure for the selection of neutrals for mediation and fact-finding.

Respectfully submitted,



Laura J. Lohnes
Civil Service Manager

Concur:



LeRoy Jackson
City Manager

- Attachment A Staff report regarding the proposed amendment of Torrance Municipal Code Section 14.8.24 to include time restrictions on mediation and fact-finding, dated March 28, 2011
- Attachment B Excerpt of Minutes for the Civil Service Commission Meeting held on March 28, 2011
- Attachment C Excerpt from the Memorandum of Understanding between Los Angeles County and the Los Angeles Deputy Sheriffs, dated May 10, 2005
- Attachment D Proposed modification to TMC Section 14.8.24 "Resolution of Impasse on Agreement Terms"
- Attachment E Policy of the Civil Service Commission: Procedures when delegated to a Hearing Officer
- Attachment F Policy of the Civil Service Commission: Procedures for the Selection of Neutrals to Act as Hearing Officers, Mediators, or Fact-finders
- Attachment G Impasse Survey
- Attachment H Sample Letter from Chief Labor Negotiator to employee groups

March 14, 2011

Commission Meeting
March 28, 2011

Honorable Chair and Members
of the Civil Service Commission
City Hall
Torrance, California

Honorable Members:

SUBJECT: Review of Proposed amendment of the Torrance Municipal Code Section 14.8.24
to include time restrictions on mediation and fact finding

BACKGROUND

The Meyer-Millais-Brown Act (MMBA), enacted in 1969, allowed local governments to adopt ordinances for the administration of employer-employee relations. As a result, the City amended the Torrance Municipal Code (Added by O-1973; O-1974) to include several sections that would codify employee-employer relations.

Section 14.8.14 of the Torrance Municipal Code (TMC) gives recognized employee groups the right to meet and confer in good faith with City regarding "wages, hours, and other terms and conditions of employment..." At times, however, the City and employee groups fail to reach an agreement. As defined in TMC Section 14.8.2, when this failure occurs over "a protracted period of time....over any matter within the scope of representation," then the parties have reached an impasse.

The current impasse procedures contained in Section 14.8.24 include the following steps: party may declare an impasse; either party can request that the disputed matter be submitted for mediation to the California State Conciliation Service; either party may request fact finding in connection with any disputed matter. Pursuant to MMBA, after all impasse procedures are exhausted, the City Council can then authorize unilateral implementation of the City's last, best and final offer.

ANALYSIS

The impasse procedures contained in the TMC exceed the requirements of MMBA and Torrance is one of the few cities in the region that has such an extensive impasse ordinance. Because there are no time restrictions contained in the current ordinance, the amount of time between the declaration of impasse until the time of unilateral implementation is excessively long in comparison to other local agencies.

The last time the City declared an impasse concerning a matter within the scope of representation; it took a year for the City to completely exhaust the impasse procedure before the City Council could implement the last, best and final offer. In comparison, Beverly Hills and Glendale were able to exhaust their impasse procedure between 1 and 5 months after the

Attachment A

declaration of impasse. In Long Beach, the impasse procedure allows for the City Council to impose the City's last, best and final offer after both parties have rejected the final proposals.

The City continues to be affected by the economic recession and the City Manager anticipates continuing challenges with the City's budget and negotiations with employee groups. In addition, the current impasse procedure is a major obstacle in the implementation of operational efficiencies as the City cannot be sure when the impasse procedures will be exhausted.

The City notified employee groups regarding the possibility of amending the impasse procedures and initially, the City's proposal called for the elimination of the fact finding step as well as setting a time restriction on the mediation process. After receiving input from employee groups, the City revised the amended procedure to include fact-finding with a time restriction. The proposed procedure before your Honorable Body for review and comment contains a 60-day time restriction on the mediation process and 120-day time restriction on fact finding.

While the City is required to meet and consult regarding the proposed modifications to the impasse procedures, the City is not required to reach an impasse over the impasse procedures. The City has made a good faith effort to incorporate the concerns of the affected employee groups and has amended the original proposal. The proposed ordinance before your Honorable Body is a compromise in which the current steps of mediation and fact finding are retained, but the incorporation of time restrictions will allow the City to bring any issue subject to impasse before the City Council for final review and implementation.

RECOMMENDATION

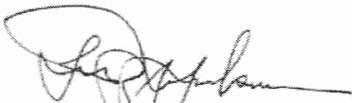
Staff respectfully recommends that your Honorable Body review the proposed modification of the Torrance Municipal Code Section 14.8.24 as set forth in Attachment B and provide comment to the City Council.

Respectfully submitted,



Laura J. Lohnes
Civil Service Manager

Concur:



LeRoy Jackson
City Manager

Attachment A – TMC Section 14.8.24 "Resolution of Impasse on Agreement Terms
Attachment B – Proposed Ordinance to amend Section 14.8.24 of the Torrance Municipal Code
Relating to the Resolution of Impasse on Agreement Terms

SECTION 14.8.24.- RESOLUTION OF IMPASSE ON AGREEMENT TERMS.

a)

If the appropriate management representatives and the representatives of a recognized employee organization reach an impasse, the matter may be submitted for mediation to the California State Conciliation Service by either party. All mediation proceedings shall be private.

b)

Either party may request fact-finding in accordance with this section in connection with any disputed matter.

c)

A fact-finder so requested shall be selected by the parties from a list of arbitrators supplied by State Conciliation Service.

1)

The recommendations of the fact-finder or fact-finders shall be limited to the issues originally referred for dispute settlement.

2)

Fact-finding proceedings shall be private.

3)

The fact-finding report shall be filed with the parties in interest.

d)

The fees and expenses, if any, of mediators and fact-finders shall be shared equally by the parties involved. The City shall furnish meeting space and recording and transcribing services when requested for such proceedings.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
TORRANCE AMENDING SECTION 14.8.24 OF THE TORRANCE
MUNICIPAL CODE RELATING TO THE RESOLUTION OF IMPASSE
ON AGREEMENT TERMS.

The City Council of the City of Torrance does ordain as follows:

SECTION 1

That Section 14.8.24 of the Torrance Municipal Code is amended to read in its entirety as follows:

"SECTION 14.8.24. RESOLUTION OF IMPASSE ON AGREEMENT TERMS.

- a) If the appropriate management representatives and the representatives of a recognized employee organization reach an impasse, either party may, within 5 working days of impasse, notify the other party that the matter is to be submitted for mediation to the California State Conciliation Service. All mediation proceedings will be private. The mediation must be completed within 60 days of submitting the request to the California State Conciliation Service except by mutual agreement of both parties. Failure to schedule and mediate within 60 days will move the matter to the City Council, as described in subsection (e) below.
- b) Either party may request fact-finding within 5 working days in accordance with this section in connection with any disputed matter after completion of mediation. The fact-finding must be completed within 120 days after completion of mediation except by mutual agreement of the parties. Failure to schedule and obtain the fact-finding report within 120 days after completion of mediation will move the matter to the City Council, as described in subsection (e) below.
- c) A fact-finder so requested shall be selected by the parties from a list of arbitrators supplied by the California State Conciliation Service.
 - 1. The recommendation of the fact-finder will be limited to the issues originally referred for dispute settlement.
 - 2. Fact-finding proceedings will be private.
 - 3. The fact-finding report will be filed with the parties.
- d) The fees and expenses of the mediator and fact-finder will be shared equally by the parties involved. The City will furnish meeting space and recordings and transcribing services when requested for such proceedings."
- e) If the appropriate management representatives and the representatives of a recognized employee organization are unable to reach agreement during mediation or fact-finding, the matter will be submitted to the City Council for resolution."

SECTION 2

Any provisions of the Torrance Municipal Code or its appendices, or any other ordinances of the City inconsistent with this ordinance, to the extent of the inconsistencies and no further, are repealed.

SECTION 3

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

SECTION 4

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED AND APPROVED the ___ day of ____, 2011.

ADOPTED AND PASSED this ___ day of ____, 2011.

Frank Scotto, Mayor

ATTEST:

Sue Herbers, CMC, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Patrick Q. Sullivan,
Assistant City Attorney

EXCERPT OF MINUTES

Minutes Approved
 Minutes Subject to Approval

March 28, 2011

**MINUTES OF A MEETING OF THE
 TORRANCE CIVIL SERVICE COMMISSION**

CALL TO ORDER

The Torrance Civil Service Commission convened in a regular session at 6:00 p.m. on Monday, March 28, 2011, in the City Council Chambers at Torrance City Hall.

ROLL CALL

Present: Commissioners Daniel, Dean, Doty, Skoll, Stadler, Wright and Chairperson Wood*

Absent: None

Also Present: Civil Service Manager Lohnes,
 Deputy City Attorney Thompson-Bell, Counsel for the Commission
 Chairperson Wood* (left at 6:45 p.m.)

WRITTEN COMMUNICATIONS

- Proposed amendment of the Torrance Municipal Code Section 14.8.24 to include time restrictions on mediation and fact finding.**

Civil Service Manager Lohnes referred to the material of record regarding the proposed changes to the Torrance Municipal Code on impasse procedures, and copies of questions that had been submitted to staff by Commissioner Daniel. Civil Service Manager Lohnes added that Aram Chaparyan, the City's Chief Labor Negotiator and Melody Lawrence, Human Resources Manager, were in attendance and available to answer questions.

Commissioner Daniel stated his concern that the proposed amendment did not resolve the issue of imposing time restraints on resolving impasses. He noted that Civil Service Manager Lohnes had responded to his submitted questions, but he stated that he felt that his questions had not all been resolved.

Commissioner Daniel expressed his concern that the ordinance did not clearly define when an impasse occurred, but stated "a protracted period of time" and, without a more precise definition, it is impossible to set appropriate time limits.

Commissioner Daniel also noted his concern that the definition of when mediation starts and ends needed to be clearer in order to establish time limits, as well as his concern that the unilateral request for mediation had no requirements for parties to participate.

Commissioner Daniel stated that he felt that in the proposed change, fact finding should be before, not after, mediation, as fact finding was not binding or an arbitration.

Commissioner Daniel stated that he would like input from staff to explain the City's position on the amendment. He noted that he felt that the amendment could be better structured and had suggestions on how to accomplish that, if they were needed.

Attachment B

In response to a question from Chairperson Wood, Deputy City Attorney Thompson-Bell stated that, under Section 1300 of the City's Charter, the Civil Service Commission had an advisory role to the City Council regarding any portion of the Civil Service Code, of which 14.8.24, would qualify.

Responding to a further question from Chairperson Wood, Deputy City Attorney Thompson-Bell stated that the revising of the ordinance could be discussed, but if the discussion went beyond the revision, then the item would need to be agendaized.

Assistant to the City Manager Chaparyan presented some background to the proposed changes to the ordinance. He stated that the MMBA was designed with the premise that the parties would reach an agreement and therefore, did not require some of the impasse procedures that were contained in the Torrance Code. He noted that the definition or parameters of an impasse was determined by the context of the negotiations, on a case by case basis, and would be very difficult for the City to try to define.

Assistant to the City Manager Chaparyan stated that even though there had been only one instance of an impasse in the last six years, the City anticipated that the current impasse procedure could be a major obstacle in future negotiations with employee groups, as the City could not be sure when the impasse procedures would finish. He stated that the City had made an initial proposed amendment to the procedure, which was revised after receiving input from employee groups to include fact-finding, and time restrictions of 60 days on mediation and 120 days on fact finding.

In response to a question from Chairperson Wood, Assistant to the City Manager Chaparyan stated that employee groups had received an agenda of the evening's meeting.

Responding to a question from Commissioner Dean, Assistant to the City Manager Chaparyan stated that the only employee agency that he had not received formal confirmation for the amendment was the TFFA, Fire Fighters Association, but he stated that he was fairly confident that they would also support the amendment.

In response to a question from Commissioner Daniel, Assistant to the City Manager Chaparyan stated that he defined an impasse as a situation when additional meetings would not yield a resolution/agreement and that an impasse could be declared by either party.

Commissioner Daniel suggested that the City include in the amendment a requirement for a statement of declaration of an impasse from either party.

Responding to Commissioner Daniel's question on his concern that the request for fact-finding was unilateral and did not require participation from the other party, Assistant to the City Manager Chaparyan stated that any time a party did not participate in either fact-finding or mediation, the matter would automatically move up to the City Council.

Assistant to the City Manager Chaparyan stated that including the time restrictions of 60 days for mediation and 120 days for fact-finding in the amendment, would help to speed the process, without having to add more restrictive language that might invoke opposition from employee groups.

Assistant to the City Manager Chaparyan stated that the fact finding was done after mediation, due to the cost of the arbitrator and the fact that it was not conducive to reaching an agreement at that stage in the process. He noted that if fact-finding was placed first before mediation, employees groups most likely would want to use it and it would be costly for the City.

Human Resources Manager Lawrence stated that she had been involved with negotiations for the City for 18 years and had participated in a fact-finding negotiation. She stated that she felt that the employee groups looked on fact-finding as a last resort in the negotiations and were not interested in placing the process before mediation.

Assistant to the City Manager Chaparyan stated that fact-finding might provide more time for a decision or negotiations or to break the impasse, but that the ultimate decision fell to the City Council.

In response to a question from Commissioner Daniel, Assistant to the City Manager Chaparyan stated that mediation was a much more informal process than fact-finding, with a better chance of reaching an agreement and breaking an impasse. He stated that he did not think that the employee groups would support the switch and added that if the change was requested, staff would need to request that further research be conducted on the issue.

MOTION: Commissioner Skoll moved to recommend to City Council that they approve the proposed modification of the Torrance Municipal Code Section 14.8.24, with the time restrictions as set forth in Attachment B, and with the inclusion of the Commission's discussion of the item at the March 28 meeting of the Civil Service Commission; motion was seconded by Commissioner Dean. The motion failed.

Ayes: Commissioners Dean, Skoll, and Chairperson Wood*
 Noes: Commissioners Daniel, Doty, Stadler and Wright
 Abstain: None

Chairperson Wood left the meeting at 6:45 p.m. and Commissioner Stadler assumed the position of Chair.

MOTION: Commissioner Daniel moved to recommend the return of the proposed modification of the Torrance Municipal Code Section 14.8.24 to staff, for further discussion, consultation and perhaps proposed amendments; motion was seconded by Commissioner Doty. The motion passed.

Ayes: Commissioners Daniel, Doty, Stadler and Wright
 Noes: Commissioners Dean and Skoll
 Abstain: None
 Absent: Chairperson Wood*

In response to a question from Deputy City Attorney Thompson-Bell, Commissioner Daniel suggested that the direction to staff from the Commission would be for staff to review the discussion from the meeting and determine what they would like to propose.

ORAL COMMUNICATIONS #2

Civil Service Manager Lohnes stated that a hearing would begin on April 11 and that staff would bring the item back to the Commission as well.

###

MEMORANDUM OF UNDERSTANDING
FOR JOINT SUBMISSION
REGARDING THE
PEACE OFFICERS

Attachment C

THIS MEMORANDUM OF UNDERSTANDING, made and entered into this 10th day of
May, 2005,

BY AND BETWEEN

Authorized Management Representatives
(hereinafter referred to as "Management")
of the County of Los Angeles (hereinafter
referred to as "County"),

AND

ASSOCIATION FOR LOS ANGELES
DEPUTY SHERIFFS (hereinafter referred
to as "ALADS" or "Union").

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1	PURPOSE..... 1
ARTICLE 2	RECOGNITION..... 2
ARTICLE 3	NON-DISCRIMINATION..... 3
ARTICLE 4	IMPLEMENTATION..... 4
ARTICLE 5	TERM..... 6
ARTICLE 6	RENEGOTIATION..... 7
ARTICLE 7	SALARIES..... 8
ARTICLE 8	HOURS OF WORK AND OVERTIME..... 18
ARTICLE 9	CALL BACK..... 25
ARTICLE 10	UNIFORMS..... 26
ARTICLE 11	DEPUTY SHERIFF TRAINEE ASSIGNMENTS..... 28
ARTICLE 12	LIMITED TERM ASSIGNMENT PROGRAM..... 29
ARTICLE 13	BONUS SELECTION..... 37
ARTICLE 14	PEACE OFFICER RELIEF FUND..... 38
ARTICLE 15	TRANSFER LIST..... 40
ARTICLE 16	GRIEVANCE PROCEDURE..... 41
ARTICLE 17	STRIKES AND LOCKOUTS..... 42
ARTICLE 18	PAYCHECK ERRORS..... 43
ARTICLE 19	ASSOCIATION RIGHTS..... 45
ARTICLE 20	PERSONNEL INVESTIGATIONS..... 51
ARTICLE 21	LEGAL REPRESENTATION..... 53
ARTICLE 22	ADVISORY COMMITTEE MEMBERSHIP..... 54
ARTICLE 23	EMPLOYEE RIGHTS IN THE EVENT OF TRANSFER OF FUNCTIONS..... 55
ARTICLE 24	GENERAL CONDITIONS..... 57
ARTICLE 25	OBLIGATION TO SUPPORT..... 58
ARTICLE 26	MANAGEMENT RIGHTS..... 59
ARTICLE 27	FULL UNDERSTANDING, MODIFICATIONS, WAIVER..... 60
ARTICLE 28	RANDOM DRUG TESTING PROGRAM..... 61
ARTICLE 29	CUSTODY/COURT LOCKUP STAFFING..... 93
ARTICLE 30	ACTING CAPACITY..... 96
ARTICLE 31	AUTHORIZED AGENTS..... 98
ARTICLE 32	PROVISIONS OF LAW..... 99
	APPENDIX A..... 100
	APPENDIX B..... 101
	APPENDIX C..... 113
	APPENDIX D..... 125
	APPENDIX E..... 129
	APPENDIX F..... 132
	APPENDIX G..... 134
	TABLE OF CONTENTS (BONUS POSITIONS)..... 135
	SIGNATURE PAGE..... i

ARTICLE 6 RENEGOTIATION

In the event either party hereto desires to negotiate the provisions of a successor Memorandum of Understanding, such party shall serve upon the other, its request to commence negotiations, as well as its initial written proposals for such successor Memorandum of Understanding no later than September 15, 2007.

Negotiations shall begin no later than October 15, 2007. If full and entire agreement on the terms of a successor Memorandum of Understanding is not reached by November 30, 2007, an impasse shall be automatically declared on those issues which remain in dispute unless the parties mutually agree to continue negotiations.

Re-Opener Provision

The parties agree during the period of April 1, 2006, through May 30, 2006, to an economic re-Opener on general salary movement, salary structure changes, and operational issues. In the event the parties do not reach an agreement to change any economic or operational provision in this MOU by May 30, 2006, the current provisions of the MOU will remain in effect (status quo) during the term of the agreement. The parties by mutual agreement in writing may extend re-opener negotiations beyond May 30, 2006.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
TORRANCE AMENDING SECTION 14.8.24 OF THE TORRANCE
MUNICIPAL CODE RELATING TO THE RESOLUTION OF IMPASSE
ON AGREEMENT TERMS.

The City Council of the City of Torrance does ordain as follows:

SECTION 1

That Section 14.8.24 of the Torrance Municipal Code is amended to read in its entirety as follows:

"SECTION 14.8.24. RESOLUTION OF IMPASSE ON AGREEMENT TERMS.

- a) If the appropriate management representatives and the representatives of a recognized employee organization reach an impasse, either party may, within 5 working days of impasse, notify the other party that the matter is to be submitted for mediation to the California State Conciliation Service. All mediation proceedings will be private. The mediation must be completed within 60 days of submitting the request to the California State Conciliation Service except by mutual agreement of both parties. Failure to schedule and mediate within 60 days will move the matter to the City Council, as described in subsection (e) below.
- b) Either party may request fact-finding in accordance with this section in connection with any disputed matter after completion of mediation. The fact-finding must be completed within 120 days except by mutual agreement of the parties. Failure to schedule and obtain the fact-finding report within 120 days will move the matter to the City Council, as described in subsection (e) below.
- c) A fact-finder so requested shall be selected by the parties from a list of arbitrators supplied by the California State Conciliation Service.
 1. The recommendation of the fact-finder will be limited to the issues originally referred for dispute settlement.
 2. Fact-finding proceedings will be private.
 3. The fact-finding report will be filed with the parties.
- d) The fees and expenses of the mediator and fact-finder will be shared equally by the parties involved. The City will furnish meeting space and recordings and transcribing services when requested for such proceedings."
- e) If the appropriate management representatives and the representatives of a recognized employee organization are unable to reach agreement during mediation or fact-finding, the matter will be submitted to the City Council for resolution."

Attachment D

SECTION 2

Any provisions of the Torrance Municipal Code or its appendices, or any other ordinances of the City inconsistent with this ordinance, to the extent of the inconsistencies and no further, are repealed.

SECTION 3

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

SECTION 4

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED AND APPROVED the ___ day of _____, 2011.

ADOPTED AND PASSED this ___ day of _____, 2011.

Frank Scotto, Mayor

ATTEST:

Sue Herbers, CMC, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Patrick Q. Sullivan,
Assistant City Attorney

CIVIL SERVICE COMMISSION
CITY OF TORRANCE

Attachment E

PROCEDURES WHEN DELEGATED TO A HEARING OFFICER

In accordance with the provisions of City Code Section 14.47.10, the commission may delegate the holding of the hearing to a hearing officer.

A. Selection of Hearing Officer.

The Civil Service Administrator shall request the hearing agency to provide a list of potential hearing officers. The list shall consist of an odd number of names. The appealing employee and the City shall alternate striking a name from the list of potential hearing officers until only one name is left. The party who strikes the first name shall be chosen by random selection.

B. Designation of Alternative Hearing Procedures When Hearing Conducted by Hearing Officer.

When the Commission has delegated a hearing to a hearing officer, the appealing employee shall, within two weeks following notice of the Commission's action, choose to have the hearing conducted pursuant to one of the following sets of hearing procedures:

- 1) the attached Civil Service Commission Voluntary Procedures for Disciplinary Hearings;
- 2) the American Arbitration Association's Expedited Labor Arbitration Procedures; or
- 3) the American Arbitration Association's Labor Arbitration Rules.

The choice of one of the above procedures shall be in the appealing employee's sole discretion. Should the appealing employee fail to designate one of the above hearing procedures within the allotted two-week period, the Civil Service Manager shall select the hearing procedure to be used.

Approved 6/28/93

x:/rs/word/ProceduresDelegatedtoHearingOfficer

CIVIL SERVICE COMMISSION

CITY OF TORRANCE

PROCEDURES FOR THE SELECTION OF A NEUTRAL TO ACT AS A HEARING OFFICER, MEDIATOR OR FACT-FINDER

1. PROCEDURES WHEN DELEGATED TO A HEARING OFFICER

In accordance with the provisions of City Code Section 14.47.10, the commission may delegate the holding of the hearing to a hearing officer.

A. Selection of Hearing Officer

The Civil Service Manager shall request the California State Conciliation and Mediation Service (CSCMC) to provide a list of potential hearing officers. The list shall consist of seven names. Upon receipt of the list, the Civil Service Manager shall arrange a conference wherein the hearing officer shall be selected. The appealing employee and the City shall alternate striking a name from the list of potential hearing officers until only one name is left. The party who strikes the first name shall be chosen by random selection.

Once an officer has been selected, the Civil Service Manager will contact the hearing officer selected directly. All matters pertaining to the hearing officer (i.e. schedules, lodging, and compensation) should be coordinated directly between the hearing officer and the Civil Service Manager.

Unless otherwise agreed, the Hearing Officer shall conduct the hearing in accordance with the Civil Service Commission's Procedural Rules for Disciplinary Hearings.

2. PROCEDURES WHEN SELECTING A MEDIATOR OR FACT-FINDER

In accordance with the provisions of City Code Section 14.8.24, when impasse has been reached, either party may request mediation. At the completion of mediation, either party may request fact-finding.

A. Selection of a Mediator

Within 5 working days of impasse, either party may notify the other party of that the matter is to be submitted for mediation. Either party may submit a request for mediation directly to State Mediation and Conciliation Service (SMCS) either in writing or by phone. SMCS will then assign a mediator who will be responsible for contacting both parties and arranging the date, time, and place for the mediation.

B. Selection of a Fact-finder

Within 5 working days following the completion of mediation, either party may request fact-finding. Parties should notify Civil Service of their request for fact-finding.

Once notified of request for fact-finding, the Civil Service Manager will initiate a request for a strike list from the SMCS within 2 working days of the date of notice. The list shall consist of seven names. The Civil Service Manager will request that each party receive a copy of the list and attached resumes as well as requesting a copy for Civil Service.

Upon receipt of the list, Civil Service will contact both parties to arrange a conference wherein the fact-finder will be selected. The employee group and the City shall alternate striking a name from the list of potential hearing officers until only one name is left. The party who strikes the first name shall be chosen by random selection.

Once fact-finder has been selected, the Civil Service Manager will contact the fact-finder directly and all matters pertaining to the fact-finding will be conducted by the Civil Service Manager.

D a t S b e t R V O

Impasse Survey

Agency	Current Impasse Resolution	Typical timeline to reach Unilateral Implementation	Comments/Observations
Beverly Hills	<ol style="list-style-type: none"> 1. Declare Impasse 2. Meet with Emp Relations Officer (CM or ACM) 3. 3. City Council Hearing and Action 	Couple of months (2-5).	Went to impasse on a Furloughs for two bargaining groups.
Glendale	<ol style="list-style-type: none"> 1. Declare Impasse 2. Meet & Confer to determine impasse resolution process 3. Select process/engage in process 4. Unilateral Adoption by City Council 	Last time took a little over a month.	City has been pretty aggressive in moving ahead.
Long Beach	<p>Procedure is simply the rejection by both parties' LBFO and the City Council's resolution imposing the City's LBFO.</p>		
Pasadena	<ol style="list-style-type: none"> 1. Declare Impasse 2. Mediation 3. City Manager 4. Unilateral Adoption by City Council 		Have not used impasse process recently, able to achieve resolution through mediation.
Santa Monica	<ol style="list-style-type: none"> 1. Declare Impasse 2. Mediation 	Per staff, never been to impasse in past 20 years.	City in process of updating.
Torrance	<ol style="list-style-type: none"> 1. Declare Impasse 2. Mediation 3. Fact Finding (Advisory) 4. Unilateral Adoption by City Council 	Last time took over 1 year	Have not declared impasse on MOU negotiations, however exploring changing City's current impasse resolution.



LeRoy J. Jackson
City Manager

CITY OF TORRANCE

OFFICE OF THE CITY MANAGER

Aram Chaparyan
Assistant to the City Manager
310/618-5880
AChaparyan@TorranceCA.gov

January 12, 2011

Attachment H

Debbie Collins, President
TCEA and TRREO
Community Services Dept.
Cultural Services Division

Sent via e-mail to:
DCollins@TorranceCA.gov

Dear Debbie:

In accordance with California Government Code Section 3507, the City Manager will recommend to the City Council a modification to the City's Municipal Code Section 14.8.24 (Resolution of Impasse on Agreement Terms). The main proposed change is the elimination of fact-finding and a defined period for mediation. I have attached the current and proposed ordinances with this letter, as well as California Government Code Section 3507 for your convenience.

I am available to meet with TCEA/TRREO to meet and consult on the proposed changes. Please respond by end of business day on Wednesday, **January 19, 2011** to indicate if TCEA/TRREO would like to schedule a meeting to address the proposed changes.

Please note that failure to respond as requested will imply TCEA/TRREO's concurrence with the proposed changes to the City's impasse procedures.

Sincerely,

Aram Chaparyan
Assistant to the City Manager

- Attachments: A) Section 14.8.24 Resolution of Impasse on Agreement Terms (proposed)
B) Section 14.8.24 Resolution of Impasse on Agreement Terms (current)
C) California Government Code Section 3507

cc: Mayor and City Council
LeRoy Jackson, City Manager
John Fellows, City Attorney
Mary Giordano, Assistant City Manager

ATTACHMENT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE AMENDING SECTION 14.8.24 OF THE TORRANCE MUNICIPAL CODE RELATING TO THE RESOLUTION OF IMPASSE ON AGREEMENT TERMS

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- a) If the appropriate management representatives and the representatives of a recognized employee organization reach an impasse, either party may, within 5 days of impasse, notify the other party that the matter is to be submitted for mediation to the California State Conciliation Service. All mediation proceedings will be private. The mediation must be completed within 30 days of submitting the request to the California State Conciliation Service except by mutual agreement of both parties. Failure to schedule and mediate within 30 days will move the matter to the City Council, as described in subsection (c) below.
- b) The fees and expenses of the mediator will be shared equally by the parties involved. The City will furnish meeting space when requested for such proceedings."
- c) If the appropriate management representatives and the representatives of a recognized employee organization are unable to reach agreement during mediation, the matter will be submitted to the City Council for resolution."

SECTION 2

Any provisions of the Torrance Municipal Code or its appendices, or any other ordinances of the City inconsistent with this ordinance, to the extent of the inconsistencies and no further, are repealed.

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INTRODUCED AND APPROVED the ____ day of _____, 2011.

ADOPTED AND PASSED this ____ day of _____, 2011.

Frank Scotto, Mayor

ATTEST:

Sue Herbers, CMC, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Patrick Q. Sullivan,
Assistant City Attorney

ATTACHMENT BSECTION 14.8.24. - RESOLUTION OF IMPASSE ON AGREEMENT TERMS.

- a) If the appropriate management representatives and the representatives of a recognized employee organization reach an, the matter may be submitted for mediation to the California State Conciliation Service by either party. All mediation proceedings shall be private.
- b) Either party may request fact-finding in accordance with this section in connection with any disputed matter.
- c) A fact-finder so requested shall be selected by the parties from a list of arbitrators supplied by State Conciliation Service.
 - 1. The recommendations of the fact-finder or fact-finders shall be limited to the issues originally referred for dispute settlement.
 - 2. Fact-finding proceedings shall be private.
 - 3. he fact-finding report shall be filed with the parties in interest.
- d) The fees and expenses, if any, of mediators and fact-finders shall be shared equally by the parties involved. The City shall furnish meeting space and recording and transcribing services when requested for such proceedings.

ATTACHMENT C

3507. (a) A public agency may adopt reasonable rules and regulations after consultation in good faith with representatives of a recognized employee organization or organizations for the administration of employer-employee relations under this chapter.

SOURCE: <http://www.leginfo.ca.gov/calaw.html>

MATERIAL AVAILABLE TUESDAY