

# MEETING AGENDA

City of Huntington Beach  
PERSONNEL COMMISSION  
Wednesday, April 19, 2006  
Civic Center, Room B-8  
5:30 P.M.

## 1. CALL TO ORDER

Commissioners: Hunt, Gooch, Barton, Deight, Garner, Taylor, Zeleznikar  
Staff Liaisons: Irma Youssefieh, Secretary to the Personnel Commission/Human Resources Manager  
and Brigitte Charles, Principal Personnel Analyst  
Legal Counsel to the Personnel Commission: Jim Murphy, Esq.

## 2. PLEDGE OF ALLEGIANCE

## 3. PUBLIC COMMENTS

The Personnel Commission welcomes public comments on all items on this agenda or of community interest. We respectfully request that this public forum be utilized in a positive and/or constructive manner. Please focus your comments on the issue or problem that you would like to bring to the attention of the Personnel Commission. Negative comments directed at individuals are not acceptable.

Three (3) minutes per person. Time may not be donated to others. No action can be taken by the Personnel Commission on this date unless agendaized. This is the time to address the Personnel Commission regarding items of interest or on agenda items other than public hearings.

## 4. APPROVAL OF MINUTES

Meeting of March 15, 2006

## 5. PUBLIC HEARING

Public Hearing in accordance with Personnel Rule 12 regarding amendments to the City's Classification Plan.

a. Discussion on a revised job specification for the position of Mechanic III.

**Recommended Action:** Approve the revised job specification for the position of Mechanic III, amending the City's Classification Plan.

b. Discussion on a revised job specification for the Information Systems Technician job series (Levels I through Senior) in the Information Services Department.

**Recommended Action:** Approve the revised job specification for the positions in the Information Systems Technician job series (Levels I through Senior), amending the City's Classification Plan.

Please contact Sandy Henderson at (714) 960-8828 if you have questions or if the Human Resources Division can be of any assistance.

- c. Discussion on revisions to the job specifications for positions in the Utilities Division of the Public Works Department pertaining to water certification requirements for the following positions: Water Distribution Maintenance Crewleader, Water Distribution Meters Leadworker, Water Systems Technician II, Cross Connection Control Specialist and Wastewater Maintenance Service Worker.

**Recommended Action:** Approve the revised job specifications for the positions of Water Distribution Maintenance Crewleader, Water Distribution Meters Leadworker, Water Systems Technician II, Cross Connection Control Specialist, and Wastewater Maintenance Service Worker in the Utilities Division of the Public Works Department, amending the City's Classification Plan.

## **6. PROCEDURAL RECONSIDERATION FOR NON-DISCIPLINARY HEARINGS PURSUANT TO PERSONNEL RULE 19**

**Recommended Action:** Receive proposed changes to the Commission procedures for review of non-disciplinary grievances previously adopted by the Personnel Commission on January 18, 2006 for re-adoption consideration at the next regularly scheduled meeting of the Personnel Commission.

## **7. SCHEDULING OF A HEARING DATE FOR A REVIEW OF HEARING OFFICER'S RECOMMENDATION REGARDING A DISCIPLINE APPEAL**

**Recommended Action:** Establish the date of the next regularly scheduled meeting of the Personnel Commission.

## **8. REPORT OF SPECIAL COMMITTEE ON ADMINISTRATIVE LEAVE**

**Recommended Action:** Receive draft report submitted by legal counsel to the Personnel Commission for review and discussion at the next regularly scheduled meeting of the Personnel Commission.

## **9. LABOR RELATIONS UPDATE**

As offered

## **10. SECRETARY'S REPORT**

As offered

## **11. COMMENTS FROM COMMISSIONERS**

Announcements, brief report regarding Commissioner activities, ask questions for clarification, request information from Staff, direction to Staff regarding a future agenda item or for the provision of information for a future meeting.

As offered

## **12. INFORMATION ITEMS**

- a. Grievance Report – April 2006

## **13. ADJOURNMENT**

Meeting adjourned to the next regularly scheduled meeting of May 17, 2006.

**Please contact Sandy Henderson at (714) 960-8828 if you have questions or if the Human Resources Division can be of any assistance.**

**ITEM #4**

**City of Huntington Beach**  
**PERSONNEL COMMISSION**

3/15/06

Pending approval by Personnel Commission at the meeting on 4/19/06

(These minutes are not verbatim. A taped recording of the meeting is available in the Human Resources Division, first floor of City Hall, for one year following meeting date.)

**CALL TO ORDER**

Vice Chair Gooch called the Commission meeting to order at 5:40 p.m.

**ROLL CALL**

Commissioners present – Barton, Deight, Gooch, Taylor, Zeleznikar

Commissioners absent – Garner, Hunt

Legal Counsel to the Personnel Commission present – James Murphy, Esq.

Staff present – Irma Youssefieh, Secretary to the Personnel Commission/Human Resources Manager, Bob Hall, Deputy City Administrator and Brigitte Charles, Principal Human Resources Analyst

**PUBLIC COMMENTS**

None

**APPROVAL OF MINUTES**

A motion was made by Commissioner Zeleznikar and seconded by Commissioner Deight to approve the minutes (passed 4:0:1 - Commissioner Taylor abstained).

**PUBLIC HEARING**

- a. Discussion on a revised job specification and title change for the position of Telemetry Instrument Technician to Supervisory Control and Data Acquisition (SCADA) Technician in the Public Works Department.

Ms. Charles reported that the only changes proposed by staff involved the title change to be consistent with the earlier position created of SCADA Coordinator at the Commission's meeting in October 2005, the addition of wastewater equipment as a result of the Utilities Division encompassing both water and wastewater operations, and a reduction in the minimum qualifications. The minimum qualifications were revised from requiring an Associate's degree, five (5) years experience and a State Wastewater Grade II certificate to a high school diploma supplemented by coursework in electronics and three (3) years of related experience.

Mr. Gooch asked whether the State certification was no longer needed. Mike Fry, SCADA Coordinator, reported it was not necessary.

A motion was made by Commissioner Taylor and seconded by Commissioner Barton to approve the revised job specification and title change for the classification of Telemetry Instrument Technician to Supervisory Control and Data Acquisition (SCADA) Technician, amending the City's Classification Plan (passed 5:0).

- b. Discussion on a revised job specification for the position of Information Systems Technician IV in the Information Services Department.

Ms. Youssefieh stated staff wished to withdraw this item and continue it to the April Personnel Commission meeting.

### **UPDATE AND DISCUSSION ON PROCEDURAL RECONSIDERATION FOR NON-DISCIPLINARY HEARINGS PURSUANT TO PERSONNEL RULE 19**

Ms. Youssefieh reported that after additional review, staff was recommending further changes to the procedure. Upon adoption by the Personnel Commission, the procedure would then be scheduled for City Council approval. The current draft Procedure was closely following the Commission's hearing procedure for disciplinary matters. Staff's recommended changes are to streamline the procedure to allow the Personnel Commission Chair discretion if changes are necessary to the format of the hearing. Staff also suggested including a summary statement(s) on the non-disciplinary matter in order for the Chair to make the appropriate determinations regarding briefs, witness lists, pre-hearing conference, etc. as provided in the draft Procedure. A summary of the grievance would be provided to the Chair in advance as it is thought that non-disciplinary grievances would generally be less complex than disciplinary grievances.

Commissioner Taylor asked whether the Commission would still have the option of whether or not to hear the grievance. Ms. Youssefieh responded that they would.

Commissioner Gooch asked if the revised Procedure would be brought back for the April Personnel Commission meeting. Ms. Youssefieh said that it would be planned for the April agenda.

### **RESCHEDULING OF HEARING DATES FOR A NON-DISCIPLINARY GRIEVANCE HEARING AND A REVIEW OF HEARING OFFICER'S RECOMMENDATION REGARDING A DISCIPLINARY APPEAL**

Ms. Youssefieh said that the timeline and scheduling of the non-disciplinary grievance would be dependent upon finalization of the non-disciplinary hearing procedure, but that a date was needed to schedule a review of a hearing officer's recommendation on a disciplinary appeal matter. It was noted by Ms. Youssefieh that previously, Chairperson Hunt had suggested that hearings be scheduled in conjunction with regularly scheduled meetings of the Personnel Commission. Commissioner Taylor asked what other agenda items were foreseen for the April meeting. Ms. Youssefieh said there would probably be other items such as two (2) class plan amendment items, the proposed Procedure for hearing non-disciplinary grievances, and the Commission's consideration of a draft policy on administrative leave prepared by legal counsel to the Commission.

Vice Chair Gooch recommended that the disciplinary appeal be set in conjunction with the regularly scheduled April Personnel Commission meeting. Based on the agenda, Ms. Youssefieh could then advise Commissioners of the need to move the hearing date forward or limit issues on the agenda.

### **REPORT OF SPECIAL COMMITTEE ON ADMINISTRATIVE LEAVE**

Commissioner Gooch reported that the sub-committee would need to meet a few more times, but that a draft would be planned for the April Personnel Commission meeting agenda. The sub-committee was not looking to delay the matter any further than necessary.

## **LABOR RELATIONS UPDATE**

Ms. Youssefieh reported that the City remained in contract negotiations with the Huntington Beach Police Officers' Association (HBPOA) and that negotiations had recently began with the Huntington Beach Municipal Employees' Association (HBMEA).

## **SECRETARY'S REPORT**

Ms. Youssefieh distributed copies of updated documents for the Commission's handbook that included: the City's Code of Ethics, Personnel Rules and the Brown Act. She also distributed information on the Personnel Commission that would be posted on the City's Internet website along with information on other Boards and Commissions. She explained that the City's Executive Team had discussed the idea of having a page on each Commission for the website that followed the City's homepage format. It would include background information on the Commission, a mission and values statement, a member roster, agendas and minutes, staff contact information and any other information on an annual report. Commissioner Taylor suggested this might be a good method to recruit new Commission members.

Ms. Youssefieh also reported that the City had contracted with a classification and compensation consultant to study several selected Huntington Beach Municipal Employee Association (MEA) and Management Employees Organization (MEO) positions. She anticipated the Study would be completed by July 2006.

## **COMMENTS FROM COMMISSIONERS**

None

## **INFORMATIONAL ITEMS**

### **a. Grievance Reports – February and March 2006**

Commissioner Taylor noted that the case involving the suspension of a Police Officer had been deleted from the report. Ms. Youssefieh explained that the time for an appeal had expired.

## **ADJOURNMENT**

With condolences offered to Chairperson Hunt in honor of his brother, the meeting adjourned at 6:10 p.m. to the next regularly scheduled meeting of April 19, 2006.

**ITEM #5a**



**CITY OF HUNTINGTON BEACH  
INTERDEPARTMENTAL COMMUNICATION**

**TO:** Personnel Commission  
**FROM:** Irma Youssefieh, Human Resources Manager  
**SUBJECT:** **Proposed Class Plan Amendment - Mechanic III**  
**DATE:** April 19, 2006

**DISCUSSION**

In preparation for a recruitment process to fill a current vacancy in the Fire Department, a proposal to revise the minimum qualifications in terms of the driver's license requirement for the position of Mechanic III has been considered by the Human Resources Division. The proposal is based on a reasonable level of flexibility to ensure a sufficient number of applicants for consideration in the recruitment and selection process. The proposed change is to require the driver's license, a commercial Class A or B, to be obtained by the appointee within six (6) months from date of hire rather than the requirement for a candidate to possess the license upon application.

As information, the commercial driver's license is required due to the need for the Mechanic to drive a heavy-duty vehicle to test or to ensure the effectiveness of a repair job. In addition to filling vacancies in the Fire Department, this recruitment also may also support vacancies in the Public Works Department, who agrees with this revision to facilitate attracting a larger candidate pool.

The Huntington Beach Municipal Employees' Association (HBMEA) represents this position. Staff has met and discussed this change with the HBMEA and they concur with the revision to the job specification.

**RECOMMENDATION**

Approve the revised job specification for the classification of Mechanic III, amending the City's Classification Plan.

Attachment: Legislative Draft – Mechanic III Job Specification

cc: Duane Olson, Fire Chief  
Robert F. Beardsley, Director of Public Works  
Bob Hidusky, HBMEA President

**CITY OF HUNTINGTON BEACH**  
**CLASS SPECIFICATION**



**TITLE: MECHANIC III**

**DATE: DECEMBER, 2001 APRIL 2006**

**JOB CODE: 0347**  
**EMPLOYMENT STATUS: REGULAR FULL-TIME**  
**UNIT REPRESENTATION: MEA**  
**FLSA STATUS: NON-EXEMPT**

**DUTIES SUMMARY**

Under general supervision, performs a wide variety of mechanical work on light, medium, and heavy vehicles and equipment and performs other duties as required within the scope of the classification.

**DISTINGUISHING CHARACTERISTICS**

The Mechanic III performs journey-level work in the maintenance and repair of heavy-duty trucks, construction equipment, and other motorized equipment.

**EXAMPLES OF ESSENTIAL DUTIES**

Performs a wide variety of maintenance and repair on heavy-duty trucks and construction equipment, including transmissions, diesel or gasoline engines, hydraulic, fuel supply, ignition, suspension, air conditioning, cooling electrical and exhaust systems; estimates time and materials needed for repairs; orders parts and supplies and makes necessary repairs; inspects vehicles and related systems (e.g., mechanical, electronic, electrical); identifies parts, tools and other service needs. Overhauls or rebuilds engines and hydraulic devices; fabricates parts and materials. Inspects and road tests completed work for compliance with standards before releasing unit to service.

Performs a wide variety of maintenance and repair on assigned vehicles and equipment including automobiles, light and medium-duty trucks, and other motorized equipment.

Responds to emergency calls for service on a call-out basis and works outside normal working hours as needed; observes standard operating practices and safety procedures; performs periodic safety inspections; and, identifies and corrects safety hazards.

*The preceding duties have been provided as examples of the essential types of work performed by positions within this job classification. The City, at its discretion, may add, modify, change or rescind work assignments as needed.*

**CITY OF HUNTINGTON BEACH**

**CLASS SPECIFICATION**



**TITLE: MECHANIC III**

**DATE: DECEMBER, 2004 APRIL 2006**

**QUALIFICATIONS**

*Any combination of education, training, and experience that would likely provide the knowledge, skills, and abilities to successfully perform in the position is qualifying. A typical combination includes:*

**Knowledge of:** Operation of a variety of heavy and light equipment and vehicles; diesel engines, mechanical, electrical, electronic and hydraulic systems and maintenance of light and heavy-duty automotive and construction equipment; electronic and computerized automotive diagnostic equipment used to maintain and repair vehicles and equipment; basic preventive maintenance on assigned equipment; and, occupational hazards and safety practices applicable to vehicle maintenance operations.

**Ability to:** Read and follow manufacturers' maintenance manuals; troubleshoot and resolve day-to-day questions/problems regarding equipment, materials, methods, and procedures needed to complete maintenance work; operate personal computers including specialized fleet maintenance or diagnostic software applications; maintain accurate records; use hand and power tools and diagnostic equipment; establish and maintain effective interpersonal relations with those contacted in the course of work; communicate effectively, both orally and in writing; **and, be able to possess and maintain a Commercial Driver's License (Class A or B).**

**Education:** The equivalent of a high school diploma.

**Experience:** A minimum of five (5) years of progressively responsible diesel and/or heavy equipment maintenance experience including hydraulic systems.

**Certifications/License:** Possession of a valid Commercial Driver's License (Class A or B) **upon appointment or the appointee must be able to obtain the required license within six (6) months from date of hire.**

**PHYSICAL TASKS AND ENVIRONMENTAL CONDITIONS** – Work involves moderate to heavy work in a shop environment or in the field in all types of weather with exposure to dangerous machinery, hazardous chemicals, infectious disease, and potential physical harm. There is frequent need to stand, stoop, bend, walk, lift heavy objects up to 50 pounds and perform other similar actions during the course of the workday. Employee accommodations for physical or mental disabilities are considered on a case-by-case basis.

**Note: Item pulled by Human Resources.**

**ITEM #5b**

**ITEM #5c**



**CITY OF HUNTINGTON BEACH  
INTERDEPARTMENTAL COMMUNICATION**

**TO:** Personnel Commission  
**FROM:** Irma Youssefieh, Human Resources Manager  
**SUBJECT:** **Proposed Class Plan Amendment – Water/Wastewater Classifications**  
**DATE:** April 19, 2006

**DISCUSSION**

As reported to the Personnel Commission beginning in 2004, the California Department of Health Services enacted by emergency regulation new certification requirements for chief operators and shift operators of water distribution systems. In accordance with this mandate, the Utilities Division of the Public Works Department proceeded with a fairly conservative approach by requiring employees to obtain up to the highest certification, a Grade V Water Distribution certificate, depending upon the classification. As information, an overview of Division/Department recommendations and classification items brought to the Commission to date on this matter is attached for your review.

To date, the State has provided additional clarification in meeting this mandate with the focus being on the actual number of certifications, not the number of incumbents possessing certificates within an agency. Therefore, the City is proposing to revise required certifications for certain classifications by reducing or broadening these requirements per the attached "Summary of Proposed Changes to Water Certification Requirements." For the majority of water classifications, there is no impact on current incumbents. Also, language was previously included in job specifications that affords incumbents until January 1, 2007, to procure the required certification. The City has supported employee training in this area by providing both time off to attend classes and paying the costs for certification. In addition, extensive training is conducted during regular work hours.

The City has met with the Huntington Beach Municipal Employees' Association (MEA) and has received their approval to proceed with the proposed revisions to water certification requirements for the proposed designated Utilities Division classifications.

**RECOMMENDATION**

Approve the revised job specifications for the positions of Water Distribution Maintenance Crewleader, Water Distribution Meters Leadworker, Water Systems Technician II, Cross Connection Control Specialist, and Wastewater Maintenance Service Worker in the Utilities Division of the Public Works Department, amending the City's Classification Plan.

Attachments: Summary of Proposed Changes to Water Certification Requirements  
Water Certification Overview  
Legislative Drafts – Designated Water/Wastewater Job Specifications

cc: Bob Beardsley, Director of Public Works  
Howard Johnson, Utilities Manager  
Bob Hidusky, Huntington Beach Municipal Employees' Association (MEA)

## SUMMARY OF PROPOSED CHANGES TO WATER CERTIFICATION REQUIREMENTS

<u>Classification</u>	<u>From*</u>	<u>To*</u>
<i>Water Distribution Maintenance Crewleader</i>	D-V	D-III
<u>Rationale:</u> Both Water Production and Water Distribution Supervisors are required to have D-V certification and thus meet the State requirements for coverage as Chief Operators. Reducing the level from D-V to D-III is also consistent with requirements for other Division Crewleaders.		
<i>Water Distribution Meters Leadworker</i>	D-III	Certification Based on Assignment
<u>Rationale:</u> The Leadworker assigned to meter repair operations will be required to have a D-III. Due to the essential functions of the Leadworker position assigned to customer service, the State will not qualify nor grant D-III certification as it does not apply. Instead, an incumbent in this classification will be required to obtain an American Water Works Association Water Conservation Practitioner I certificate within one year of appointment.		
<i>Water Systems Technician II</i>	T-II	T-I
<u>Rationale:</u> Reducing the level to a T-I would enhance promotional opportunities and is more consistent with the progression in the Water Systems Technician series, whereby the I level currently does not require a water certificate, the II level would now require a T-I certificate, and the III level requires a T-II certificate. (Also, the City currently has 15 employees with T-II certificates to satisfy the State mandate for coverage.)		
<i>Cross Connection Control Specialist</i>	Cross Conn Contrl Spec, T-II	Cross Conn Contrl Spec; also w/in one year of hire OC Backflow Testers Certificate and T-II <u>or</u> D-II
<u>Rationale:</u> Broadens applicant pool and enhances recruitment efforts to require either a T-II <u>or</u> D-II and affords incumbent opportunity to obtain certifications within one year of appointment. Because the major responsibilities of this classification are to monitor all backflow prevention devices and to test City-owned backflow prevention devices, the Orange County Backflow Testers certificate is required as testing is prohibited by anyone other than a certified backflow tester.		
<i>Wastewater Maintenance Service Worker</i>	Class A drivers license w/Hazmat endorsement	Class C drivers license only
<u>Rationale:</u> Incumbents in this classification do not operate heavy duty equipment. Instead this is an essential function of Equipment Operators.		
*T – Water Treatment Certificate		
D – Water Distribution Certificate		

CITY OF HUNTINGTON BEACH  
WATER CERTIFICATION REQUIREMENTS  
OVERVIEW

<u>Date</u>	<u>Action/Issue</u>
5-21-03	Utilities Manager classification created. (Previous position: Water Operations Manager)
6-18-03	Utilities Division established through Public Works reorganization – to combine all water and wastewater-related functions.
1-21-04	Presentation to Personnel Commission of impending changes in certification requirements for Chief and Shift Operators per California Health Department regulations.
9-15-04	City proposes and Commission approves classification plan amendments* to positions on certification requirements to meet anticipated California Health Department regulations effective 1/07; employees granted interim certificates. (*Utilities Manager, Water Production Supervisor, Water Operations Crewleader, Water Operations Leadworker, Water Systems Technician III, Water Systems Technician II, Water Quality Coordinator, Cross Connection Control Specialist, Water Quality Technician, Water Distribution Supervisor, Water Distribution Maintenance Crewleader, and Water Distribution Meters Crewleader)
10-19-05	Supervisory Control & Data Acquisition (SCADA) Coordinator position created for new budget, FY 2005-06 – To provide oversight of the monitoring and remote control of water and wastewater engines, pumps and other appurtenances.
3-15-06	Telemetry Instrument Technician title changed to Supervisory Control & Data Acquisition (SCADA) Technician to include both water and wastewater duties. Previously only sewer activities were included in essential functions.
4-19-06	City proposes water certification changes to 5 water/wastewater classifications—Water Distribution Maintenance Crewleader, Water Distribution Meters Leadworker, Water Systems Technician II, Cross Connection Control Specialist and Wastewater Maintenance Service Worker—to meet recruitment and retention needs and refinements in California Health Department regulations.
10-18-06	Based upon clarification of California Health Department regulations, classifications* previously requiring the highest level of certification will be revised to meet minimum staffing requirements for Chief Operator and Shift Operator assignments based on the City’s designation as a D-V/T-II facility. This change will eliminate the need for current employees to obtain higher certifications by 1/07 deadline and will broaden the applicant pool for future new hires. (*Water Production Supervisor, Water Operations Crewleader, Water Operations Leadworker, Water Systems Technician III, Water Systems Technician II, Water Quality Coordinator, Cross Connection Control Specialist, Water Quality Technician, Water Distribution Supervisor, Water Distribution Maintenance Crewleader, Water Distribution Meters Crewleader and Water Distribution Meters Leadworker)

**CITY OF HUNTINGTON BEACH**  
**CLASS SPECIFICATION**



**TITLE: WATER DISTRIBUTION MAINT CREWLEADER**  
**AUGUST 18, 2004**

**DATE: APRIL 2006**

**JOB CODE: 0151**  
**EMPLOYMENT STATUS: REGULAR FULL-TIME**  
**UNIT REPRESENTATION: MEA**  
**FLSA STATUS: NON-EXEMPT**

**DUTIES SUMMARY**

Under general supervision, functions as a working supervisor, schedules and leads skilled workers in the maintenance of the City's water distribution system; screens and assigns work orders and service requests; determines priorities and monitors completed work; and performs other duties as required within the scope of the classification.

**DISTINGUISHING CHARACTERISTICS**

The Water Distribution Maintenance Crewleader is a working supervisor with the responsibility for operating the City's water distribution system maintenance program, Supervising skilled employees engaged in installing and maintaining water mains, valves, fire hydrants, water services, and other appurtenances, locating and marking water mains, shutting down mainlines for maintenance or emergency repairs, servicing hydrants, exercising valves and other maintenance procedures. This position reports to the Water Distribution Supervisor.

**EXAMPLES OF ESSENTIAL DUTIES**

Plans, schedules, selects, and requisitions necessary equipment and related supplies. Oversees all work in progress to ensure quality, timeliness and safety; schedules and coordinates projects; coordinates work with other departments.

Responds to calls for service after regular work hours.

Interviews, trains and motivates employees, assigns and evaluates work, and recommends disciplinary action according to established City procedures; conducts performance appraisals. Supports and actively promotes the City's safety programs; performs periodic safety inspections; identifies and corrects safety hazards.

Provides input during the budget process and monitors the operating budget for area of responsibility. Maintains inspection and repair records; maintains inventory of necessary parts and equipment.

CITY OF HUNTINGTON BEACH  
CLASS SPECIFICATION



TITLE: WATER DISTRIBUTION MAINT CREWLEADER  
AUGUST 18, 2004

DATE: APRIL 2006

Responds to emergency calls for service on a call-out basis, and works outside of normal business hours, as needed.

*The preceding duties have been provided as examples of the essential types of work performed by positions within this job classification. The City, at its discretion, may add, modify, change or rescind work assignments as needed.*

**QUALIFICATIONS**

*Any combination of education, training, and experience that would likely provide the knowledge, skills, and abilities to successfully perform in the position is qualifying. A typical combination includes:*

**Knowledge of:** City and departmental rules, policies and procedures; tools and equipment needed to perform water distribution system maintenance and repair work; occupational hazards and safety practices applicable to water distribution system maintenance operations; budgeting and supervisory practices.

**Ability to:** Schedule and prioritize manpower and projects; assign work, monitor and evaluate work progress; research and gather information related to vendors, contractors, equipment and supplies; resolve day-to-day questions/problems regarding equipment, materials, methods, and procedures needed to complete projects; maintain accurate records; use hand and power tools; operate personal computer and standard software applications; establish and maintain effective interpersonal relations with those contacted in the course of work; communicate effectively, both orally and in writing.

**Education:** The equivalent of a high school diploma.

**Experience:** Five (5) years of water systems operation experience, including two (2) years of supervisory experience.

**Certifications/License:** Possess and maintain a valid California motor vehicle operator's Class C license; State of California Grade III Water Distribution certification.

**NOTE:** Water certification requirements are effective January 1, 2007 for City employees in their current position. Candidates, including City employees, placed into a position on or after August 18, 2004 must meet the water certification requirement upon date of promotion or hire.

**CITY OF HUNTINGTON BEACH**  
**CLASS SPECIFICATION**



**TITLE: WATER DISTRIBUTION MAINT CREWLEADER**  
**AUGUST 18, 2004**

**DATE: APRIL 2006**

**PHYSICAL TASKS AND ENVIRONMENTAL CONDITIONS** – Work involves exposure to dangerous machinery, hazardous chemicals, extreme weather conditions, potentially infectious diseases and ability to lift and carry up to 80 pounds. Reasonable Employee accommodations for an individual with a qualified disability physical or mental disabilities will be considered on a case-by-case basis.

Revised 12-01

8-18-04

**CITY OF HUNTINGTON BEACH**  
**CLASS SPECIFICATION**



**TITLE: WATER DISTRIBUTION METERS LEADWORKER**  
**2006 DECEMBER, 2001**

**DATE: APRIL**

**JOB CODE: 0377**  
**EMPLOYMENT STATUS: REGULAR FULL-TIME**  
**UNIT REPRESENTATION: MEA**  
**FLSA STATUS: NON-EXEMPT**

**DUTIES SUMMARY**

Under general supervision, oversees crews and performs a variety of semi-skilled and skilled tasks in the operation of the City's water meter repair and customer service programs, and performs other duties as required within the scope of the classification.

**DISTINGUISHING CHARACTERISTICS**

The Water Distribution Meters Leadworker is a working supervisor with responsibility for performing and leading workers that perform a variety of semi-skilled water meter repairs and customer service tasks. It is distinguished from the skilled trades classes that require journey level experience in a particular trade or craft. It is further distinguished from the Water Meter Repair Worker, Customer Service Representative Field and Meter Reader class as a Leadworker.

**EXAMPLES OF ESSENTIAL DUTIES**

Performs service connections and disconnection's; investigates high water usage complaints; makes corrections on customer accounts and rereads. Follows up on vacant, non-usage and delinquent accounts; conducts dwelling unit audits and provides proper account to meter identification.

Inspects, repairs, rebuilds, tests and calibrates and overhauls both large and small water meter components. Replaces or repairs vault lids, maintain flow-recording devices, reading devices and computer software. Performs maintenance on the water billing system; changes out water meters, air monitor and other related equipment; assists with budget process; orders parts.

As a Leadworker, prepares work schedules and assigns/reviews work; performs record keeping and maintains files on work performed and scheduled for maintenance or repair; responds to emergency calls for service on a call-out basis and works outside normal working hours as needed.

Assists in the training of employees; supports and actively promotes the City's safety programs; performs periodic safety inspections; identifies and corrects safety hazards.

**CITY OF HUNTINGTON BEACH**

**CLASS SPECIFICATION**



**TITLE: WATER DISTRIBUTION METERS LEADWORKER**  
**2006 DECEMBER, 2004**

**DATE: APRIL**

*The preceding duties have been provided as examples of the essential types of work performed by positions within this job classification. The City, at its discretion, may add, modify, change or rescind work assignments as needed.*

**QUALIFICATIONS**

*Any combination of education, training, and experience that would likely provide the knowledge, skills, and abilities to successfully perform in the position is qualifying. A typical combination includes:*

**Knowledge of:** City and departmental rules, policies and procedures; equipment safety policies and procedures; machinery, equipment and tools necessary for the operation and repair of water meters; occupational hazards and safety precautions applicable to water meter operation and repair work.

**Ability to:** Read and follow work orders and instructions; perform a variety of water meter operation maintenance tasks; to use hand and power tools; follow safety practices and recognize hazards; carry out work assignments as instructed; maintain accurate records; communicate effectively orally and in writing; establish and maintain cooperative work relationships with those contacted in the course of work.

**Education:** The equivalent of a High School diploma.

**Experience:** Three (3) years general water meter operation experience.

**Certifications/License:** Possession of a valid California motor vehicle operator's license. When assigned to water meter repair operations, requires a State of California Grade III Water Distribution Certificate. When assigned to customer service programs, must obtain a Water Conservation Practitioner Level 1 from the American Water Works Association within one year of appointment.

**PHYSICAL TASKS AND ENVIRONMENTAL CONDITIONS** – Work may involve exposure to potential physical harm, dangerous machinery, and performs moderate to heavy work in all types of weather. There is frequent need to stand, sit, stoop, walk, lift heavy objects up to 100 pounds and perform other similar actions during the course of the workday. Employee Reasonable accommodations for an individual with a qualified disability physical or mental disabilities will be considered on a case-by-case basis.

**CITY OF HUNTINGTON BEACH**  
**CLASS SPECIFICATION**



**APRIL 2006**

**TITLE: CROSS CONNECTION CONTROL SPECIALIST**

**DATE: AUGUST 18, 2004**

**JOB CODE: 0192**  
**EMPLOYMENT STATUS: REGULAR FULL-TIME**  
**UNIT REPRESENTATION: MEA**  
**FLSA STATUS: NON-EXEMPT**

**DUTIES SUMMARY**

With general supervision, performs technical work assignments to implement and administer the cross connection control program within the City and other duties as required within the scope of the classification.

**DISTINGUISHING CHARACTERISTICS**

The Cross Connection Control Specialist is a single position job class with responsibility for performing journey level compliance work in maintaining the quality of the City's drinking water. This position does not have supervisory responsibility.

**EXAMPLES OF ESSENTIAL DUTIES**

Conducts field inspections determine potential or actual water supply contamination. Reviews construction plans to determine compliance with City, state and federal regulations. Advises contractors, property owners and facility supervisors of backflow installation and testing requirements. Coordinates cross connection activities with other divisions, outside agencies and organizations.

Reviews construction plans and backflow prevention device test reports. Issues shutdown orders for non-compliance with City ordinances. Makes oral and written presentations to public water customers.

Maintains records and files on tests conducted and in compliance with regulatory standards; attends training; supports and actively promotes the City's safety programs; assists with periodic safety inspections; identifies and corrects safety hazards;

*The preceding duties have been provided as examples of the essential types of work performed by positions within this job classification. The City, at its discretion, may add, modify, change or rescind work assignments as needed.*

**QUALIFICATIONS**

*Any combination of education, training, and experience that would likely provide the knowledge, skills, and abilities to successfully perform in the position is qualifying. A typical combination includes:*

**CITY OF HUNTINGTON BEACH**

**CLASS SPECIFICATION**



**APRIL 2006**

**TITLE: CROSS CONNECTION CONTROL SPECIALIST**

**DATE: AUGUST 18, 2004**

**Knowledge of:** City policies and procedures; City, state and federal Water Standards; cross connection control inspection criteria and testing techniques; common tools and test equipment used in water quality testing; occupational hazards and necessary safety precautions applicable to maintenance of water quality.

**Ability to:** Read and interpret diagnostic test results, construction plans and regulations applying to water quality; use a variety of testing instruments and equipment; respond quickly to critical situations and carry out work assignments as instructed; maintain accurate records; communicate effectively orally and in writing; establish and maintain cooperative work relationships with those contacted in the course of work.

**Education:** The equivalent of an associate's degree in water utility science, biology or chemistry.

**Experience:** Three (3) years of experience in water systems.

**Certifications/License:** Possession of a valid California motor vehicle operator's license and Cross Connection Control Program Specialist certificate. **Within one year, acquire an Orange County Health Care Agency Backflow Testers certificate and State of California Water Treatment Operator Grade II or State of California Distribution Operator Grade II certificate.**

**NOTE:** Water certification requirements are effective January 1, 2007 for City employees in their current position. Candidates, including City employees, placed into a position on or after August 18, 2004 must meet the water certification requirement upon date of promotion or hire.

**PHYSICAL TASKS AND ENVIRONMENTAL CONDITIONS** – Work involves exposure to potential physical harm, hazardous chemicals, and infectious disease. There is frequent need to stand, sit, stoop, walk, lift heavy objects up to 50 pounds and perform other similar actions during the course of the workday. **Reasonable Employee accommodation(s) for an individual with a qualified disability physical or mental disabilities will be considered on a case-by-case basis.**

Revised: 08-04  
12-01

**CITY OF HUNTINGTON BEACH**

**CLASS SPECIFICATION**



**TITLE: WATER SYSTEMS TECHNICIAN II**  
~~AUGUST 18, 2004~~

**DATE: APRIL 2006**

**JOB CODE: 0369**  
**EMPLOYMENT STATUS: REGULAR FULL-TIME**  
**UNIT REPRESENTATION: MEA**  
**FLSA STATUS: NON-EXEMPT**

**DUTIES SUMMARY**

With general supervision, performs a variety of semi-skilled and skilled mechanical tasks in the maintenance of the City's water production plant, and performs other duties as required within the scope of the classification.

**DISTINGUISHING CHARACTERISTICS**

The Water System Technician is a journey level position with responsibility for performing semi-skilled and skilled mechanical tasks. It is distinguished from the Water System Technician III by the lack of a certification requirement and reports to the Leadworker Water Operations.

**EXAMPLES OF ESSENTIAL DUTIES**

Repairs, replaces and overhauls natural gas engines, gas fed systems, computer based control and telemetry devices, power transmission components and drivelines and pumps used in municipal water supply production as well as storm drain pump stations. Installs and maintains water, gas, air and other plumbing and hydraulic lines.

Assists in the construction, operation and maintenance of chemical treatment plants and filtration systems. Computes dosage and concentration of various chemicals for maintenance of the system. Trouble shoots and repairs computer based control and telemetry systems, transmitters, receivers and telephone lines. Delivers fluoride to the water system.

Maintains records and files; supports and actively promotes the City's safety programs; assists with periodic safety inspections; identifies and corrects safety hazards. Responds to emergency calls for service on a call-out basis, and works outside of normal business hours, as needed.

*The preceding duties have been provided as examples of the essential types of work performed by positions within this job classification. The City, at its discretion, may add, modify, change or rescind work assignments as needed.*

CITY OF HUNTINGTON BEACH  
CLASS SPECIFICATION



TITLE: WATER SYSTEMS TECHNICIAN II  
AUGUST 18, 2004

DATE: APRIL 2006

**QUALIFICATIONS**

*Any combination of education, training, and experience that would likely provide the knowledge, skills, and abilities to successfully perform in the position is qualifying. A typical combination includes:*

**Knowledge of:** Equipment safety policies and procedures; a variety of water production procedures and techniques; machinery, equipment and tools necessary for the maintenance and repair of water systems; occupational hazards and safety precautions applicable to maintenance and repair work.

**Ability to:** Read and follow work orders and instructions; perform a variety of water production maintenance tasks; use hand and power tools; follow safety practices and recognize hazards; carry out work assignments as instructed; maintain accurate records; communicate effectively orally and in writing; establish and maintain cooperative work relationships with those contacted in the course of work.

**Education:** The equivalent of a High School diploma.

**Experience:** Three (3) years of mechanical repair and maintenance experience.

**Certifications/License:** Possession of a valid California motor vehicle operator's license. Class B HAZMAT Handler permit within one (1) year of hire. State of California Water Treatment Operator Grade I-III.

**NOTE:** Water certification requirements are effective January 1, 2007 for City employees in their current position. Candidates, including City employees, placed into a position on or after August 18, 2004 must meet the water certification requirement upon date of promotion or hire.

**PHYSICAL TASKS AND ENVIRONMENTAL CONDITIONS** – Work involves exposure to potential physical harm, dangerous machinery, and performs moderate to heavy work in all types of weather. There is frequent need to stand, stoop, walk, climb, balance, lift heavy objects up to 75 pounds and perform other similar actions during the course of the workday. Employee—Reasonable accommodations for an individual with a qualified disability physical or mental disabilities will be considered on a case-by-case basis.

Revised 12-01

8-18-04

**CITY OF HUNTINGTON BEACH**  
**CLASS SPECIFICATION**



**APRIL 2006**

**TITLE: WASTEWATER MAINT SERVICE WORKER**

**DATE: JULY 2003**

**JOB CODE: 0454**  
**EMPLOYMENT STATUS: REGULAR FULL-TIME**  
**UNIT REPRESENTATION: MEA**  
**FLSA STATUS: NON-EXEMPT**

**DUTIES SUMMARY**

With close supervision, performs a variety of semi-skilled and skilled tasks in the maintenance and construction of the City wastewater system including pipelines, lift stations, storm drains and catch basins; and performs other duties as required within the scope of the classification.

**DISTINGUISHING CHARACTERISTICS**

The Wastewater Maintenance Service Worker is a generalist with responsibility for performing a variety of semi-skilled maintenance tasks. It is distinguished from the skilled trades classes that require journey level experience in a particular trade or craft.

**EXAMPLES OF ESSENTIAL DUTIES**

Performs maintenance and construction tasks to maintain maximum, constant water flow in the wastewater system; cleans and repairs storm drains to prevent flooding; lifts manhole covers and retrieves debris inside manholes; assists jet truck operator in cleaning sewer lines; excavates and repairs sewer lines; reads and understands wastewater system maps and assists operators in all aspects of repairs; operates equipment in absence of operator; assists in camera duties to inspect lines; assists pump mechanics in repairs.

Performs traffic control at worksite; sets up cone patterns; performs flagging duties to direct traffics; assists public in routing around the work zone; ensure safety of worksite.

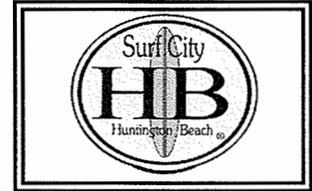
Assists with general labor duties for the Wastewater Department; performs preventative maintenance on work equipment; responds to emergency calls for service on a call-out basis, and works outside of normal business hours as needed.

Attends training; supports and actively promotes the City's safety programs; assists with periodic safety inspections; identifies and corrects safety hazards.

*The preceding duties have been provided as examples of the essential types of work performed by positions within this job classification. The City, at its discretion, may add, modify, change or rescind work assignments as needed.*

**CITY OF HUNTINGTON BEACH**

**CLASS SPECIFICATION**



**APRIL 2006**

**TITLE: WASTEWATER MAINT SERVICE WORKER**

**DATE: JULY 2003**

**QUALIFICATIONS**

*Any combination of education, training, and experience that would likely provide the knowledge, skills, and abilities to successfully perform in the position is qualifying. A typical combination includes:*

**Knowledge of:** Practices and procedures for safe handling of machinery, equipment and tools necessary for the maintenance and repair of the wastewater system.

**Ability to:** Read and follow work orders and instructions; use hand and power tools, including pneumatic jackhammers, high voltage generators and other heavy tools; operate safety equipment such as gas detectors, life lines and self contained breathing apparatus; work in confined spaces; follow safety practices and recognize hazards; carry out work assignments as instructed; maintain accurate records; communicate effectively orally and in writing; establish and maintain cooperative work relationships with those contacted in the course of work.

**Education:** The equivalent of a High School diploma.

**Experience:** Two (2) years experience in wastewater collection systems maintenance and repair.

**Reclassification Requirements:** Sufficient training and/or experience to clearly demonstrate the skills, knowledge, abilities and personal attributes required for this class may be demonstrated by successful completion of eighteen months maintenance experience with the city of Huntington Beach.

**Certifications/License:** Possession of a valid California motor vehicle operator's Class A ~~drivers~~ license with Hazmat certification.

**PHYSICAL TASKS AND ENVIRONMENTAL CONDITIONS** – Work involves exposure to potential physical harm, dangerous machinery, hazardous materials, and potentially infectious disease and performs moderate to heavy work in all types of weather. There is frequent need to stand, stoop, walk, climb, balance, lift heavy objects (up to 100 pounds) and perform other similar actions during the course of the workday. **Reasonable** Employee accommodation(s) for **an individual with a qualified disability** physical ~~or~~ mental disabilities will be considered on a case-by-case basis.

**ITEM #6**



**CITY OF HUNTINGTON BEACH  
INTERDEPARTMENTAL COMMUNICATION**

**TO:** Personnel Commission  
**FROM:** Irma Youssefieh, Human Resources Manager  
**SUBJECT:** **Proposed Personnel Commission Procedure for Review of Non-Disciplinary Grievances**  
**DATE:** April 19, 2006

**DISCUSSION**

At meeting of the Personnel Commission on March 15, 2006, staff reported that after additional review, staff was recommending further changes to this Procedure (which had been originally adopted by the Commission on January 18, 2006). As reported, staff's recommended changes were to streamline the procedure to allow the Personnel Commission Chair discretion, if necessary, to change the format of the hearing based on the level of the issues being presented. Staff also reported a need to include a summary statement on the non-disciplinary grievance for the Chair's review in advance of the hearing in order for an appropriate determination regarding briefs, witness lists, pre-hearing conference, etc. (as originally provided for the adopted Procedure).

All recommended changes have been reviewed and discussed between staff and the Personnel Commission Chair, Vice-Chair and the Commission's legal counsel. Due to the absence of both the Chair and the Commission's legal counsel at the April 19<sup>th</sup> Personnel Commission meeting, this revised Procedure is submitted to the Personnel Commission for review.

This Procedure will be agendized for the next regularly scheduled meeting of the Personnel Commission in May, at which time the Commission can discuss and move to adopt the Procedure unless otherwise amended.

Upon reconsideration and adoption by the Personnel Commission, the revised Procedure would then be scheduled for City Council approval.

**RECOMMENDATION**

Receive proposed changes to the Commission Procedures for Review of Non-Disciplinary Grievances previously adopted by the Personnel Commission on January 18, 2006 for re-adoption consideration at the next regularly scheduled meeting of the Personnel Commission.

Attachment: Revised Procedure  
Legislative Draft (of proposed changes)

## **PERSONNEL COMMISSION PROCEDURE FOR REVIEW OF NON-DISCIPLINARY GRIEVANCES**

Section 19-5 of the Personnel Rules of the City of Huntington Beach provides a five step review procedure for the presentation of a non-disciplinary grievance. The rule provides that any non-disciplinary grievance, which remains unresolved after the first four steps may be appealed to the Personnel Commission for a final Step 5 review. Rule 19 states that the Commission's Step 5 review is to be a de novo hearing, meaning that the Commission is to hear all of the relevant factual evidence and issues from each side, and to then reach its own findings and conclusions independent of any of the determinations or decisions made at any of the prior Steps in the grievance process.

Personnel Rule 19-5, Step 5(b) provides that the Step 5 hearing is generally to be conducted by a Hearing Officer. However, the procedure has been amended by collective bargaining<sup>1</sup> so that all of the City's Memoranda of Understanding now state that, "In lieu of the hearing officer process, the Personnel Commission may agree to hear a case directly upon submission of the case by mutual consent of the parties."

Chair's Discretion Regarding Conduct of the Non-Disciplinary Grievance Hearing:  
In advance of a scheduled hearing before the Personnel Commission, the Commission Chair shall review a summary of the non-disciplinary grievance as submitted by both the Appellant and the City. Each summary shall be submitted on the attached Personnel Commission summary form within ten (10) days as requested by the Secretary to the Personnel Commission on behalf of the Commission Chair and shall include: 1) the date of the grievance; 2) name(s) of grievant(s); 3) statement of grievance; 4) personnel or department rule(s) or regulation(s) in dispute; 5) issue(s) to be presented to the Personnel Commission; and, 6) remedy sought.

Based on the review of the Commission Chair and as may be consulted by legal counsel to the Personnel Commission, the Chair shall make the determination in advance of a scheduled hearing on the following: 1) the need for a pre-hearing conference and, 2) the order for submission of a written brief by both parties for the Commission. Such determination shall be communicated to both parties by the Secretary to the Personnel Commission or his/her designee.

In order to assure the fair and impartial hearing of any non-disciplinary grievance, the Huntington Beach Personnel Commission shall observe the following procedures when it sits as the reviewing body at a Step 5 hearing of a non-disciplinary grievance, in lieu of a hearing officer:

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<sup>1</sup> Rule 21-13 provides that if any provision of the Rules is inconsistent with, or modified by a provision in a Memorandum of Agreement or Memorandum of Understanding, then the provision as stated in the Memorandum is given precedent.

- A. Definition of Non-Disciplinary Grievance: Under Rule 19 a non-disciplinary grievance is a dispute concerning the interpretation or application of any provision of the City's Employer-Employee Relations Resolution, or any provision of this resolution, or any departmental rule governing personnel practices or working conditions, with the exception of disciplinary matters or matters which have become subject to the impasse procedures provided in the Employer-Employee Relations Resolution (Authority: Personnel Rule 19-2).
- B. Right to Representation: Each of the parties to the non-disciplinary grievance are entitled to representation. Said representative shall assist their respective party to prepare and present their case to the Commission (Authority: Personnel Rule 21-1).
- C. Reported Hearing: The hearing before the Commission shall be reported by a certified court reporter, unless waived by both the Appellant and the City. The cost of the court reporter shall be borne equally by the City and the Appellant (Authority: Personnel Rule 21-8).
- D. Authority to Compel Attendance of Witnesses and Production of Documents: The Personnel Commission has the power to issue subpoenas to compel the attendance of witnesses at the hearing of the non-disciplinary grievance, and/or to compel the production of documentary evidence at said hearing. The Personnel Commission also has the authority to issue oaths or affirmations in conjunction with the non-disciplinary grievance hearing (Authority: Personnel Rule 21-9).
- E. Pre-hearing Conference and Exchange of Witness and Exhibit Lists: The Chair of the Personnel Commission shall decide whether a pre-hearing conference is appropriate. A pre-hearing conference shall be held no later than fourteen (14) days prior to the hearing. The parties shall exchange witness and exhibit lists not later than seven days prior to the hearing and likewise provide a copy of said lists to the Secretary of the Commission. Absent a showing of good cause, a party may not call a witness at the hearing (other than as a rebuttal witness) who has not been previously identified on the offering party's witness list and exchanged with the other party (Authority: Disciplinary Grievance Procedure B-3).
- F. Briefing: The Commission reserves the right to order briefing by the parties. If either party desires to file a brief there is no prohibition upon said filing, just so long as all parties are served. If one party elects to file a brief without prior order or instruction from the Commission, all other parties to the hearing process shall be given the opportunity to file and serve a brief on the same issue.

G. Closed Session: Hearings shall be held in closed session, unless the law requires otherwise, however, the grieving employee will be given the option to request an open hearing (Authority: Disciplinary Grievance Procedure B-2).

H. Hearing Procedures:

1. Rules of Evidence. The hearing is civil, not criminal, and the rules of evidence shall apply in general terms, however, the strict rules of evidence shall not be applied unless mandated by statute, rule or regulation. The hearing shall be conducted in a manner most conducive to the determination of truth.

a. Any relevant evidence is admissible if it is the type of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of any common law or statutory rule which might make the admission of such evidence improper over an objection in a civil action.

b. Relevant evidence is any evidence having a tendency in reason to prove or disprove a disputed fact which is of consequence in the determination of the matter, including the credibility of witnesses.

c. Hearsay is admissible only to supplement or explain other evidence, but is not sufficient in itself to support a finding unless the hearsay evidence would be admissible over objection in a civil action.

d. The rules defining evidentiary privileges shall be effective to the same extent as they are recognized in civil actions.

e. Irrelevant, cumulative and unduly repetitious evidence may be excluded by the Chair.

f. The Chair of the Commission shall rule on the admissibility or inadmissibility of evidence, but is not strictly bound by the technical rules of evidence, and may seek the assistance of the legal advisor in making such rulings.

2. Order of Presentation

The Chair of the Commission shall have the discretion to disallow any oral presentation and require both parties to submit written statements in lieu of oral presentations.

a. The Appellant shall first be permitted to make an opening statement.

- b. The Respondent shall then be permitted to make an opening statement, which may, however, be reserved until presentation of its case in chief.
- c. The Appellant shall then present its case in chief as to why the grievance should be granted. The Respondent shall have the opportunity to cross examine each of Appellant's witnesses immediately after Appellant concludes direct examination of the witness. The Commission reserves the right to question each appellant witness following direct and cross examination.
- d. The Respondent shall then present its case in chief as to why the grievance should be denied. The Appellant shall have the opportunity to cross examine each of Respondent's witnesses immediately after Respondent concludes direct examination of the witness. The Commission reserves the right to question each Respondent witness following direct and cross examination.
- e. The parties may then proceed in the same order as they presented evidence in their cases in chief if they elect to offer rebuttal evidence, and the accompanying cross examination of rebuttal witnesses. The Commission reserves the right to question each rebuttal witness following direct and cross examination.
- f. The Appellant shall then give its closing argument.
- g. The Respondent shall then present its closing argument.
- h. The Appellant, since he or she has the burden of proof, is allotted a short rebuttal argument.

### 3. Exhibits

- a. The Appellant shall identify and mark its exhibits numerically. The Respondent shall identify and mark its exhibits alphabetically.
- b. When an exhibit is admitted into evidence by the Chair of the Personnel Commission sitting as hearing officer, the exhibit will then be distributed to the Commissioners. Therefore, each party shall have at least ten (10) copies of each exhibit it seeks to admit into evidence and present all ten (10) copies to the Secretary upon admission of the exhibit into evidence (distribution of copies: seven (7) to Commissioners, 1 to opposing side, 1 to legal advisor, and 1 to Secretary of the Personnel Commission). The Secretary shall retain the Commission's original copy, and shall serve as the Custodian of Records for the hearing.

c. The Commission Secretary shall also keep a log of all exhibits which identify the exhibit by name, exhibit number or letter, the date it was identified and the date it was admitted into evidence. Said exhibit log shall be kept as part of the record of the hearing.

4. Testimonial Evidence

Oral evidence shall be taken only upon the testimony of witnesses who have been properly sworn to testify truthfully under penalty of perjury upon their oath or affirmation.

5. Exclusion of Witnesses

During the examination of any witness, other witnesses who have not yet testified shall be excluded from the hearing during the presentation of either side's evidence, upon the motion of either party.

6. Burden of Proof

The burden of proof is upon the Appellant to show by a preponderance of the evidence that the non-disciplinary grievance should be granted. Failure to prove that there is sufficient evidence to grant the grievance shall result in the grievance being denied.

7. Deliberation

After the receipt of all evidence, and the arguments of each of the parties, the Commission shall retire into executive session for the purpose of deliberation, with only Commissioners and the legal advisor to the Commission present. The Commissioners shall not discuss the facts of the case nor deliberate in any manner prior to the conclusion of the evidentiary portion of the hearing and the final arguments of the parties regarding their respective positions.

During deliberation the Commissioners shall discuss the evidence presented at the hearing, and shall then determine the relevancy and appropriate weight to ascribe to the evidence. The Commissioners shall also determine the credibility of the witnesses who testified at the hearing and the appropriate weight to ascribe to the testimonial evidence.

During deliberations the Commission shall determine whether, in light of all of the evidence presented, the weight of the evidence results in a finding that there is reasonable and sufficient cause to grant the grievance. If the facts preponderate in favor of a finding that there is reasonable and sufficient cause to grant the grievance, then the Commission shall determine that the grievance is granted. If, however,

the factual evidence preponderates in favor of a finding that there is not sufficient cause to grant the grievance, then the Commission's conclusion shall be that the grievance is denied.

8. Announcement of Determination

After the Commission has deliberated and come to its determination, the Chair shall reconveign the closed session hearing. The Chair shall then announce the determination of the Commission as either having granted or denied the grievance. Whereupon the Secretary shall poll each Commissioner on the record as to whether he or she concurs with the announced determination of the Commission.

9. Preparation of the Written Findings

After the Commissioners have been polled, the Chair will then direct the legal advisor to prepare written findings and conclusions leading to the Commission's determination of the non-disciplinary grievance, and a date in the future when the Written Findings can be reviewed and adopted by the Commission.

10. Service of the Written Findings

After adoption of the Written Findings the Secretary to the Commission shall serve a copy of the findings on each of the parties to the non-disciplinary grievance along with an appropriate notice that the Commission's determination is the final administrative action which can be taken on this grievance, and that any further redress must be sought via the appropriate judicial proceeding.

City of Huntington Beach  
Non-Disciplinary Grievance Summary Form

Name(s) of Grievant(s):

Date Grievance Filed:

Department:

Position(s):

Statement of Grievance:

Personnel Rule(s) or Regulation(s) in dispute under which this non-disciplinary grievance is based:

Issue(s) to be presented to the Personnel Commission:

Remedy Sought:

**Summary Comments**

*Step One: Informal discussion/immediate supervisor (optional)*

Comments:

Step Two: Formal Procedure/Immediate Supervisor

Comments:

Step Three: Department Head

Comments:

*Step Four: City Administrator*

Comments:

Representative's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Note: Attachments are not necessary nor is the summary intended to exceed this page.

## **PERSONNEL COMMISSION PROCEDURE FOR REVIEW OF NON-DISCIPLINARY GRIEVANCES**

Section 19-5 of the Personnel Rules of the City of Huntington Beach provides a five step review procedure for the presentation of a non-disciplinary grievance. The rule provides that any non-disciplinary grievance which remains unresolved after the first four steps may be appealed to the Personnel Commission for a final Step 5 review. Rule 19 states that the Commission's Step 5 review is to be a de novo hearing, meaning that the Commission is to hear all of the relevant factual evidence and issues from each side, and to then reach its own findings and conclusions independent of any of the determinations or decisions made at any of the prior steps in the grievance process.

**Personnel** Rule 19-5, Step 5(b) provides that the Step 5 hearing is generally to be conducted by a Hearing Officer. However, the procedure has been amended by collective bargaining<sup>1</sup> so that all of the City's Memoranda of Understanding now state that, "In lieu of the hearing officer process, the Personnel Commission may agree to hear a case directly upon submission of the case by mutual consent of the parties."

**Chair's Discretion Regarding Conduct of the Non-Disciplinary Grievance Hearing:** In advance of a scheduled hearing before the Personnel Commission, the Commission Chair shall review a summary of the non-disciplinary grievance as submitted by both the Appellant and the City. Each summary shall be submitted on the attached Personnel Commission summary form within ten (10) days as requested by the Secretary to the Personnel Commission on behalf of the Commission Chair and shall include: 1) the date of the grievance; 2) name(s) of grievant(s); 3) statement of grievance; 4) personnel or department rule(s) or regulation(s) in dispute; 5) issue(s) to be presented to the Commission; and, 6) remedy sought.

Based on the review of the Commission Chair and as may be consulted by legal counsel to the Personnel Commission, the Chair shall make the determination in advance of a scheduled hearing on: 1) the need for a pre-hearing conference and 2) the order for submission of a written brief by both parties for the Commission. Such determination shall be communicated to both parties by the Secretary to the Personnel Commission or his/her designee.

In order to assure the fair and impartial hearing of any non-disciplinary grievance, the Huntington Beach Personnel Commission shall observe the following procedures when it sits as the reviewing body at a Step 5 hearing of a non-disciplinary grievance, in lieu of a hearing officer.

A. Definition of Non-Disciplinary Grievance: Under Rule 19 a non-disciplinary grievance is a dispute concerning the interpretation or application of any provision of the City's Employer-Employee Relations Resolution, or any provision of

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<sup>1</sup> Rule 21-13 provides that if any provision of the Rules is inconsistent with, or modified by a provision in a Memorandum of Agreement or Memorandum of Understanding, then the provision as stated in the Memorandum is given precedent.

this resolution, or any departmental rule governing personnel practices or working conditions, with the exception of disciplinary matters or matters which have become subject to the impasse procedures provided in the Employer-Employee Relations Resolution (authority: Rule 19-2).

B. Right to Representation: Each of the parties to the non-disciplinary grievance are entitled to ~~assistance and representation. by legal counsel or a representative of their choice, including the employee organizations or bargaining units which represent City employees.~~ Said representative shall assist their **respective parties party** to prepare and present their case to the Commission (Authority: **Personnel Rule 21-1**).

C. Reported Hearing: The hearing before the Commission shall be reported by a certified court reporter, unless waived by both the Appellant and the City. The cost of the court reporter shall be borne equally by the City and the Appellant (authority: 21-8).

D. Authority to Compel Attendance of Witnesses and Production of Documents: The Personnel Commission has the power to issue subpoenas to compel the attendance of witnesses at the hearing of the non-disciplinary grievance, and/or to compel the production of documentary evidence at said hearing. The Personnel Commission also has the authority to issue oaths or affirmations in conjunction with the non-disciplinary grievance hearing (Authority: **Personnel Rule 21-9**).

E. Pre-hearing Conference and Exchange of Witness and Exhibit Lists: The Chair of the Personnel Commission shall decide whether the subject matter of the hearing is complex, and if so whether a pre-hearing conference is appropriate to discuss the issues, and to explore the possibility of narrowing the issues or stipulating to facts that are not in dispute. ~~If so, then~~ A pre-hearing conference shall be held no later than fourteen (14) days prior to the hearing. ~~The Parties shall exchange witness lists and exhibit lists at the prehearing conference, and likewise provide a copy of these lists to the Secretary of the Commission when exchanged. In the situation where it is determined that there is no need for a prehearing conference~~ The Parties shall exchange witness and exhibit lists not later than seven days prior to the hearing and likewise provide a copy of said lists to the Secretary of the Commission. Absent a showing of good cause, a party may not call a witness at the hearing (other than as a rebuttal witness) who has not been previously identified on the offering party's witness list and exchanged with the other party (Authority: ~~Disp. Griev.~~ **Disciplinary Grievance Procedure B-3**).

F. Briefing: The Commission reserves the right to order briefing by the parties when it deems that ~~briefs might be helpful to the Commission's understanding of issues.~~ Opening briefs, if deemed instructive, would be ordered by the Chair in conjunction with the prehearing process. ~~Closing briefs, and any other briefs deemed helpful, would be requested and ordered by the Commission during the pendency of the hearing.~~ If either party desires to file a brief there is no prohibition upon said filing, just so long as all parties are served. If one party elects to file a brief without prior order or

instruction from the Commission all other parties to the hearing process shall be given the opportunity to file and serve a brief on the same issue.

G. Closed Session: Hearings shall be held in closed session, **unless the law requires otherwise** however, the grieving employee will be given the option to request an open hearing (authority: Disp. Griev. Procedure B-2).

H. Hearing Procedures:

1. Rules of Evidence. The hearing is civil, not criminal, and the rules of evidence shall apply in general terms, however, the strict rules of evidence shall not be applied unless mandated by statute, rule or regulation. The hearing shall be conducted in a manner most conducive to the determination of truth.

a. Any relevant evidence is admissible if it is the type of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of any common law or statutory rule which might make the admission of such evidence improper over an objection in a civil action.

b. Relevant evidence is any evidence having a tendency in reason to prove or disprove a disputed fact which is of consequence in the determination of the matter, including the credibility of witnesses.

c. Hearsay is admissible only to supplement or explain other evidence, but is not sufficient in itself to support a finding unless the hearsay evidence would be admissible over objection in a civil action.

d. The rules defining evidentiary privileges shall be effective to the same extent as they are recognized in civil actions.

e. Irrelevant, cumulative and unduly repetitious evidence may be excluded by the Chair.

f. The Chair of the Commission shall rule on the admissibility or inadmissibility of evidence, but is not strictly bound by the technical rules of evidence, and may seek the assistance of the legal advisor in making such rulings.

2. Order of Presentation.

The Chair of the Commission shall have the discretion to disallow any oral presentation and require both parties to submit written statements in lieu of oral presentations.

a. The Appellant shall first be permitted to make an opening statement.

b. The Respondent shall then be permitted to make an opening statement, which may, however, be reserved until presentation of its case in chief.

c. The Appellant shall then present its case in chief as to why the grievance should be granted. The Respondent shall have the opportunity to cross examine each of Appellant's witnesses immediately after Appellant concludes direct examination of the witness. The Commission reserves the right to question each appellant witness following direct and cross examination.

d. The Respondent shall then present its case in chief as to why the grievance should be denied. The Appellant shall have the opportunity to cross examine each of Respondent's witnesses immediately after Respondent concludes direct examination of the witness. The Commission reserves the right to question each respondent witness following direct and cross examination.

e. The parties may then proceed in the same order as they presented evidence in their cases in chief if they elect to offer rebuttal evidence, and the accompanying cross examination of rebuttal witnesses. The Commission reserves the right to question each rebuttal witness following direct and cross examination.

f. The Appellant shall then give its closing argument.

g. The Respondent shall then present its closing argument.

h. The Appellant, since he or she has the burden of proof, is allotted a short rebuttal argument.

### 3. Exhibits.

a. The Appellant shall identify and mark its exhibits numerically. The Respondent shall identify and mark its exhibits alphabetically.

b. When an exhibit is admitted into evidence by the Chair of the Personnel Commission sitting as hearing officer, the exhibit will then be distributed to the Commissioners. Therefore, each party shall have at least ten (10) copies of each exhibit it seeks to admit into evidence and present all ten (10) copies to the Secretary upon admission of the exhibit into evidence (distribution of copies: 7 to Commissioners, 1 to opposing side, 1 to legal advisor, and 1 to Secretary to the Personnel Commission). The Secretary shall retain the Commission's original copy, and shall serve as the Custodian of Records for the hearing.

c. The Commission Secretary shall also keep a log of all exhibits which identify the exhibit by name, exhibit number or letter, the date it was identified and the date it was admitted into evidence. Said exhibit log shall be kept as part of the record of the hearing.

4. Testimonial Evidence.

Oral evidence shall be taken only upon the testimony of witnesses who have been properly sworn to testify truthfully under penalty of perjury upon their oath or affirmation.

5. Exclusion of Witnesses.

During the examination of any witness, other witnesses who have not yet testified shall be excluded from the hearing during the presentation of either side's evidence, upon the motion of either party.

6. Burden of Proof.

The burden of proof is upon the Appellant to show by a preponderance of the evidence that the non-disciplinary grievance should be granted. Failure to prove that there is sufficient evidence to grant the grievance shall result in the grievance being denied.

7. Deliberation.

After the receipt of all evidence, and the arguments of each of the parties, the Commission shall retire into executive session for the purpose of deliberation, with only Commissioners and the legal advisor to the Commission present. The Commissioners shall not discuss the facts of the case nor deliberate in any manner prior to the conclusion of the evidentiary portion of the hearing and the final arguments of the parties regarding their respective positions.

During deliberation the Commissioners shall discuss the evidence presented at the hearing, and shall then determine the relevancy and appropriate weight to ascribe to the evidence. The Commissioners shall also determine the credibility of the witnesses who testified at the hearing and the appropriate weight to ascribe to the testimonial evidence.

During deliberations the Commission shall determine whether, in light of all of the evidence presented, the weight of the evidence results in a finding that there is reasonable and sufficient cause to grant the grievance. If the facts preponderate in favor of a finding that there is reasonable and sufficient cause to grant the grievance, then the Commission shall determine that the grievance is granted. If, however, the factual evidence preponderates in favor of a finding that there is not sufficient cause to grant the grievance, then the Commission's conclusion shall be that the grievance is denied.

8. Announcement of Determination.

After the Commission has deliberated and come to its determination, the Chair shall reconvene the closed session hearing. The Chair shall then announce the determination of the Commission as either having granted or denied

the grievance. Whereupon the Secretary shall poll each Commissioner on the record as to whether he or she concurs with the announced determination of the Commission.

9. Preparation of the Written Findings.

After the Commissioners have been polled, the Chair will then direct the legal advisor to prepare written findings and conclusions leading to the Commission's determination of the non-disciplinary grievance, and a date in the future when the Written Findings can be reviewed and adopted by the Commission.

10. Service of the Written Findings.

After adoption of the Written Findings the Secretary to the Commission shall serve a copy of the findings on each of the parties to the non-disciplinary grievance along with an appropriate notice that the Commission's determination is the final administrative action which can be taken on this grievance, and that any further redress must be sought via the appropriate judicial proceeding.

**ITEM #8**



**CITY OF HUNTINGTON BEACH  
INTERDEPARTMENTAL COMMUNICATION**

**TO:** Personnel Commission  
**FROM:** Irma Youssefieh, Human Resources Manager  
**SUBJECT:** **Draft Report to the Personnel Commission on Administrative Leave**  
**DATE:** April 19, 2006

**DISCUSSION**

Attached is a draft report submitted by legal counsel to the Personnel Commission on behalf of the Commission's sub-committee on the review of Administrative Leave.

This report reflects the research and discussion by the sub-committee completed to date.

As previously represented by the Personnel Commission, this issue and the information contained in this report is representative of the Commission's advisory role to the City Council and is not reflective of City management views or opinions. The role of the Secretary to the Personnel Commission in the subcommittee has been as an information resource on current City policies and practices regarding administrative leave.

Due to the absence of the Commission's legal counsel at the April 19<sup>th</sup> Personnel Commission meeting, this draft report is submitted to the Personnel Commission for review.

The report will be agendized for the next regularly scheduled meeting of the Personnel Commission in May, at which time the Commission can discuss the information contained in the report.

**RECOMMENDATION**

Receive draft report submitted by legal counsel to the Personnel Commission for review and discussion at the next regularly scheduled meeting of the Personnel Commission.

Attachment: Draft Report

## **Report to the Personnel Commission of the City of Huntington Beach**

The following is the report of the subcommittee on Administrative Leave, established by the Personnel Commission at its October 19, 2005 meeting. This subcommittee is comprised of Commissioner, Dan Gooch, Commission Secretary, Irma Youssefieh and Commission Legal Counsel, Jim Murphy.

The subcommittee selected Mr. Gooch as its chair and held three meetings to discuss the various aspects, applications and problems that the City and its Departments face in dealing with and applying administrative leave.

The following are the concerns, goals, objectives and recommendations that were raised by the subcommittee:

### **Concern:**

Administrative leave is not defined in the City's Personnel Rules, yet it is utilized as a practical operating procedure. Personnel Rule 7 provides for suspensions with and without pay in a disciplinary context, but there are also non-disciplinary applications for administrative leave. As such, it was perceived that there should be a more specific definition of administrative leave and guidelines for its use.

Further, there was questioning by the subcommittee, reflective of some of the discussions of the Commission, whether administrative leave could be with or without compensation, or both.

### **Goal:**

To establish a draft recommendation which the Personnel Commission could review and which would provide a platform for further focused discussion on administrative leave. This might then evolve into a recommendation to the City Council from the Personnel Commission. One of the goals was to set forth a draft advisory recommendation which actually defines administrative leave, and a procedure which recognizes the occasional requirement to remove an employee from the workplace for a short period of time with or without compensation both as part of a disciplinary procedure and a non-disciplinary procedure. The subcommittee also thought that administrative leave could be utilized as an expedient when it was necessary to remove an employee from his or her regular employment for safety and other non-disciplinary reasons.

### **Objectives:**

1. Identify the authority for undertaking this action.
2. Define administrative leave.
3. Differentiate between disciplinary and non-disciplinary situations.
4. Identify who has the authority to place an employee on administrative leave.

5. Establish a procedure for placing an employee on administrative leave.

**Preliminary Matter:**

One issue which Commissioner Gooch wanted to establish from the outset was to make certain that the Commission had the authority to make a recommendation of this sort, and to then articulate the proper procedure for doing so.

**A. Authority of the Commission to Consider Issue of Administrative Leave and to Make Recommendations to the City Council.**

Huntington Beach Municipal Code Section 2.72.070 sets forth the function and duties of the Personnel Commission. This section states that the Commission has the power to:

- (a) Act in an advisory capacity to the City Council and City Administrator on personnel administration.

The Commission thus has the authority to consider the issue of Administrative Leave, and to then give advice to the City Council or to the City Administrator regarding its findings and conclusions.

**B. Procedure.**

The Commission may then review and discuss the report, if it deems appropriate. Further, it may then discuss and draft an advisory recommendation to the City Council, with further input from staff and the public if desired. This recommendation would then be submitted to the Staff Liaison to the Commission as established by the City Council per Huntington Beach Municipal Code Section 2.100.050 for further administrative processing and review.

**I. Issues or Concerns Dealing With Administrative Leave.**

The following is a list of the major issues and concerns discussed by the Subcommittee regarding the concept of administrative leave. These issues are listed here for further discussion by the Commission if desired:

1. Lack of good definition.

Currently there is no definition of "Administrative Leave" in the Personnel Rules. The concept as applied derives from Rule 7-4 which authorizes paid suspensions of employees up to 30 days during the course of a disciplinary investigation. This would be the period after an allegation has been made against the employee, and the Department Head determines that it is best that the employee not be present in the department during the time when the investigation into the allegations is going forward. The section infers that the investigation would take no longer than 30 days. The investigation would either result in findings that there was sufficient cause to issue a Notice of Intent to take some sort of disciplinary action against the employee, or a finding that the facts do not support the allegations. If the former, the employee receives the Notice of Intent and the process proceeds to a *Skelly* hearing. If the latter, the employee returns to work.

However, there are also other non-disciplinary situations when administrative leave might be appropriate. These include, for example – a direction that the employee take a fitness for duty examination, situations when retention of the employee in his or her current position might result in injury or detriment to the City, situations when the employee has witnessed severe trauma in the course of his or her employment and it is reasonable to accord the employee time away from work, along with the need to do impartial investigations focused on the employee and others.

As such, it was suggested that there should be a general definition of Administrative Leave, and that the concept should not be exclusively limited to the section of the Rules dealing with discipline. Rule 7-5 permits suspensions without pay for an unlimited time by a department head, or designee, for any of the causes set forth in Rule 7-2. The rule requires a written notice be “served on the employee, and filed with the Personnel Director, as soon as possible after the effective date of the disciplinary action.” While clumsy, the language indicates that a written *Skelly* notice must be served on the employee designating the grounds for the suspension and the “nature of the disciplinary action.” Again, clumsy language which is presumed to mean the duration of the unpaid suspension. However, as seen from below the cases would generally only permit a suspension of less than 10 days without a pre-suspension *Skelly* notice. Further, any suspension under Rule 7 would be able to trigger the grievance procedure of Rule 20.

2. Is the placement of an employee on administrative leave a unilateral right maintained by the City?

a. Unless specifically covered by an existing MOU the general consensus is that placing an employee on paid administrative leave is a management right that has been retained by the City for the proper and efficient operation of its business.

b. However, a formal Administrative Leave policy would most likely be subject to meet and confer with the City’s Bargaining Units per MMB, as it deals with the terms and conditions of employment.

3. What are the elements of Administrative Leave? Suggestions include:

a. Administrative leave is an authorized absence from the employee’s regular job duties.

b. Administrative leave is generally involuntary and pursuant to a direct order from the employee’s Appointing Authority.

c. Administrative leave if compensated is paid at the employee’s regular rate.

d. Administrative leave does not count as vacation time or compensatory time off, nor as any other benefit wherein the City provides compensable time off to its employees.

4. Should there be a maximum amount of time, or a cap, which an employee can spend on administrative leave status?

a. The general consensus of the Commission is that there should be some sort of a cap on the length of time that an employee can spend on administrative leave so that a person is not left in a situation wherein he or she is not performing their regular job for an extended period, yet being compensated by the City.

b. Rule 7-4 already establishes a cap of 30 days whereby a department head may suspend the employee when he or she is the focus of an investigation which might result in a notice of intent to discipline. However, Rule 7-5, dealing with a disciplinary suspension without pay, has no term limit.

c. There seemed to be a general feeling in the Commission that 30 days is a sufficient period of time to accomplish whatever was needed by the administrative leave situation. Moreover, that once the initial period was exhausted it was then that a higher authority should approve further administrative leave. Should there be a procedure for requesting additional leave time if the initial leave period is exceeded? If so, what is the procedure?

5. Who has the authority to place an employee on administrative leave?

a. Appointing authority, or others?

6. Should the employee be given job assignments which can be done at home or away from his or her usual departmental workplace?

a. If the employee works at home is it covered by Workers' Compensation?

7. Should the employee be moved to an alternative job assignment within his or her classification if a position is open, in lieu of assigning the employee to his or her residence for the duration of the leave period?

8. Does the employee have the right to refuse to be placed on administrative leave, or would such a refusal constitute insubordination?

9. If the employee is placed on administrative leave are there reasonable prohibitions that should be placed on the employee? Such as:

a. The employee is prohibited from engaging in all other gainful employment by other persons or entities while receiving full compensation from the City.

b. The employee must report in to his or her supervisor telephonically every day to determine if there is work that the employee is capable of performing.

c. The employee must remain ready, willing and able to fully perform his or her regular job assignment with the City while on administrative leave.

d. The employee is not to contact other City employees for the purpose of discussing the reasons for the leave or any investigation related to the leave, while on administrative leave.

## **II. More Detailed Examination of Procedure Already In Place.**

### **A. Definition of Administrative Leave.**

#### 1. Disciplinary Application.

##### a. Paid Suspension.

As we have seen, there is no definition of administrative leave in the Personnel Rules. The concept of administrative leave, and the authority to place an individual on administrative leave currently derives from Personnel Rules 7-4 and 7-5.

Rule 7-4 states: “An employee may be suspended with pay by a department head, or in the case of a department head, by the City Administrator, for a period of not to exceed thirty (30) days where an investigation is being conducted to determine the validity of charges against such employees or department head. ...”

Here it is clear that the suspension, or administrative leave period, is to remove an employee who is the focus of an allegation which may lead to his or her discipline. This would be during the period immediately following a complaint being lodged against the employee, or the discovery of some evidence of suspected misconduct by the employee, which in turn needed to be further investigated, before the department head could make a determination on whether to take adverse disciplinary action against the employee. The department head in this situation has the option of suspending the employee in order to facilitate the investigation into the allegations.

This is because it is sometimes difficult to interview other employees and witnesses if the employee alleged to have been the problem remains in the immediate office or vicinity. Moreover, sometimes documents and records must be obtained or accessed, and it is easier to do so if the alleged wrongdoer is not present, or if the person does not know of this access.

In this situation the employee is generally ordered onto the suspension status, told why he or she is being suspended, instructed to cooperate with the investigation and likewise given an order not to interfere with the department’s investigation or to speak to other employees concerning any aspect of the investigation.

The conclusion of the investigation results in findings which support or deny the allegations, or if there is no determinative evidence either way – the investigation would be inconclusive. At this point the matter is either dismissed, or it moves forward to a Notice of Intent to Undertake an Adverse Action from the department head to the employee, along with the notice of the employee’s *Skelly* rights, and the documents supporting the Notice of Intent.

This is the most common application of administrative leave, and should remain undisturbed as a proven rule within the disciplinary process.

b. Unpaid Suspension.

As seen from above, Rule 7-5 grants Department Heads the right to suspend an employee without pay, if it is for sufficient cause as set forth in 7-2. Thus, this unpaid suspension is clearly for disciplinary reasons. The language of this section does not create any time limit on the unpaid suspension whatsoever, but does require the Department Manager to serve a *Skelly* notice explaining what the disciplinary reason, or cause, was to warrant the suspension, and “a statement of the disciplinary action” – which is presumed to mean telling the employee the duration of the unpaid suspension. However, as seen below, if the suspension is greater than 10 days the employee would be entitled to full *Skelly* rights and an evidentiary hearing.

2. Wider, Non-Disciplinary Application.

However, as seen above, the notion of administrative leave also encompasses non-disciplinary applications. These would include time off for those who might have been involved following a police shooting or other significant trauma. This is time off to make certain that the employee is fully able to perform all of his or her essential job duties without compromising the employee or others. It also includes situations when an employee may be ordered to take some sort of a fitness for duty assessment. For these there should most likely be an actual definition of Administrative Leave (rather than inferring it from “Suspension With Pay”) as part of Rule 7, and then a rule relative to its application.

The following definition is suggested for consideration (covers both disciplinary and non-disciplinary situation).

**III. Suggested Definition and Procedure.**

**A. Definition.**

ADMINISTRATIVE LEAVE. An authorized paid or unpaid absence from regular work for up to thirty (30) days under any of the following circumstances:

- a. When the retention of the employee in an active duty status may create an unreasonable risk of harm to City personnel, property or to the general public; or,
- b. When the employee’s temporary absence from the workplace is required to facilitate the City’s investigation of allegations involving the employee; or,
- c. When the City determines that the employee has been involved in, or witnessed a traumatic set of events and a temporary absence from regular duty is deemed appropriate to assure that the employee is able to satisfactorily perform the essential elements of his or her position; or,
- d. If continued active duty employment may be detrimental to the interests of the City.

**B. Procedure for Placing an Employee on Administrative Leave.**

The subcommittee suggests the following as a procedure to apply administrative leave in the non-disciplinary context:

Rule "N"  
Administrative Leave

N-1. An employee may be placed on administrative leave status by his or her department head, or in the case of a department head, by the City Administrator, upon notice to the employee and to the Personnel Director.

(a) Administrative Leave is designed to be a temporary absence from the employee's regular job duties and shall last no longer than thirty (30) work days. All continuances of administrative leave beyond 30 days shall be made with the approval of the City Administrator.

(b) If the leave is with pay the employee shall be compensated at his or her regular rate for the period of time he or she is on administrative leave.

(c) If the leave is without pay the duration of the leave shall not exceed ten (10) work days.

(d) Any employee placed on administrative leave shall receive a written notice from his or her department head as to why the employee is being placed on administrative leave. Said notice shall be delivered to the employee at the time he or she is placed on administrative leave, or within 48 hours of the placement.

N-2. An employee placed on paid administrative leave shall make himself or herself available for job assignments which might arise from time to time, and which could be performed at a location other than the employee's regular duty station. As such, if placed on administrative leave the employee shall not be employed at other gainful employment during his or her regular work time or shift.

(a) While on administrative leave the employee shall provide his or her department head with a telephone number where the employee can be contacted. The department shall contact the employee at least once per day on each work day the employee remains on administrative leave.

N-3. An employee placed on administrative leave shall follow all reasonable orders from his or her department head relative to the functioning of the department or the interests of the City. These may include limitations on persons the employee may contact while on administrative leave and follow-up assessments by licensed professionals (doctors, psychologists, etc.) to which the employee may be referred by the City.

(a) Any expenses associated with a request by the City that the employee do anything or be examined or assessed in any manner while on administrative leave shall be born entirely by the City.

(b) If the employee is assessed by a professional at the request of the City the employee shall receive a copy of any report prepared by the professional relative to the assessment of the employee.

N-4. Any employee placed on administrative leave may file a non-disciplinary grievance relative to being placed on administrative leave, or any aspect thereof. However, the employee shall not be able to forestall or delay being placed on administrative leave by initiating a grievance.

#### **IV. Non-Compensated Administrative Leave.**

One of the issues that the subcommittee kept coming back to was whether or not administrative leave could or should be without pay. This issue and its ramifications was discussed at length by the subcommittee. The consensus was that there are occasions when it would be beneficial to place an employee on leave of absence without pay, however, it was believed that doing so, without prior agreement in the City's MOU's, might create problems.

This is because, as the Commission is aware, deprivation of a permanent City employee's right to continuous employment and its coincident earning capacity is a property right which is accorded due process protection. *Civil Service Association, Local 400 v. City and County of San Francisco* (1978) 22 Cal.3d 552.

However, the California Supreme Court has acknowledged a difference between the process due an employee in a serious disciplinary situation, such as a termination, and an employee who was suspended without pay for a 10-day period or less. Yet the court also stated that the suspended employee still must be accorded notice of why the action was taken against him, and has a right to have his side of the story heard. *Civil Service Assn. supra*, at 563-565.

In this particular situation the City of San Francisco had a disciplinary rule that permitted unpaid suspension of up to 30 days, and if the suspension was for 5 days or less the employee was not permitted a hearing. The court determined that employees affected by short term suspensions were not entitled to any sort of a pre-suspension hearing, but had to be accorded an opportunity to be heard after the suspension became effective, if the employee so requested. The court stated, "A short suspension is not a destruction of the employee's employment but rather is an interruption. Usually in the event of a wrongful deprivation being shown the employee can be made whole by back wages for the period of wrongful suspension. We note in passing that historically the state has treated suspensions of 10 days or less as being somewhat minor with less procedural safeguards offered." *Id.* at 562.

In *Townsel v. San Diego Metropolitan Transit Development Board* (1998) 65 Cal.App.4<sup>th</sup> 940, the Court of Appeal more fully discussed the application of the Supreme Court's decision in *Civil Service* in the suspension context. The court asked, what due process rights Townsel, who had been placed on three weeks of unpaid suspension by the transit agency, were triggered by the suspension. It held that, "A disciplinary suspension does not trigger the same due process rights as a termination." *Townsel, supra.* at 952.

The *Townsel* court stated, "*Civil Service* concluded a suspended employee does not have the same due process right to a pre-disciplinary *Skelly* hearing as [does] a terminated employee,

and is entitled to no more than a *Skelly*-type hearing during or within a reasonable time after the suspension. In contrast a terminated employee is entitled to a pretermination *Skelly* hearing and a full evidentiary hearing at some point, either before or after the termination.”

In our situation suspensions, paid and unpaid, are only covered under Rule 7 of the City’s Personnel Rules dealing with discipline. Thus, they would arguably be grievable under Rule 20.

It would appear that unpaid non-disciplinary administrative leaves for periods under 10 days could be effectuated by appropriate rule making coupled with the necessary meet and confer process with the respective bargaining units. However, there would have to be a procedure established to provide the recipient of a short term administrative leave without pay notice of why he or she has been placed on administrative leave, and an opportunity to allow the employee to explain his or her side of the story to the person who made the administrative leave determination. This opportunity does not have to be a full evidentiary hearing, as in a termination setting. It would be similar to a *Skelly* hearing with the Department Manager, but would arise after the decision has been made to place the individual on unpaid administrative leave for 10 days or less, and would not provide a right to a full evidentiary hearing following the *Skelly*-type review with the Department Head.

It is believed that unpaid suspensions or administrative leaves for periods longer than 10 days would be deemed punitive, absent modification of the controlling MOU’s.