

COUNCIL COMMUNICATION

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employees. The practices of the three cities were researched to identify prevailing practices related to the recognition of employee labor organizations and the City's positions were compared position by position to these communities to determine which positions would qualify for Meet and Confer and which positions would not.

- On June 29, this research was given to Council and the Deputy City Manager Management Services Director explained the information given to Council.
- On July 6, the results of the research were discussed with Council and the three areas identified by Council on June 15 were addressed. One additional change requested by Council was incorporated into the attached resolution..

RESOLUTION

A RESOLUTION PROVIDING MEET AND CONFER RECOGNITION FOR CITY OF THORNTON EMPLOYEES.

WHEREAS, the fair and equitable treatment of employees of the City of Thornton is essential to the effective operation of local government; and

WHEREAS, residents will benefit from a constructive and cooperative relationship between City employees and management; and

WHEREAS, a system of Meet and Confer will establish such a relationship between the City and its employees.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. That the City agrees to recognize and Meet and Confer in good faith over the wages, hours, and terms and conditions of employment with an exclusive representative chosen by employees in accordance with the following procedures and consistent with the City Charter. Any requirements to Meet and Confer that may arise under this Resolution would begin in 2011 for the 2012 Pay Plan.

I. Purpose

The purpose of this Resolution is to establish procedures by which the City shall Meet and Confer regarding wages, hours, and other terms and conditions of employment with representatives duly selected by employees.

II. Definitions

- A. "Employee" covered by this Resolution means any person employed in a Regular, Fair Labor Standards Act Non-exempt position by the City other than "confidential employees," "managerial employees," "supervisory employees," elected officials, employees of the City Council, and firefighters;
- B. "Employer" means the City Manager, Mayor, and the Council of the City or their representatives;
- C. "Exclusive representative" means an employee organization chosen by employees pursuant to this Resolution;
- D. "Confidential employee" means any employee who acts in a confidential advisory or support capacity with respect to an individual who directly participates in the formulation of management policies in the field of labor-

management relations, including all employees in the City Manager's office, Human Resources Division, the City Attorney's office, Information Technology positions that, in order to fulfill their job duties, have access to the root or administrator password of any system or server to perform application, system, network, or database administration, and one Administrative Office Support position in each department and one person for each board or commission that provides administrative support to the department, board or commission.

- E. "Supervisory employee" or "managerial employee" means any employee or official of the employer, other than police sergeant, who supervises another employee, including Fair Labor Standards Act Exempt employees and having authority to hire, transfer, suspend, lay off, recall, promote, or discharge employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, exercise of the authority is not of a mere routine or clerical nature but requires the use of independent judgment.
- F. "Meet and Confer" means to perform the mutual obligation of the employer, by its representatives, and the exclusive representative of employees to meet and have discussions in good faith at reasonable times and places with respect to wages, hours, and other terms and conditions of employment.
- G. "Terms and conditions of employment" means wages, hours, allowances, fringe benefits, and other matters as described in Section 18.3 (a) and (b) of the Charter. Matters specifically provided for by the City Charter shall not be considered as "terms and conditions of employment" subject to Meet and Confer.

III. Rights and Obligations

- A. Employees have the right to communicate with one another and with employee organization representatives and to receive and distribute literature regarding employee organization issues as long as it is not disruptive to City operations or productivity; and employees shall not be discriminated against for conduct which is consistent with this paragraph.
- B. Employee organization representatives shall have access to meet with employees in all break rooms that are generally accessible to the public during employees' lunch or break periods. In City facilities where public access or break rooms are limited, reasonable alternative space will be made available, on request, to permit employees to communicate with employee organization representatives during employees' lunch or break periods.
- C. The employer agrees that the decision as to whether to be represented by an employee organization is one for employees to make, and managerial staff

shall remain neutral about such decision, unless City Council provides other direction to the City Manager. Employees shall not be discriminated against for discussing or expressing their views regarding employee representation or workplace issues.

- D. All communication by employee organization representatives shall be done in a civil, professional manner and may not be harassing or disruptive of the employee and/or the work environment.

IV. Recognition of the Exclusive Representative

- A. Recognition Through a Representation Election: A petition of an employee organization for a representation election shall be accompanied by written evidence that thirty (30) percent of employees are members of the employee organization or wish to be exclusively represented by the employee organization to Meet and Confer on their behalf. The City Clerk shall investigate the petition filed by an employee or employee organization and, upon verification of at least thirty (30) percent of employees, or at least fifty (50) percent of employees in the case of a petition for decertification, a secret ballot election shall be held by the American Arbitration Association, to determine whether employees wish to be represented by an exclusive representative. The ballot shall contain the names of the petitioning employee organization, any employee organization submitting within ten (10) days of the initial petition a petition containing thirty (30) percent of employees, and any incumbent labor organization. The ballot shall also contain a choice of no representation. An employee organization shall only be recognized for Meet and Confer in Unit A or Unit B if it receives at least fifty (50) percent plus one of the votes of all employees eligible to vote. The cost of such election shall be shared equally by the employee organizations involved.
- B. Once an employee organization is recognized as the exclusive representative, a claim by a rival organization for recognition, or a request by employees for rescinding recognition, shall be considered only during a period beginning January 1st and ending March 1st of each year. Upon verification by the City Clerk that the rival organization enjoys majority support, or that a majority of employees have requested that recognition of the exclusive representative be rescinded, an election shall be held under the auspices of the American Arbitration Association. The ballot shall also contain a choice of no representation. An employee organization shall only be recognized for Meet and Confer in Unit A or Unit B if it receives at least fifty (50) percent plus one of the votes of all employees eligible to vote. The cost of such election shall be borne by the initiator of the election.
- C. An employee organization which is the majority choice of employees voting in an election or identified through a showing of majority support shall be

recognized as the exclusive representative to Meet and Confer on their behalf.

- D. Upon recognition of an employee organization the employer shall deduct employee organization dues from payroll for employee organization members who have signed cards authorizing dues to be deducted provided that such organization reimburses the City monthly to cover the City's costs for collection and transfer of any/all membership dues and servicing fees from the City's bank account to the bank account specified by the employee organization.
- E. The procedures of this Section shall be separately applied for two units of employees. Unit A shall consist of sworn police officers. Unit B shall consist of all other employees as defined in this Resolution.

V. Obligation to Meet and Confer in Good Faith

- A. It shall be the mutual obligation of the employer, by its representatives designated by the City Manager, and an exclusive representative, by its representatives, to Meet and Confer in good faith at reasonable times and places with respect to wages, hours and other terms and conditions of employment not directly established in the City Charter or applicable Federal or State law.
 - B. The employee organization shall provide written notice to the City Manager of its desire to Meet and Confer not later than March 1st of each year. The City Manager or the City Manager's designee shall Meet and Confer with an exclusive representative over all matters involved with development of the annual Pay Plan including but not limited to the conduct and selection of pay surveys, pay survey methodology, and the final recommendation of the City Manager to the City Council. The City Manager shall recommend a Pay Plan to City Council and the Council shall approve a Pay Plan as provided by Chapter 7.1 (c) and (d) of the City Charter.
 - C. In the event the employee organization does not agree with the City Manager's recommended Pay Plan, the employee organization may appear and testify to the City Council at the annual Pay Plan Public Hearing as provided by Chapter 7.1 (d) of the City Charter.
2. Severability. If any clause, paragraph or part of this Resolution or the application thereof to any person or circumstance shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Resolution or its application.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Thornton, Colorado, on _____, 2010.

CITY OF THORNTON, COLORADO

Erik Hansen, Mayor

ATTEST:

Nancy A. Vincent, City Clerk