

CITY ATTORNEY**ORDINANCE NO. 11777 C. M. S.**

ORDINANCE ADOPTED PURSUANT TO ARTICLE VI OF THE CITY CHARTER AMENDING ORDINANCE NO. 8979 C.M.S. TO MODIFY DUTIES AND TENURE OF MEMBERS SERVING ON THE CIVIL SERVICE BOARD AND REPEALING ORDINANCE NO. 10793 C.M.S. AND INCORPORATING ITS TERMS HEREIN

WHEREAS, the City Charter establishes the Civil Service Board and authorizes the City Council to provide by ordinance for a modern system of personnel administration for the competitive civil service; and

WHEREAS, ordinances 8979 C.M.S. and 10793 C.M.S. establish, *inter alia*, provisions for the duties, composition and tenure of Board members and procedures to be followed at Board meetings, and

WHEREAS, at a Special Meeting of the City Council convened on or about April 26, 1994, the City Council determined that existing boards and commissions should be amended to incorporate uniform requirements regarding the selection of members, the duties of said members, and the general responsibilities of boards and commissions.

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

Ordinance 10793 C.M.S. is hereby repealed and its provisions are incorporated herein;

Section III of Ordinance 8979 C.M.S. is amended to read as follows:

III A. Civil Service Board Functions, Duties and Goals. It shall be the function, duty and goal of the Civil Service Board:

1. to enforce, through general supervision of the Personnel system, the provisions of this Ordinance and Article IX of the Charter;

2. to study, investigate and research into such areas and matters as the City Manager, or the Council through the City Manager, or the Board of Port Commissioners, may request, or as it may deem advisable, to make reports and recommendations in writing thereon and to formulate policy recommendations or recommend changes to the Personnel Manual for the better realization of the objectives this personnel system, as set forth in Section 900 of the Charter;

3. to approve the exception of positions under Section 902f of the Charter;

4. to perform those appellate duties and function set forth in section B subsection 12 of this Ordinance excepting those which are administrative in nature, proposed by the City Manager, provided that changes in which the Board does not concur may be made with the approval of Council;

5. to perform such other duties and functions as the City Manager may from time to time request;

6. to submit regular status reports to the City Council committee designated as liaison to the Commission at least once a year, or more frequently as directed by the Chairperson of the City Council Committee to which the Board reports.

Status reports submitted in committee of this section must include a detailed description of operating and staffing needs, to be developed and maintained by the Office of Personnel Resources Management.

7. to review each year the annual goals and objectives of the City Council. Review of City Council goals and objectives shall be undertaken to provide the Board the opportunity to better integrate the activities of the Board with the City's overall goals and objectives.

8. to obtain City Council approval prior to the creation of any standing committee of the Board. A proposal to create a standing committee of the Board must include information regarding the costs associated with staffing the standing committee, and the costs of complying with noticing and reporting requirements resulting from the establishment of any such standing committee of the Board.

B. Civil Service Board Composition, Tenure and Meetings

1. To the extent practicable, appointments to the Board shall be made in accordance with the City's affirmative action policies.

2. To the extent practicable, appointments to the Board shall reflect the geographical diversity of the City.

3. In making appointments to the Board, the Mayor shall accept for consideration recommendations for appointments offered by each Councilmember. Councilmembers must submit recommendations to the Mayor for consideration at least 30 days prior to expiration of an existing Board member's term.

4. The Board shall consist of seven (7) members who shall serve without compensation.

5. Four (4) members shall constitute a quorum, and any decision by the Board shall require a majority of those members present.

6. Commencing with the effective date of this Ordinance, Board members shall be appointed to staggered terms, said terms to commence upon the date of appointment, except that an appointment to fill a vacancy shall be for the unexpired portion of the term only.

7. Except for the initial appointments made immediately following passage of this Ordinance which may be for lesser terms of two (2) years or one (1) year in order to establish staggered terms pursuant to subsection 6, all appointments shall be for a period of three (3) years.

8. Commencing with the effective date of this Ordinance, no person shall be appointed to serve more than two (2) consecutive terms as a member of the Board. Members of the Board sitting on the effective date of this ordinance shall not be appointed to serve more than (1) additional consecutive term.

9. To assure participation of Board members, attendance by the members of the Board to all regularly scheduled and special meetings of the Board shall be recorded, and such record shall be provided semi-annually to the Office of the Mayor for review. A member may be removed pursuant to Section 601 of the City Charter. Among other things, conviction of a felony, misconduct, incompetency, inattention to or inability to perform duties, or absence from three (3) consecutive regular meetings except on account of illness or when absent from the City by permission of the Board, shall constitute cause for removal.

10. Each year at its first regular meeting in July, the Board shall elect a chairperson and vice chairperson from amongst its members. The Board shall meet at least once each month in a public facility at an established time suitable for its purpose. Such meetings shall be designated regular meeting. The Mayor, the City Manager or the Board may call for special meetings duly noticed in accordance with applicable law.

11. Staffing. The City Manager shall provide the Board with assistance from City employees under his jurisdiction.

12. Appeals. An employee having permanent status in the competitive civil service shall have the right to appeal a suspension, fine, demotion, or discharge for incompetency, misconduct, or failure to properly perform his duties or to observe department rules and standards; provided that such appeal shall not involve considerations of the merits or regulations, orders, standards or level of service. Any such appeal shall be governed by the procedures set forth in this Ordinance; provided that alternative procedures are not set forth in a memorandum of understanding approved by the City Council.

a. As soon as practicable but within a maximum of 72 hours after making the order of suspension, fine, demotion or discharge, the appointing authority or his designated

representative shall serve on the affected employee written notice which shall fairly apprise the employee of the reasons for such action, such notice to be served in accordance with the Personnel Manual.

b. The employee who elects to appeal such disciplinary action shall file his appeal in writing, in the manner prescribed in the Personnel Manual, within ten calendar days of the date of such written notice. The appeal shall address each of the reasons for the disciplinary action enumerated in the written notice and may provide any relevant additional information. The appeal shall thereafter be heard according to the provisions of the Personnel Manual, pursuant to Section IV of this ordinance.

c. Subject to the foregoing provisions, a supervisor may suspend any subordinate then under his direction for a period not to exceed one working day.

d. As used in this ordinance, the term "appointing authority" shall mean the City Manager, or the City Attorney, or the City Auditor, or the Board of Port Commissioners, as the jurisdiction may be.

C. Procedures of the Civil Service Board

1. The Board shall, in consultation with the City Manager and with the approval of the Council, establish procedures for the conduct of its meetings.

2. The Board shall make a record of its reports, findings and recommendations and whenever requested by the City Manager or City Council or Board of Port Commissioners shall have such record available in writing.

3. The procedures in Appendix "A" are attached and incorporated fully by reference as the procedures to be followed in placing appeals on the Civil Service Board's calendar and requesting subpoenas.

INTRODUCED: 2/28/95

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 14 1995, 19 _____

PASSED BY THE FOLLOWING VOTE:

AYES— BAYTON, DE LA FUENTE, ~~JORDAN~~, MILEY, ~~MOORE~~, ~~OSAWA~~, **RUSSO, CHANG**, SPEES, WOODS-JONES, and PRESIDENT HARRIS - 8

NOES— None

ABSENT— Jordan - 1

ABSTENTION— None

ATTEST: 
CEDA FLOYD

City Clerk and Clerk of the Council
of the City of Oakland, California

APPENDIX "A"

CIVIL SERVICE BOARD PROCEDURES

- I. A hearing date will be set after appeals are initially received by the Secretary to the Board. The request for appeal must contain the following items:
- A. Cover sheet, including appellant's name, address, and telephone number; name, title, address, telephone number of appellant's representative, if any.
(Representative's telephone number will suffice in the absence of appellant's number.)
 - B. A list of available Thursdays for hearing dates.
 - C. An estimate of the number of hours required for case presentation.
- II. Appellant representatives and the City Attorney must provide two (2) complete hearing packets to the Board's secretary by at least one week prior to the scheduled hearing. Appellant's failure to provide such information may, at the Board's discretion, result in the rescheduling of the hearing. Packets must include the following items:
- A. A chronology of events.
 - B. An agreed upon Statement of Facts.
 - C. Statement of Facts in Dispute.
- In the event the City Attorney and the Appellant's representative are unable to meet on the above items, the Appellant's representative must submit their version of the facts at least one week prior to the hearing.
- III. The City Attorney and the Appellant's representative are required to meet at least one hour prior to the hearing to finalize exhibit packets which must include the following:
- A. A list of exhibits, if any.
 - B. Pre-marked exhibits, (if any exhibits are to be submitted), designated as follows:
 - 1. JX for joint exhibits
 - 2. AX for appellant's exhibits
 - 3. CX for City's exhibits
 - 4. Exhibits must be numbered consecutively in the lower right corner of the page. Multi-paged documents must bear exhibit number and page number in lower right corner of each page of the document.

C. Additional exhibits may be submitted during the hearing, if they were not available to a party prior to the hearing.

IV. Within ten (10) days of verbal or written notice of the Board's decision, the prevailing party will present proposed Findings and Conclusions of Law to the Board. The opposing party shall have the right to agree or object to the proposed findings. Objections must be presented to the Board within the ten day period described above.

V. Board subpoenas will be issued upon the request of either party. Subpoenas may be secured by contacting the Secretary to the Board, Ms. Gwen McDonald, at 273-3307.

APPENDIX "A"

CIVIL SERVICE BOARD PROCEDURES

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 - B. A list of available Thursdays for hearing dates (2nd and 4th Thursdays).
 - C. An estimate of the number of hours required for case presentation.
- II. Appellant representatives and the City Attorney must provide nine (9) complete hearing packets to the Board's Secretary at least one week prior to the scheduled hearing. Appellant's failure to provide such information may, at the Board's discretion, result in the rescheduling of the hearing. Packets must include the following items:
 - A. A chronology of events.
 - B. An agreed upon Statement of Facts.
 - C. Statement of Facts in Dispute.

In the event the City Attorney and the Appellant's representative are unable to meet on the above items, the Appellant's representative must submit their version of the facts at least one week prior to the meeting.
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- IV. Within ten (10) calendar days of verbal or written notice of the Board's decision, the prevailing party will present proposed Findings of Fact and Conclusions of Law to the Board. The opposing party shall have the right to agree or object to the proposed findings. Objections must be presented to the Board within ten calendar days of receipt of the proposed findings.
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AMENDING ORDINANCE NO. 8979 C.M.S. TO MODIFY DUTIES AND TENURE OF
MEMBERS SERVING ON THE CIVIL SERVICE BOARD AND REPEALING ORDINANCE
NO. 10793 C.M.S. AND INCORPORATING ITS TERMS HEREIN**

NOTICE AND DIGEST

This ordinance amends Ordinance 8979 to the extent that it makes consideration for appointment to and tenure of service on the Civil Service Board ("Board") uniform with other City boards and mandates service on the Board occur with staggered term appointments. For purposes of consolidation Ordinance 1079, setting forth various Board procedural matters, is repealed and its full terms incorporated into this Ordinance.

The Oakland Tribune.

66 Jack London Square, Oakland, CA 94607
(510) 208-6300

LEGAL NO. 3915

0-11777 CMS

PUBLIC NOTICE

NOTICE AND DIGEST

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This Ordinance was introduced at the regular council meeting, Tuesday evening, February 28, 1995, and passed to print 8 Ayes, 0 Noes. Hearing on final adoption is set for regular Council Meeting at the Lakeside Park Garden Center, 686 Bellevue Avenue, Oakland, California, Tuesday March 14, 1995 at 7:30 p.m.

Three full copies are available for use and examination by the public in the office of the City Clerk at 505 14th Street, Suite 609, Oakland, California.

CEDA FLOYD, City Clerk
Oakland Tribune, Legal No. 3915
March 9, 1995

PROOF OF PUBLICATION

Case No.

In the matter of

.City of Oakland.....

Samantha Allen deposes and says that he/she was the Public Notice Advertising Clerk of THE OAKLAND TRIBUNE a newspaper of general circulation as defined by Government Code Section 6000, adjudicated as such by the Superior Court of the State of California, County of Alameda (Order No. 237798, December 4, 1951) which is published and circulated in Oakland Township in said county and state seven days a week.

That the

.Notice & Digest.....

of which the annexed is a printed copy, was published in every issue of THE OAKLAND TRIBUNE on the following dates:

March 9, 1995

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date..... March 9, 1995.....
at Oakland, California.

Samantha Allen

Public Notice Advertising Clerk