

# MEMORANDUM

TO: Biggs City Council

FROM: Gregory P. Einhorn

SUBJECT: Duties of Employee Relations Councilor and Access to Information

DATE: September 30, 2010

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The incumbent Employee Relations Councilor appointee, Bo Sheppard, has asked that the Council define the duties of the position, including the scope of access to information.

This memo sets forth the proposed duties as well as the proposed scope of access to information.

## Duties and Responsibilities:

1. Council representative and liaison for represented and non-represented negotiations. This includes review of bargaining proposals as a member of the bargaining team and formulation of responses for council approval. This includes direct participation in negotiations.
2. Council representative and liaison for contract-based grievances, whether brought by or against the city. This includes review of grievances, and formulation of responses and proposals for council approval. However, this does not include employee grievances challenging employee discipline; the Employee Relations Councilor, as a member of the City Council, should be able to participate in any employee appeal hearing.
3. Upon Council approval, attendance at employee relations seminars and subscription to (and/or purchase of) employee relations materials.

## Access to Information:

The scope of information to be provided should include all bargaining proposals and responses, including drafts, as well as grievance-related proposals and responses, including drafts, but not including employee grievances challenging employee discipline. The Employee Relations Councilor, as a member of the City Council, should be able to participate in any

employee appeal hearing.

In the absence of consent, the Employee Relations Councilor should not have access to employee personnel file information. In this regard, the Employee Relations Councilor stands in the same shoes as the other members of the Council.

There are several reasons why the Employee Relations Councilor's access to this information is so limited.

(1) While city councils often have appointing authority over the city's highest officials, such as the city administrator and city attorney, individual council members and the council as a body have virtually no role with regard to individual city employees. Because a designated official already has this responsibility, there should be little need for city council members to become involved with individual employees.

(2) City council members are meant to act as part of the council, not individually. A primary reason why council members have virtually no role with regard to individual city employees is that applicable law provides that council members will act as a body, not as individuals. Indeed, the law requires that, with limited exceptions, the council conduct city business only through duly convened meetings "in full view of the public." Thus, when an individual city council member takes unilateral action, his or her conduct may well lose the sanction of the law. The council member may then lose certain protections and immunities from liability, and his or her actions may more easily be rescinded or disputed.

(3) Potential liability for invasion of privacy, as there has been established an employee's right of privacy to his or her personnel file. In addition, there are several state and federal privacy protection measures in place regarding certain types of employee personnel file information.

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