



CITY OF SANTA CLARA

**EMPLOYER – EMPLOYEE
RELATIONS RESOLUTION**

NO. 2979

DECEMBER 1972

RESOLUTION NO. 2979
EMPLOYER-EMPLOYEE RELATIONS RESOLUTION

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RESOLUTION NO. 2979

EMPLOYER-EMPLOYEE RELATIONS
RESOLUTION OF CITY OF SANTA CLARA

WHEREAS, Chapter 10, Division 4, Title 1 of the Government Code of the State of California was amended effective January 1, 1969 for the purpose of promoting improved employer-employee relations between public employers and their employees by establishing uniform and orderly methods of communication between employees and the public agencies by which they are employed; and

WHEREAS, Government Code Section 3507 empowers a City to adopt reasonable rules and regulations after consultation in good faith with representatives of its employee organizations for the administration of employer-employee relations; and

WHEREAS, the City of Santa Clara desires to adopt such reasonable rules and regulations as authorized by law:

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA CLARA DOES HEREBY RESOLVE, as follows:

SECTION 1. TITLE OF RESOLUTION

This Resolution shall be known as the Employer-Employee Relations Resolution of the City of Santa Clara.

SECTION 2. STATEMENT OF PURPOSE

The purpose of this Resolution is to implement Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et. seq.) captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the City management and the City's employee organizations and for resolving disputes regarding wages, hours, and other terms and conditions of employment.

SECTION 3. DEFINITIONS

As used in this Resolution, the following terms shall have the meanings indicated:

- (A) APPROPRIATE UNIT - means a unit established pursuant to Section 11 of this Resolution.
- (B) CITY - means the City of Santa Clara, a municipal corporation.
- (C) CONSULT OR CONSULTATION IN GOOD FAITH - means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions.
- (D) EMPLOYEE - means any person regularly employed by the City except those persons elected by popular vote.
- (E) EMPLOYEE, CONFIDENTIAL - means an employee who is privy to decisions of City management affecting employer - employee relations.

- (F) EMPLOYEE, MANAGEMENT - means any employee having significant responsibilities for formulating and administering City policies and programs and any employee having the authority to exercise independent judgment and discretion not of a routine or clerical nature in evaluating and reporting on the work efforts of employees, in recommending to hire, transfer, suspend, lay-off, recall promote, discharge, assign, reward, or discipline other employees, in weighing the economic impact of deploying or directing employees, or in adjusting employees' grievances.
- (G) EMPLOYEE ORGANIZATION - means any organization which includes employees of the City and which has as one of its primary purposes representing such employees in their employment relations with the City Management.
- (H) EMPLOYEE, PROFESSIONAL - means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to attorneys, physicians, registered nurses, engineers, architects, teachers, planners and the various types of physical, chemical and biological scientists.
- (I) EMPLOYER-EMPLOYEE RELATIONS - means the relationship between City management and employees or employee organizations.
- (J) FACT FINDING - means a process whereby the facts underlying disputes between labor and management are examined and appraised by an impartial third party selected by both parties.
- (K) IMPASSE - means (1) a statement in writing signed by either party signifying that a deadlock exists in discussion between representatives of a formally recognized majority employee organization and the management representatives over any matters concerning which they are required to meet and confer in good faith or over the scope of such subject matter arising out of the process of meeting and conferring in good faith or (2) any unresolved complaint by an affected majority employee organization, advanced in good faith, concerning a decision of the Municipal Employee Relations Officer with the exception made pursuant to Section 12 of this Resolution.
- (L) MAJORITY EMPLOYEE ORGANIZATION OR MAJORITY REPRESENTATIVE - means an employee organization, or its duly authorized representative, which has been granted and certified as having formal recognition by the Municipal Employee Relations Officer as representing the majority of employees of the City in an appropriate unit in accordance with the terms of this Resolution. While so recognized, the right accompanying recognition is the exclusive right to meet and confer in good faith as the majority representative of an appropriate unit, to the extent that such exclusive right does not conflict with other provisions of this Resolution.
- (M) MANAGEMENT REPRESENTATIVE - means those management employees designated by the Municipal Employee Relations Officer to represent management in all consultation and meeting and conferring processes.
- (N) MEDIATION OR CONCILIATION - means the efforts of an impartial third person, or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution of an impasse, through

interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.

- (O) MEET AND CONFER IN GOOD FAITH (sometimes referred to herein as "meet and confer" or "meeting and conferring") - means performance by duly authorized management representatives and duly authorized representatives of a majority employee organization, of their mutual obligation to meet at reasonable times and to confer in good faith in order to exchange freely information, opinions and proposals regarding matters within the scope of representation, including but not limited to wages, hours and other terms and conditions of employment, in an effort to: (1) reach agreement on those matters within the authority of such representatives and (2) reach agreement on what will be recommended to the City Council on those matters within the decision making authority of the City Council. This does not necessarily require either party to agree to a proposal or to make a concession.
- (P) MUNICIPAL EMPLOYEE RELATIONS OFFICER - means the City's principal management representative in all matters of employer-employee relations designated pursuant to Section 9, or his duly authorized representative.
- (Q) PEACE OFFICER as this term is defined in Section 830 et. seq. of the California Penal Code.
- (R) RESOLUTION - means unless the context indicates otherwise, the Employer-Employee Relations Resolution of the City of Santa Clara.
- (S) SCOPE OF REPRESENTATION - means all matters relating to employment conditions and employer-employee relations, including but not limited to wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.
- (T) DAYS - means calendar days.

SECTION 4. EMPLOYEE RIGHTS

Subject to State law and the provisions of this Resolution, employees of the City shall have the right to form, join and participate in the activities of the employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City management. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City management or by any employee organization because of his exercise of these rights. Professional employees shall not be denied the right to be represented separately from non-professional employees by a professional employee organization consisting of such professional employees.

SECTION 5. CITY RIGHTS

Subject to State law and the provisions of this Resolution, the rights of the City through its Council and management include, but are not limited to, the

exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods; means and personnel by which government operations are to be conducted; determine the content and intent of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

SECTION 6. REPRESENTATION LIMITATIONS. CONFIDENTIAL AND/OR MANAGEMENT EMPLOYEES

- (A) Confidential and/or management employees may serve only as representatives of confidential and/or management employees before City management in meetings or matters within the scope of representation.
- (B) In grievance matters, management employees may represent employees who are in the same representation unit as they are but they shall not represent aggrieved employees subordinate to the management employee.

SECTION 7. MEET AND CONFER IN GOOD FAITH -- SCOPE

- (A) The management representatives shall meet and confer in good faith with representatives of majority employee organizations regarding matters within the scope of representation including but not limited to wages, hours and other terms and conditions of employment within the appropriate unit.
- (B) Except as the practical consequences of the subject matter may affect wages, hours or other terms and conditions of employment, the management representatives shall not be required to meet and confer on any subject pre-empted by Federal or State law or by the City Charter, nor shall they be required to meet and confer on those sections of Resolution 636 pertaining to the Classification Plan; Amendment and Maintenance of the Classification Plan; Class Specifications; Interpretation of Class Specifications; and Qualifications of Employees, nor shall they be required to meet and confer on Employee or City Rights as defined in Sections 4 and 5. Excluded from the scope of meeting and conferring are proposed amendments to this Resolution and the merits, necessity or organization of any service or activity of the City. Such proposed amendments shall be subject to consultation the same as this Resolution.

SECTION 8. ADVANCE NOTICE

Reasonable written notice shall be given to each majority employee organization affected by any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council or by any board or commission of the City. Each majority employee organization shall be given the opportunity to meet with the governing body or such boards and commissions.

In cases of emergency when the City Council or such boards and commissions determine that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a majority employee organization, the City Council or such boards and commissions of the City shall

provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation.

SECTION 9. DESIGNATION AND AUTHORITY OF MUNICIPAL EMPLOYEE RELATIONS OFFICER

The City Council hereby designates by this Resolution the City Manager to be the Municipal Employee Relations Officer who shall be the City's principal management representative in all matters of employer-employee relations with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment and is authorized to do all things required in this Resolution. The Municipal Employee Relations Officer so designated is authorized to delegate these duties and responsibilities.

SECTION 10. PETITION FOR RECOGNITION

(A) FORMAL RECOGNITION - THE RIGHT TO MEET AND CONFER IN GOOD FAITH AS MAJORITY REPRESENTATIVE

An employee organization that seeks formal recognition for purposes of meeting and conferring in good faith as the majority representative of employees in an appropriate unit shall file a "Petition for Recognition" with the Municipal Employee Relations Officer containing the following information and documentation:

- (1) Name and address of the employee organization.
- (2) Names and titles of its officers.
- (3) Names of employee organization representatives who are authorized to speak on behalf of its members.
- (4) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City and City management.
- (5) A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with, a regional or state, or national or international organization, and, if so, the name and address of each such regional state or international organizations.
- (6) Certified copies of an employee organization's constitution and by-laws.
- (7) A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United State mail will be deemed sufficient notice on the employee organization for any purpose.
- (8) A statement that the employee organization recognizes that the enactment of Government Code, Section 3500 et. seq., shall not be construed as, making the provisions of Section 923 of Labor Code applicable to City employees.
- (9) A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin.

- (10) A statement of the job classifications or titles of employees in the unit claimed to be appropriate.
- (11) A statement that the employee organization has in its possession current written proof or authorization cards, dated within six months of the filing of the petition, to confirm that such employee organization has at least five percent* of the total full time employees authorized in the City's annual budget in effect at time of such filing and that 30% of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such evidence shall be submitted to the Municipal Employee Relations Officer or to a mutually agreed upon disinterested third party for confirmation within five days of receipt by third party.

*Note: If an employee organization consisting of professional employees having the express right by law to be represented separately from non-professional employees is unable to qualify under Section 10(A) paragraph (11) above and there is no such professional employee organization representing such professional employees at the time of filing, such organization's petition need not contain the statement, but in lieu thereof, must indicate that it represents more professional employees of City than any other such organization. Between competing professional organizations not meeting the 5% requirement, only the one with the largest representation shall be certified, all other factors being equal.

- (12) A statement that recognition should be granted in that to do so is in accord with intent of the Employee Relations Resolution, and requesting that the Municipal Employee Relations Officer recognize the employee organization as the majority representative of the employees claimed to be in an appropriate unit for the purpose of meeting and conferring in good faith on all matters within the scope of representation.

SECTION 11. APPROPRIATE UNIT

- (A) The following factors, among others, are to be considered by the Municipal Employee Relations Officer in making a determination whether the proposed unit is an appropriate unit:
 - (1) Which unit will assure employees the exercise of rights set forth under this Resolution and Section 3500 et. seq. of the Government Code of the State of California.
 - (2) The history of employee relations: (a) in the unit; (b) among other employees of the City; and (c) in similar public employment.
 - (3) The effect of the unit on the efficient operations of the City and sound employee-employer relations.

- (4) The extent to which employees have common skills, working conditions, job duties, supervision or similar educational requirements.
 - (5) The effect on the existing classification structure of dividing a single classification among two or more units. Provided, however, no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.
- (B) In the establishment of appropriate units, professional employees shall not be denied the right to be represented separately from non-professional employees by a professional employee organization consisting of such professional employees.
- (C) The petition, including all accompanying documents, shall be verified under oath or affirmation, by the Executive Officer and Secretary of the organization that the statements are true. All changes in such information shall be filed forthwith in like manner.

SECTION 12. RECOGNITION PROCEEDINGS

- (A) Formal Recognition as the Majority Representative in an Appropriate Unit:
- (1) Upon receipt of a Petition for Recognition, the Municipal Employee Relations Officer shall within fourteen days determine whether:
 - (a) there has been compliance with the requirements of the Petition for Recognition and the information and documentation therein are true and correct, and
 - (b) the proposed unit is an appropriate unit.
 - (2) If an affirmative determination is made by the Municipal Employee Relations Officer on the foregoing two matters, he shall within the fourteen days give notice of such request for majority recognition to the employees in the proposed unit and to all majority employee organizations by posting on City's bulletin boards and shall take no further action on said request for 30 days after date of such posting.
 - (a) Within 30 days of the date the foregoing notice is given, any other employee organization (hereinafter referred to as the "challenging organization") may: 1) file a written challenge of the appropriateness of the proposed unit or 2) seek formal recognition in the proposed unit, or an overlapping unit, by filing a Petition for Recognition. To challenge, any such challenging organization must submit written proof that it represents at least 10% or more of the employees in the challenged proposed unit. Any challenge shall state the grounds for the challenge and if appropriateness of the proposed unit is challenged, the challenge shall describe in detail an alternative representation unit.

- (b) If the challenge is filed in the period through 1974, the matter shall be immediately referred by the Municipal Employee Relations Officer to either the City Council or a hearing officer who shall be selected and compensated in the same manner as a fact finder as set forth in Section 18 (B) subject to and in accordance with the terms and conditions set forth in Section 16, except paragraph (A) (1), using the criteria set forth in Section 11 of this Resolution.
- (3) If the Employee Relations Officer at any time through 1974 determines that the unit originally requested is not appropriate, such determination may be appealed to either the City Council or a hearing officer who shall be selected and compensated in the same manner as a fact finder as set forth in Section 18 (B) subject to and in accordance with the terms and conditions set forth in Section 16, except paragraph (A) (1), using the criteria set forth in Section 11 of this Resolution.
- (4) In the absence of a petition requesting a change of majority representative for members of a unit represented by an employee organization immediately proceeding and at the time of the adoption of this Resolution, or if the written proof submitted by the employee organization in the unit found to be appropriate establishes that it represents more than 50% of the employees in such unit, then the Municipal Employee Relations Officer may, in his discretion, grant and certify formal recognition to such employee organization without a secret ballot election. In such instance based on representation of more than 50% of the employees for such units, in exercising his discretion to grant and certify formal recognition, the Municipal Employee Relations Officer may use any reasonable method designed to ascertain the free choice of employees of the unit involved. Such method shall be based upon written evidence satisfactory to Municipal Employee Relations Officer.
- (5) When an employee organization in the unit found to be appropriate submits written proof that it represents at least 30% but no more than 50% of the employees in such unit, or more than 50% of such employees and the Municipal Employee Relations Officer exercised his discretion not to grant formal recognition without an election, the Municipal Employee Relations Officer shall arrange for a secret ballot election to be conducted as provided in Section 13 of this Resolution. There shall be placed on the ballot:
 - (a) the name of the petitioning employee organization that has established proof of support by 30% or more of the employees in the representation unit determined to be appropriate; and
 - (b) the names of all challenging organizations which have submitted written proof that they represent at least 10% of the employees in the unit found to be appropriate and have submitted a Petition for Recognition as required by Section 10 of this Resolution.

- (c) the choice of "no organization" shall also be included on the ballot.

(B) Duration of Formal Recognition

- (1) When an employee organization has been formally recognized, such recognition shall remain in effect for one year from the date thereof and thereafter until such time as the Municipal Employee Relations Officer shall determine, on the basis of a secret ballot election conducted in accordance with the rules stated in this Resolution, that the formally recognized employee organization no longer represents a majority of the employees in the appropriate unit or until such time as the unit may be modified as provided in Section 12 subsection (D).
- (2) Following the determination of an appropriate unit and certification of a majority employee organization of such unit pursuant to this Resolution, no petition for decertification shall be filed with or received by the Municipal Employee Relations Officer except during the month of March after the expiration of not less than 12 months from the date of such certification.

(C) Decertification of Established Unit

- (1) A Petition for Decertification alleging that an employee organization granted formal recognition is no longer the majority representative of the employees in an appropriate unit may be filed with the Municipal Employee Relations Officer not less than 12 months from the date of the certification of formal recognition. The Petition for Decertification may be filed by an employee, a group of employees or their representatives, or an employee organization. The Petition, including all accompanying documents shall be verified, under oath, by the person signing it, that its contents are true. It may be accompanied by a Petition for Recognition by a challenging organization. The Petition for Decertification shall contain the following information:
 - (a) the name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information;
 - (b) the name of the majority employee organization;
 - (c) an allegation that the majority employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts;
 - (d) written proof that at least 30% of the employees in the unit do not desire to be represented by the majority employee organization. Such written proof shall be dated within six months of the date upon which the petition is filed and shall be submitted for confirmation to the Municipal Employee Relations Officer or to a mutually agreed upon disinterested third party.

(2) The Municipal Employee Relations Officer shall arrange for a secret ballot election to be conducted as provided in Section 13 of this Resolution. There shall be placed on the ballot

- (a) the name of the existing certified majority employee organization and
- (b) the name of the petitioning employee organization, if any, that has established proof of support by 30% or more of the employees in the representation unit.
- (c) the choice of "no organization" shall also be included on the ballot.

(D) Modification of Established Unit

A Petition for Modification of an established unit may be filed by an employee organization with the Municipal Employee Relations Officer during the period for filing a Petition for Decertification. The Petition for Modification shall contain all of the information set forth in Section 10 of this Resolution, along with a statement of all relevant facts in support of the proposed modified unit. The petition shall be accompanied by written proof that at least 30% of the employees within the proposed modified unit have designated the employee organization to represent them in their employment relations with the City; provided, however, the employee organization may request that such written proof be submitted to a mutually agreed upon disinterested third party for confirmation of its proof of representation within five days of receipt by a third party.

A hearing shall be held by Municipal Employee Relations Officer on the Petition for Modification, at which time all affected employee organizations may be heard. Thereafter, it shall be determined whether the proposed modification is appropriate.

- (1) If it is found that the proposed modified unit is appropriate, then the Municipal Employee Relations Officer shall follow the procedures set forth in Section 12 (A) for determining formal recognition rights in such unit. A majority employee organization adversely affected through 1974 by altering the appropriate unit shall have the same right to appeal as set forth in Section 16.
- (2) If it is found by the Municipal Employee Relations Officer that the proposed modified unit is not appropriate and such finding is made through 1974, such determination may be appealed to the Civil Service Commission subject to and in accordance with the provisions set forth in Section 16.

SECTION 13. ELECTIONS

- (A) The Municipal Employee Relations Officer shall, after consultation with affected employee organizations, adopt reasonable rules for the conduct of elections. Such rules may provide for the conduct of an election in whole or part by mail ballot if, in the Municipal Employee Relations Officer's discretion, the mail ballot procedure is deemed appropriate. If an election by mail ballot is ordered, the Municipal Employee Relations Officer will at that time establish rules and procedures to

guard against fraud, mistakes, ineligible voting, and to protect the free choice of employees.

- (B) Each City employee in his representation unit whose name appears on the City payroll immediately preceding the election shall be eligible to vote on representation of his unit. Such employees shall include those who did not work during such payroll period because of illness, vacation or authorized leaves of absence, and who are employed by the City in the same unit on the date of election.
- (C) After the election has been held, the Municipal Employee Relations Officer shall publicly count the votes, declare the results of the election and shall, as appropriate:
 - (1) certify as the majority employee organization of the representation unit the employee organization receiving a majority of the votes cast;
 - (2) declare that no organization is the majority employee organization of the unit if the choice "no organization" received a majority of votes cast;
 - (3) following a decertification election, decertify the incumbent employee organization if the choice "no organization" received a majority of the votes cast or if another employee organization received a majority of the votes cast; or
 - (4) if the ballot included three or more choices and none of the choices received a majority vote of the votes cast, declare a need for and hold a run-off election within 30 days between the two choices receiving the largest number of votes.
- (D) Except as provided in (C) (4) above, there shall not be more than one election conducted for each representation unit within a twelve-month period.
- (E) Any costs incurred in an election conducted by other than City staff shall be paid solely by the requesting party or parties. Costs of conducting other elections shall be borne by the City.

SECTION 14. NEWLY ESTABLISHED JOB CLASSIFICATION. REPRESENTATION UNITS

After consultation with majority employee organizations, each newly established job classification shall be assigned by the Municipal Employee Relations Officer to an appropriate unit. For the period commencing May 26, 1976, any employee organization existing at the time of the assignment may appeal from such assignment to the Civil Service Commission in accordance with an subject to compliance with the provisions set forth in Section 16.

SECTION 15. DESIGNATION OF CONFIDENTIAL AND MANAGEMENT EMPLOYEES. REPRESENTATION UNITS

The City Manager will designate, from time to time, confidential employees and management employees, as defined in Section 3 of this Resolution, and may at any time revoke such designation.

SECTION 16. APPEALS AND NOTIFICATION

- (a) For the period commencing May 26, 1976, in those situations in which this Resolution provides for appeals to the Civil Service Commission, the following procedures shall apply and no appeal shall be effective unless in compliance therewith:
 - (1) The notice of appeal and reasons therefore, in writing, shall be filed with the Chief Personnel Officer of the City within seven (7) days after the appealing organization has been notified in writing of the Municipal Employee Relations Officer's action which is subject of appeal.
 - (2) Thereafter, and upon filing of notice of appeal or challenge with Chief Personnel Officer, where prescribed, written notice of such appeal and proposed hearing thereon shall be given to all parties who may be interested.
 - (3) Thereafter, the Civil Service Commission shall hold a public hearing to settle the dispute. The hearing will be conducted in accordance with the Commission adopted rules of procedure providing a fair and open hearing. All affected parties shall be given the opportunity to be heard.
 - (4) Upon conclusion of the hearing, the Civil Service Commission shall determine and settle the dispute. Any such determination shall be final and binding on all parties.
 - (5) Failure to appeal from action or ruling of Municipal Employee Relations Officer within the time prescribed herein shall be an abandonment of the right to question such action or ruling.
- (b) Any notification required by this Resolution of the Municipal Employee Relations Officer of his actions or rulings subject to appeal or review by the Civil Service Commission shall be accomplished by posting of the particular notice on the City's departmental bulletin boards, and the posting of such notice on such boards shall constitute notification to the interested parties upon posting and no further or other notice need be given, except to the persons identified in Section 10 (A) (7).

SECTION 17. MEET AND CONFER PROCESS

The management representative shall meet and confer in good faith, on matters within the scope of representation, with majority representatives at such reasonable intervals as may be appropriate. The names of the authorized employee representatives, not exceeding two (2) in number for each organization, shall be submitted to the Municipal Employee Relations Officer in advance of all scheduled meetings. Before such meetings are convened, the Municipal Employee Relations Officer shall determine that those employee organizations so designated are currently certified as a majority employee organization.

When meeting and conferring in good faith, the following procedure shall be observed:

- (A) The representatives of each majority employee organization and the management representatives shall present to each other a written request of the items they desire to meet and confer on, after which there shall not be any new items introduced for the remaining term of the discussions leading to the Memorandum of Understanding as provided for in Section 18 hereafter.
- (B) It shall be the mutual obligation of the management representatives and majority representatives to meet and confer as necessary in order to freely exchange information, opinions and proposals, and to endeavor to reach an agreement on all matters within the scope of representation on the items subject of the written request.
- (C) A series of meetings shall continue to be held until either agreement is reached on all items in such written request, or until those issues not agreed upon cannot be further resolved by the parties to the discussions.
- (D) Notice of meeting shall be given at least five (5) calendar days in advance of the meeting date, insofar as practical.

SECTION 18. MEMORANDUM OF UNDERSTANDING

- (A) Upon conclusion of the meeting and conferring process or upon reaching an impasse as defined in Section 3, the duly authorized management and majority representatives shall jointly prepare and sign one Memorandum of Understanding containing the agreed upon results of the discussions.
- (B) Should it not be possible for the management representatives and majority employee organization representatives to reach agreement on any particular item or items discussed and an impasse has been reached, then such item or items shall be set apart in the Memorandum of Understanding or other document and the position and reasons therefore of the management representatives and of such majority representatives shall be clearly defined therein and where this occurs in the period through 1974 in this manner presented to a neutral fact finder to examine and appraise facts underlying disputes and to report results of such examination and appraisal only. Such fact finder shall be selected from a panel of five names to be supplied by the California Department of Conciliation of the Department of Industrial Relations and the fees and costs for his services shall be equally shared by the parties involved. The fact finder shall prepare a written report for both parties. The City Council shall then finally hear and determine the dispute.

After 1974, the City Council shall accept or reject all written proposals of either the management or majority representatives as to a particular unit. If the Council rejects the written proposals from both management and the majority organization as to such unit, such parties must meet and confer and attempt to develop either a joint proposal or individual proposals which the City Council will accept.

- (C) Once the Memorandum of Understanding is signed by management representatives and majority representatives, it shall be duplicated

and made available to all members of the parties signing. This Memorandum of Understanding shall represent the mutual understanding of the management and the majority representatives on all matters within the scope of representation. This jointly signed Memorandum shall represent the joint proposal of the management and majority representatives and shall be presented within fourteen days of joint signing to the City Council by the City Manager for its consideration at a public meeting. The Memorandum, though executed, shall not be binding.

- (D) Fees and charges for the employment of a neutral fact finder shall be divided equally among the parties involved.

SECTION 19. RESOLUTION OF IMPASSES OR GRIEVANCES

- (A) All impasses to be determined by the City Council pertaining to this Resolution shall be resolved by determination of the City Council after all possibility of settlement by direct discussion has been exhausted. Any use of mediation will be at the sole discretion of the City Council.

Except for the period through 1974, where the impasse is over any unresolved complaint by an affected majority employee organization, advanced in good faith, concerning a decision of the Municipal Employee Relations Officer made pursuant to Section 12 of this Resolution, all impasses shall be presented to the City Council for determination as provided in Section 18.

- (B) A grievance is any dispute concerning the interpretation or application of this Resolution, or of rules and regulations governing personnel practices or working conditions, exclusive of dismissals, lay-offs, suspensions or demotions. For the period through 1974, decisions of the Civil Service Commission on grievances shall be final and binding on all parties as of date of this Resolution and a new section is hereby added to and made a part of the Civil Service Rules and Regulations of the City of Santa Clara adopted March 15, 1955, as amended, which section shall be numbered, entitled and read as follows:

7.7 TEMPORARY BINDING FORCE OF BOARD'S DECISION

Notwithstanding Section 7.6 hereof for the period commencing January 1, 1973 and ending December 31, 1974, any decision of the Board on grievances arising and heard by the Board in that period shall be final and binding on all parties.

SECTION 20. DUES CHECK-OFF

Insofar as it is technically practicable, all majority employee organizations may be granted permission by the Municipal Employee Relations Officer to have the regular dues of its members deducted from their paychecks, in accordance with procedures prescribed by the Municipal Employee Relations Officer.

Dues deduction shall be made only upon the voluntary written authorization of the member. Dues deduction authorization may be cancelled and the dues check-off payroll discontinued at any time by the member upon voluntary written notice to the Municipal Employee Relations Officer. Dues deduction authorization or

cancellation shall be made upon cards provided by the Municipal Employee Relations Officer.

The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues check-off authorized. When a member in good standing of the formally recognized employee organization is in a nonpay status for an entire pay period, no dues withholding will be made to cover that pay period from future earnings nor will the member deposit the amount with the City which would have been withheld if the member had been in a pay status during that period. In the case of an employee who is in a nonpay status during only a part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over employee organization dues.

Dues withheld by the City shall be transmitted to the officer designated in writing by the employee organization as the person authorized to receive such funds, at the address specified.

All employee organizations who receive dues check-off shall indemnify, defend, and hold the City of Santa Clara harmless against any claims made and against any suit instituted against the City of Santa Clara on account of check-off or employee organizations dues. In addition, all such employee organizations shall refund to the City of Santa Clara any amounts paid to it in error upon presentation of supporting evidence.

SAMPLE

DUES DEDUCTION AUTHORIZATION FORM

I hereby authorize and direct the City of Santa Clara to make a payroll deduction from my earnings, once per payroll period, for my majority employee organization's dues or assessments in the amount of \$____, or such other sum as said employee organization may advise the City as having been established as the monthly membership dues, the same to be paid to the (name of majority employee organization). This authorization may be cancelled and the payroll deduction discontinued at any time upon 30 days written notice to the Municipal Employee Relations Officer and the Organization.

First payroll deduction shall be made from the first payroll prepared after the effective date of enrollment and to continue until further notice.

Effective Date

Signature of Employee

SECTION 21. REASONABLE TIME OFF TO MEET AND CONFER

- (A) Majority employee organizations may select not more than two (2) employee members of such organizations to attend scheduled meetings with the Municipal Employee Relations Officer or other management officials on subjects within the scope of representation during regular work hours without loss of compensation. Where circumstances warrant, the Municipal Employee Relations Officer may approve the attendance at such meetings of additional employee representatives with or without loss of compensation. The employee organization shall, whenever practicable, submit the names of all such employee representatives within a reasonable time in advance of such meetings. Provided, further:

- (1) that no organization representative, who is a City employee, shall leave his or her duty or work station or assignment without specific approval of the department head or other authorized City management official;
 - (2) that any such meeting is subject to scheduling by City management in a manner consistent with operating needs and work schedules.
- (B) Nothing provided herein, however, shall limit or restrict City management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances. No compensation shall be paid City employees for any meetings or related work conducted outside of the normal working hours.

SECTION 22. ACCESS TO WORK LOCATIONS

Reasonable access to employee work locations shall be granted officers of majority employee organizations and their officially designated representatives for the purpose of processing grievances or contacting members of the organizations concerning business within the scope of representation. Such officers or representatives shall not enter any work location during normal duty hours without the consent of the Department Head or the Municipal Employee Relations Officer. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.

Solicitation of membership and activities concerned with the internal management of an employee organization, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distribution literature, shall not be conducted during normal duty hours.

SECTION 23. USE OF CITY FACILITIES

Employee organizations may, with the prior approval of the Municipal Employee Relations Officer, be granted the use of City facilities during off-duty hours for meetings of City employees provided space is available and such meetings are not used for organizational raiding purposes or membership drives of City employees. All such requests shall be in writing and shall state the purpose or purposes of the meeting. The City reserves the right to assess reasonable charges for the use of such facility.

The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs, ashtrays, and blackboards, is strictly prohibited, the presence of such other equipment in approved City facilities notwithstanding.

SECTION 24. USE OF BULLETIN BOARDS

Employee organizations may use portions of City bulletin boards under the following conditions:

- (1) Prior to posting, all materials must receive the approval of the department or division head in charge of the departmental bulletin board. Should the department head not approve any items for posting, and if after discussing the matter with the employee

organization representative a disagreement still remains, then the matter shall be referred to the Municipal Employee Relations Officer for determination.

- (2) All materials must be dated and must identify the organization that published them.
- (3) Unless special arrangements are made, materials posted must be removed 31 days after the publication date.
- (4) The City reserved the right to determine where bulletin boards shall be placed and what portion of them are to be allocated to employee organizations' materials.
- (5) An employee organization that does not abide by these rules will forfeit its right to have materials posted on City bulletin boards.

SECTION 25. AVAILABILITY OF DATA

The City will make available to employee organizations such non-confidential information pertaining to employment relations as is contained in the public records of the agency, subject to the limitations and conditions set forth in this Section and Government Code Sections 6250 through 6260, inclusive.

Such information shall be made available during regular office hours in accordance with the City's rules and procedures for making public records available and after payment of reasonable costs, where applicable.

Information which shall be made available to employee organizations includes regularly published data covering subjects under discussion. Data collected on a promise to keep its source confidential may be made available in statistical summaries, but shall not be made available in such form as to disclose the source.

Nothing in this rule shall be construed to require disclosure of records that are:

- (1) Personnel, medical and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy or be contrary to merit system principles;
- (2) Working papers or memoranda which are not retained in the ordinary course of business or any records where the public interest served by not making the record available clearly outweighs the public interest served by disclosure of the record;
- (3) Records pertaining to pending litigations to which the City is a party, or to claims or appeals which have not been settled.

Nothing in this rule shall be construed as requiring the City to do research for an inquirer or to do programming or assemble data other than usually done by the City.

SECTION 26. PEACEFUL PERFORMANCE OF CITY SERVICES

Participation by any employee in a strike or work stoppage is unlawful and shall subject the employee to disciplinary action, up to and including discharge.

No employee organization, its representatives, or members shall engage in, cause, instigate, encourage, or condone a strike or work stoppage of any kind.

If an employee organization, its representatives, or members engage in, cause, instigate, encourage or condone a strike or a work stoppage of any kind, in addition to any other lawful remedies or disciplinary actions, the Municipal Employee Relations Officer may suspend or revoke the recognition granted to such employee organization, may suspend or cancel any or all payroll deductions payable to such organizations, and prohibit the use of bulletin boards, prohibit the use of City facilities and prohibit access to former work or duty stations by such organization.

As used in this Section, "strike or work stoppage" means the concerted failure to report for duty, the willful absence from one's position, "sick-ins", the stoppage of work, or the abstinence in whole or in part from the full, faithful performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the conditions of compensation, or the rights, privileges or obligations of employment.

Any decision of the Municipal Employee Relations Officer made under the provisions of this Section which affects an employee organization may be appealed to the City Council by filing a written Notice of Appeal with the Municipal Employee Relations Officer or the City Clerk, accompanied by a complete statement setting forth all of the grounds upon which the appeal is based. Such Notice of Appeal must be filed within 7 days after the affected employee organization first receives notice of the decision upon which its complaint is based, or its complaint will be considered closed and not subject to any other appeal.

SECTION 27. REPEAL OF PRIOR RESOLUTIONS

Resolutions Nos. 2428 and 2428A are hereby repealed except that the repeal shall not affect or prevent punishment for any act done or committed prior to the effective date of this Resolution, in violation of any resolution hereby repealed.

SECTION 28. APPLICABILITY

These provisions are applicable to all employee organizations.

SECTION 29. CIVIL SERVICE RULES AND REGULATIONS

All references in this Resolution to actions to be performed or procedures to be followed, from the effective date of this Resolution through 1974 by the Civil Service Commission are hereby declared to be supplemental Civil Service Rules and Regulations adopted in accordance with Section 1105 of the City Charter and to be a responsibility of that Commission.

SECTION 30. RULES AND REGULATIONS

After consultation by management representatives with representatives of all majority employee organizations, the City Council may adopt such Rules and Regulations necessary or convenient to implement the provisions of this Resolution and Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.)

SECTION 31. CONSTRUCTION

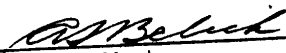
- (A) Nothing in this Resolution shall be construed to deny any person or employee the rights granted by Federal and State laws and City Charter provisions.
- (B) The rights, powers and authority of the City Council in all matters, including the right to maintain any legal actions, shall not be modified or restricted by this Resolution.
- (C) The provisions of this Resolution are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et. seq.) as amended.

SECTION 32. SEVERABILITY

If any provision of this Resolution, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA this 19th day of December, 1972, by the following vote:

AYES:	COUNCILMEN:	Barcells, Kinney, Marsalli, Simmons, Viso and Mayor Gillmor
NOES:	COUNCILMEN:	None
ABSENT:	COUNCILMEN:	Hansen

ATTEST: 
City Clerk

AMENDMENTS TO RESOLUTION #2979

RESOLUTION NO. 3670 - Amended Section 14 and Section 16(A)

PASSED AND ADOPTED - May 25, 1976

EFFECTIVE: - May 26, 1976