

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Deborah S. Traffenstedt, Deputy City Manager *DST*

DATE: June 29, 2011 (CC Regular Meeting of 7/6/11)

SUBJECT: Consider Addendum to 2010-2012 Memorandum of Understanding (MOU) with Service Employees International Union (SEIU) CTW, CLC, Local 721

BACKGROUND AND DISCUSSION

The City's current Memorandum of Understanding (MOU) with Service Employees International Union, Local 721, expires on June 30, 2012. An Addendum to the current MOU is proposed and a draft is attached to this report. Staff met and conferred with Union representatives regarding the proposed Addendum and received email confirmation on June 29, 2011, that the Union concurs with the attached draft Addendum. The revisions to the MOU are described in the attached Addendum and show revised language through the use of legislative format. The revisions are summarized below:

- Revisions to MOU Sections 1101, 1102, and 1103 of Article 11, Holidays – Revisions to these MOU sections pertain to adding holidays on December 23 and December 30 for calendar year 2011, only, subject to the revised holiday pay language for both regular full-time and regular part-time employees. The two additional holidays for calendar year 2011 are proposed in lieu of any cost-of-living increase for the current 2011-2012 fiscal year.
- Adding new Section 1408 to Article 14, Miscellaneous Provisions – A new Section 1408 is added to the MOU with this Addendum. This new section describes agreed upon revisions to Section 2.12 of the Personnel Rules, primarily pertaining to City use of a global positioning system (GPS) device on equipment. Currently, the City is considering use of GPS monitoring for City vehicles that are regularly used. The City already has the authority to monitor use of City equipment. The intent of the language changes is to clarify that such monitoring may include use of a GPS device, that employees will be trained on the capabilities of the GPS system, and that a notice will be posted in vehicles with a GPS monitoring device.

FISCAL IMPACT

Funding is already incorporated into the adopted Fiscal Year 2011-2012 Budget for employee salary payment for December 23 and December 30; therefore, changing those two days to City holidays does not require any additional funding. Some City operations will need to continue on December 23 and 30, such as the City's Winter Camp, which would be staffed with part-time employees, not requiring payment of holiday overtime.

STAFF RECOMMENDATION

1. Authorize approval of an Addendum to the 2010-2012 MOU, and authorize the City Manager to sign the Addendum to the MOU following final language approval by the City Manager and City Attorney; and
2. Consistent with the amended language in the Addendum to the MOU, direct staff to incorporate an amendment to Section 2.12 of the Personnel Rules at the time of the next update.

Attachment: Draft Addendum to the 2010-2012 MOU

FIRST ADDENDUM TO JULY 2010 MEMORANDUM OF UNDERSTANDING (“MOU”) BETWEEN SERVICE EMPLOYEES INTERNATIONAL UNION (“SEIU”) CTW, CLC, LOCAL 721 (“LOCAL 721”), AND CITY OF MOORPARK (“CITY”), EFFECTIVE FROM JULY 1, 2010, UP TO AND INCLUDING MIDNIGHT JUNE 30, 2012

THIS FIRST ADDENDUM (“First Addendum”) to the MOU referenced herein, made and entered into this ____ day of July, 2011, by and between LOCAL 721 and the CITY, a Municipal corporation, located in the County of Ventura, State of California, which First Addendum is entered into with reference to the following recitals.

RECITALS

WHEREAS, LOCAL 721 entered into a Memorandum of Understanding (“MOU”) with the CITY, effective from July 1, 2010, up to and including Midnight, June 30, 2012; and

WHEREAS, the CITY and LOCAL 721 have met and conferred on amending the language in the MOU to add two (2) paid eight (8)-hour CITY holidays on December 23 and December 30, 2011, and on amending Section 2.12 of the CITY’s Personnel Rules for Competitive Service Employees (“Personnel Rules”) to add language pertaining to CITY vehicle use monitoring through the use of a global positioning system (GPS); and

WHEREAS, on July __, 2011, the City Council authorized the City Manager to approve an amendment to the MOU to incorporate revisions to Sections 1101, 1102, and 1103 pertaining to adding holidays on December 23 and December 30 for calendar year 2011, subject to the revised holiday pay language for both regular full-time and regular part-time employees; and to add a new Section 1408, pertaining to modifications to Section 2.12 of the Personnel Rules; and

WHEREAS, the proposed revisions to MOU Sections 1101, 1102, 1103, and the new language for Section 1408, which describes proposed revisions to Section 2.12 of the Personnel Rules, are included in Attachment 1 to this First Addendum, which attachment is incorporated herein by reference.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, BENEFITS AND PREMISES CONTAINED HEREIN, THE PARTIES AGREE TO THE FOLLOWING REVISIONS TO THE MOU:

The MOU between LOCAL 721 and the CITY shall be amended consistent with Attachment 1 to this First Addendum, with revisions to the MOU and the Personnel Rules shown through the use of legislative format.

IN WITNESS WHEREOF, the parties hereto have caused this First Addendum to the July 2010 MOU between LOCAL 721 and the CITY to be executed the day and year first above written.

ON BEHALF OF THE CITY:

ON BEHALF OF LOCAL 721:

Steven Kueny, City Manager

Gabriella Suciu, SEIU LOCAL 721
Work Site Organizer

ATTEST:

Maureen Benson, City Clerk

Mario Riley, Sr., SEIU LOCAL 721
General Unit Representative

Mark Westerline, SEIU LOCAL 721
Supervisory/Confidential Unit
Representative

Javier Magdaleno, SEIU LOCAL 721
General Unit Representative

Attachment 1: Revised Sections 1101, 1102, 1103, and new Section 1408

ATTACHMENT 1

Revisions to MOU Sections 1101, 1102, and 1103 of Article 11, Holidays, are shown with the use of legislative format:

Sec. 1101 PAID ASSIGNED HOLIDAYS:

1. New Year's Day, January 1;
2. January 2, when this date falls on a Friday;
3. Martin Luther King's Birthday, the third Monday in January;
4. President's Day, the third Monday in February;
5. Cesar Chavez day, March 31, as follows:
 - a) If March 31 falls on a Sunday, Monday, Tuesday, or Wednesday, then the holiday will be observed on Monday;
 - b) If March 31 falls on a Thursday, Friday, or Saturday, then the holiday will be observed on Friday;
6. Memorial Day, the last Monday in May;
7. July 4 and July 3, or July 5, or July 6 as follows:
 - a) July 3 – Eight hours if this date falls on Monday, but no hours if this date falls on a Friday and the City is sponsoring a community event on July 3, in which case the July 4 holiday will be observed on Monday, July 6;
 - b) July 5 – Eight hours if this date falls on a Friday;
8. Labor Day, the first Monday in September;
9. Veteran's Day, November 11;
10. November 10, when this date falls on a Monday;
11. Thanksgiving Day, the fourth Thursday in November;
12. The day after Thanksgiving;
13. Christmas Eve (December 24) as follows:
 - a) Four hours if this date falls on Tuesday, Wednesday, Thursday or Friday; or
 - b) Eight hours if this date falls on Monday; or
 - c) No hours if this date falls on Saturday or Sunday; or
 - d) Four hours on Thursday, December 23 (due to Friday, December 24, becoming the holiday in accordance with the provisions set forth below);
14. Christmas Day, December 25;
15. December 26 when this date falls on a Friday;
16. December 31 when this date falls on a Monday; and
17. Every day appointed by the President of the United States or Governor of this State for public feast, thanksgiving or holiday, when specifically authorized by the City Council.

If a paid, assigned City holiday falls on a Saturday, the preceding Friday shall be the holiday in lieu of the day observed, except as otherwise specified in the preceding list of City holidays. If a paid, assigned City holiday falls on a Sunday, the following Monday shall be the holiday in lieu of the day observed, except as otherwise specified in the preceding list of City holidays. For those employees regularly scheduled to work Saturday and/or Sunday, the paid assigned holiday shall be the day on which the holiday actually occurs. All assigned holidays shall be eight (8) hours paid for regular full-time City employees, with the exception of Christmas Eve as described above.

The January 2, Cesar Chavez, July 3, July 5, November 10, December 26, and December 31 holidays are subject to the revised holiday pay language in Sections 1102 and 1103.

For calendar year 2011, only, two (2) additional paid, eight (8) hour holidays on December 23 and December 30, 2011, are added, and these holidays are subject to the revised holiday pay language in Section 1102 and 1103.

Sec. 1102 **WORK ON HOLIDAYS:** Full-time employees who are required to work on a paid assigned holiday shall, in addition to receiving straight time, not to exceed eight (8) hours per holiday, be paid in cash at one and one-half their then regular rate of pay for hours actually worked, up to eight (8) hours, not to exceed eight (8) hours per holiday. Any time worked in excess of eight (8) hours on a paid assigned holiday shall be paid in cash at two and one-half (2 ½) times their then regular rate of pay. Any full-time employee, who's regularly scheduled day off falls on a paid assigned holiday and who is not required to work on said holiday, shall be credited with eight (8) vacation leave or annual leave hours for each such holiday.

Full-time employees required to work on the January 2, Cesar Chavez, July 3, July 5, November 10, December 26 or December 31 holidays, and any additional holidays approved for one calendar year, only, shall receive straight-time pay, not to exceed eight (8) hours, and shall also be credited with one hour of vacation leave or annual leave for each hour worked on the referenced holidays, not to exceed eight (8) hours. Any hours worked in excess of eight (8) hours on the January 2, Cesar Chavez, July 3, July 5, November 10, December 26, and December 31 holidays shall be paid in cash at two and one-half (2 ½) times the employee's regular rate of pay.

This paragraph is not applicable when July 3 falls on a Friday for which the City has scheduled a special event, and the holiday is changed to Monday, July 6, per the provisions of Subsection 7.a. in Section 1101.

At an employee's request, the City Manager may approve a change in regular work schedule to permit an employee to work on a designated City

holiday in exchange for an alternate day off within the same work week, without holiday pay.

Sec. 1103 **HOLIDAY POLICY FOR REGULAR PART-TIME EMPLOYEES:**
Employees whose regular schedule is less than full time shall receive holiday credit on a pro-rata basis, receiving pay or annual leave based on their regular scheduled hours for the fiscal year.

Regular part-time employees required to work on the January 2, Cesar Chavez, July 3, July 5, November 10, December 26, and December 31 holidays, and any additional holidays approved for one calendar year, only, shall receive straight-time pay for hours worked and shall receive pro-rated annual leave as credit for the holiday, consistent with applicable provisions in the Personnel Rules.

New Section 1408 will be added to Article 14, Miscellaneous Provisions, of the MOU as follows:

Sec. 1408 **MODIFICATION TO SECTION 2.12 OF THE PERSONNEL RULES:**

Section 2.12 of the Personnel Rules shall be revised to read as follows:

Section 2.12. Improper Use of City Equipment/Facilities Prohibited: No City-owned equipment, autos, trucks, instruments, tools, supplies, machine, badge, identification cards, or other items which are the property of the City shall be used by an employee for other than City business, except upon prior written approval of the employee's department head with a copy provided to the City Manager. To avoid the appearance of improper use of public property, City vehicles shall not be used for lunch breaks or errands of a personal nature, except as allowed by administrative procedures approved by the City Manager.

No employee shall allow any person not employed by the City to rent, borrow or use any City property item, including the items mentioned above, unless upon prior written approval of the City Manager. Only employees, volunteers or supervisor approved individuals conducting or associated with City business may ride in any City vehicle.

City Monitoring/Inspection Rights on City Property: The City has a right to monitor and/or inspect employee use of City equipment and facilities, even when employees are permitted to use such equipment or facilities on their break or meal period time. If a global positioning system (GPS) device is placed on any equipment, a notice shall be placed in a prominent location

on the equipment so the user is aware of such placement and use. Monitoring use of equipment with GPS may include but not be limited to internet tracking of activity and location. The City will provide training to employees on the capabilities of the GPS system prior to implementation.

All City equipment and facilities remain the sole property of the City and are subject to monitoring and inspection at any time and employees shall have no right of privacy when using City equipment and facilities. Such monitoring or inspection can occur with or without advance notice or consent, with the exception of the posted vehicle notice for GPS monitoring. Equipment and facilities monitoring ~~and can~~ may be conducted by any supervisor, manager or City designee. Other ~~E~~examples of City equipment for which employee use may be monitored or inspected includes telephones (including cellular phones and pagers) and computers (including e-mail and internet use). Employees should not place personal items within City equipment and facilities and expect any right to deny access. Examples of City equipment and facilities that may be inspected at any time include: desks, file cabinets, book shelves, vehicles (including glove compartments and trunks), closets, and office space. Prohibited materials such as weapons, explosives, alcohol, and illegal drugs may not be brought to the work site and may not be placed in any City equipment or facilities.