



Civil Service Commission

The Civil Service Commission is an advisory body to the City Council that meets on the second and fourth Mondays of each month at 6:00 p.m. in the Council Chambers and on other Mondays as required. All meetings are open to the public except for those portions related to personnel issues that under law may be considered in closed session. Those who wish to speak on any matter on the agenda are asked to complete a "Speaker Information" card (available at the meeting) and relay it to the staff before leaving the meeting.

Staff reports are available for review at the Human Resources office, Civic Center Main Library and the City Clerk's Office. Direct any other questions or concerns to the Civil Service Manager, Stacey Lewis at 310.618.2968. Agendas are posted on the City of Torrance Home Page www.tornet.com.

In compliance with the Americans with Disabilities Act, if special assistance is needed to participate in this meeting, please call 310.618.2968. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28CFR 35.102-104 ADA Title II]

HOURS OF OPERATION
Monday through Friday from
7:30 a.m. to 5:30 p.m.
Offices are closed alternate
Fridays.

CIVIL SERVICE COMMISSION

CITY COUNCIL CHAMBERS
CITY HALL
3031 TORRANCE BOULEVARD
TORRANCE, CALIFORNIA 90503

MONDAY, FEBRUARY 26, 2007
6:00 P.M.

AGENDA

CALL TO ORDER

ROLL CALL

FLAG SALUTE

ORAL COMMUNICATIONS #1 (Limited to a 30 minute period)

CONSENT CALENDAR

Disposed of by a combined motion unless separate consideration is requested by Commission or audience.

1. Motion to Accept and File Affidavit of Posting
2. Ordering of Examination: *Water Service Technician III*

WRITTEN COMMUNICATIONS

3. Reconsideration Ordering of Examination – Secretary (item continued from February 5, 2007)
4. Reconsideration Ordering of Examination – Deputy Public Works Director/City Engineer (item continued from February 5, 2007)

HEARING

5. Appeal of suspension by Michael Paolozzi. Consideration of Public Employee discipline may be conducted in a closed session per California Government Code 54957.

ORAL COMMUNICATIONS #2

ADJOURNMENT

ROLL CALL: Dean, Donnellan, Doty, Furey, Herring, Shwarts, McPhail

Honorable Chairman and Members
of the Civil Service Commission
City Hall
Torrance, California

Honorable Members:

SUBJECT: ORDERING OF EXAMINATION – WATER SERVICE TECHNICIAN III

SALARY: \$24.24 - \$28.07 per hour.

BASIS: Open-Continuous is recommended. The recruitment will remain open until the position is filled. All prior examinations have been conducted on an open basis.

An Ordering of Examination for Water Service Technician III was approved by the Civil Service Commission on August 28, 2006. This Ordering of Examination is being resubmitted due to changes in the examination parts/weights (see below).

EXAMINATION PARTS/WEIGHTS:

Performance 40% and Oral Interview 60% is recommended. The Water Service Technician classification requires State of California Department of Health Services certifications. The California Department of Health Services Water Treatment and Distribution Certificate can be attained through sufficient years of experience in the field and passing an extensive written exam which assesses technical knowledge. The examination required to attain this certification would be equivalent to the written test and therefore be sufficient to assess candidates in the areas covered by the written test. The performance and oral interview examinations would emphasize the skills, abilities and relevant experience and training required for the position.

Previous examinations were weighted as follows: Written-30%, Performance-30%, and Oral-40%.

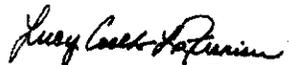
EXAMINATION SCOPE:

Please refer to Knowledge and Abilities listed in the Minimum Qualification Guidelines section of attached Job Specification.

REASON FOR EXAMINATION:

Current vacancy; need to establish an eligible list.

Respectfully submitted,



Lucy Coelho-LaFreniere
Human Resources Analyst



Melody P. Lawrence
Human Resources Manager

Concur:



Stacey Lewis
Civil Service Manager

Attachments

x: OrderWater Service Technician III 2-26-07

ITEM 2



Close Window : Print Page

City of Torrance
Class Code: 5403

June 2000
(Revised)

Representation Unit: Crafts & Trades

TO EXPRESS INTEREST IN THIS POSITION, CLICK [HERE](#)

Water Service Technician III

Definition

Under general supervision, performs skilled work in the installation, maintenance and repair of the City's water system; performs skilled work pertaining to water quality control; performs the most complex work of the meter repair shop; assigns, reviews, coordinates and trains lower level Water Service Technicians; and performs related work as required.

Distinguishing Characteristics

The Water Service Technician III is the advanced journey level in the series and may function as a working lead person. This level possesses significant technical expertise beyond that expected at the journey level. Incumbents exercise independent judgment in the performance of duties. Work is judged primarily on overall results and may require the development of recommendations consistent with directives, policies and regulations. Employees have greater authority over assignments and decisions required to perform the work than do lower-level classifications.

Supervision Exercised/Received:

Receives general supervision from the Water Service Supervisor; and provides technical supervision which includes assigning, coordinating, training reviewing and providing input on the evaluation of lower level Water Service Technicians.

Examples of Essential Duties

The following duties represent the principal job duties however; they are not all-inclusive.

- Performs installation, repair, maintenance and/or inspection of the City's water system, its components, and storage and production facilities; assigns, reviews, and coordinates the work of lower level Water Service Technicians.
- Monitors treatment equipment and pumping facilities of the water system.
- Ensures compliance with policies, procedures, safety guidelines, schedules and work specifications.
- Verifies location of underground utility facilities before beginning excavation work.
- Assists in coordinating work with contractors.
- Turns water service off and on as appropriate.
- Reads meters and records readings in route book.
- Receives and responds to inquiries and complaints from customers and the general public regarding water service.
- Performs the most complex installation, replacement, repair, inspection and maintenance of residential and commercial water meters and hydrant

meters; assigns and coordinates the work of crew.

- Assists in the training of new and subordinate personnel.
- Maintains accurate records and prepare technical reports and diagrams, status reports, field logs, requisitions, etc. as required.
- Provides technical assistance to department staff and customers as required.
- Performs daily safety inspections of equipment and machinery.
- Responds to emergency calls during work and after normal working hours.
- Inspects facilities and reviews drawings/plans for cross-connection hazards and provides recommendations for cross-connection hazards.
- Monitors water quality; takes routine water samples for testing; determines need for water treatment or flushing of water mains.

Examples of Other Duties

The following duties represent duties that are generally performed by this position, but are not considered to be principal job duties:

- May transport employees and equipment to job sites.
- May distribute notices to water customers.
- Maintains and cleans equipment and tools; maintains clean and orderly workplace.
- Performs related duties as required.

Qualification Guidelines

Knowledge of:

- Hydraulic and mechanical operations as applied to the operation of water production, storage and distribution systems.
- Accepted methods of repair, rehabilitation and maintenance of water supply and distribution system facilities.
- Service connections, meters and backflow prevention devices and methods.
- Materials, tools and equipment used in the installation, maintenance and repair of water systems and system facilities.
- Physical and technical aspects of water distribution systems, including operations and maintenance.
- Basic chemistry.
- Rules and regulations affecting municipal water departments.

Ability to:

- Assign, review, coordinate and train crewmembers.
- Communicate effectively orally.
- Maintain accurate records of time, materials and equipment.
- Carry out quality control tests.
- Perform computations using variables and formulas; take measurements; compute percentages, ratio and proportion.
- Read and understand technical reports, drawings, specifications, etc.
- Understand and carry out oral and written directions.
- Read meters and record readings.
- Operate equipment including water service truck, diagnostic equipment, power tools, heavy machinery, test kits, and various tools, etc.
- Establish and maintain cooperative relationships with co-workers, the public,

other City departments and individuals from other agencies.

- Learn and utilize new skills and information to improve job performance and efficiency.

License or Certificate:

Must possess a State of California Department of Health Services Water Treatment Plant Operator License, Grade II, and a valid State of California driver's license of the appropriate class.

Education and Experience:

Any combination of education experience that would have provided the knowledge and skills required is qualifying. A typical way to obtain the knowledge and skills would be:

Equivalent to a high school diploma and four years of progressively responsible experience in the installation, maintenance, repair and/or inspection of water distribution facilities.

Special Requirements

Performance of the essential duties of this position includes the following physical demands and/or working conditions:

Requires the ability to exert a considerable amount of force frequently to lift, carry, push, pull or otherwise move objects and to stoop, crouch, climb and lift in the performance of manual labor; to operate a variety of tools, equipment and vehicles; to work around electrical currents and/or hazardous materials in a safe manner. Tasks require color and visual perception and discrimination, as well as oral communications ability. May be subject to uncomfortable working conditions including exposure to dust, noise, heat or cold, toxic agents and chemicals, and performing work in confined spaces.

Career Ladder Information

Experience gained in this classification may serve to meet the minimum requirements for promotion to Water Service Supervisor.

January 25, 2007

Commission Meeting
February 5, 2007

Honorable Chair and Members
of the Civil Service Commission
City Hall
Torrance, California

Honorable Members:

SUBJECT: ORDERING OF EXAMINATION – SECRETARY

SALARY: \$17.80 - \$22.21 per hour.

BASIS: Open is recommended. The previous examination was given on an open basis.

EXAMINATION PARTS/WEIGHTS:

Written (25%), Performance (25%), Oral (50%) is recommended. The performance component will test for computer applications of word processing, spreadsheets and file management. The previous administration in 2005 was similarly weighted.

Because of the large number of potential applicants, it is recommended that recruitment be limited to the first 50 applications received. A similar limitation was placed on previous examinations.

Staff recommends a one year eligible list. The previous list was approved for a similar duration.

SCOPE OF EXAMINATION:

Please refer to Knowledge and Abilities listed in the Minimum Qualifications section of attached Job Specification.

REASON FOR EXAMINATION:

No current eligible list.

Noted:


Stacey Lewis
Civil Service Manager

Attachment
X:\Order\Secretary1-16-2007

Respectfully submitted,


Vicki L. Remis
Project Leader


Melody Lawrence
Human Resources Manager

Torrance

Close Window : Print Page

City of Torrance
Class Code: 1133

March 1992
(Revised)

TO EXPRESS INTEREST IN THIS POSITION, [CLICK HERE](#)

Secretary

Definition

Under supervision, performs specialized, responsible secretarial and typing tasks; may supervise clerical personnel; and does related work as required.

Distinguishing Characteristics

Distinguished from Administrative Secretary/Aide in that the incumbent does not report directly to a department head or the City Manager. Distinguished from Typist Clerk in that incumbent performs secretarial duties requiring a high degree of independent judgement and discretion, and may supervise others.

Examples Of Duties

- Composes correspondence and memos from brief verbal instructions or notes;
- on referral from supervisor or after personally screening correspondence, answers mail requiring composition of letters on established policy matters;
- conducts continuing correspondence independently on procedural or informational matters without review by supervisor;
- obtains confidential or personal information from the public;
- works with the public by receiving complaints and attempting to resolve them;
- answers questions involving an understanding of policies, procedures, regulations and technical processes;
- maintains a complex system of inter-related files and records, including personnel and time records;
- modifies or devises forms for reporting data, and establishes controls for insuring accuracy of data;
- makes appointments and schedules meetings;
- compiles reports from a wide variety of sources and transmits data; depending on assignment, prepares requisitions and orders supplies, trains, directs or assigns work to other personnel, takes dictation or minutes of meetings.

Minimum Qualifications

Knowledge of:

- Standard office practices and procedures including business correspondence, filing, and standard office equipment operation;
- Accurate spelling, and proper use of English and punctuation.

Ability to:

- Perform secretarial work involving independent judgment and requiring accuracy and speed;
- Make clear and comprehensive reports and keep difficult and complex records;
- Understand and carry out complex oral and written directions;
- Establish and maintain cooperative working relations with fellow employees and the public;
- Communicate effectively orally and in writing;
- Learn and interpret laws and rules;
- Type neatly and accurately from rough drafts, reports, dictating machines and other sources;
- Make arithmetical computations;
- Operate a variety of office equipment, including calculator, word processor and computer terminal;
- Supervise the work of employees;
- May take dictation and transcribe accurately.

Experience

Three years of increasingly responsible clerical experience, including the use of word processing and other standard office equipment.

Education

Equivalent to graduation from high school.

January 31, 2007

Commission Meeting
February 5, 2007

Honorable Chair and Members
of the Civil Service Commission
City Hall
Torrance, California

**SUBJECT: RECONSIDERATION ORDERING OF EXAMINATION – DEPUTY PUBLIC WORKS
DIRECTOR/CITY ENGINEER**

BACKGROUND:

At your meeting of July 25, 2005, staff recommended conducting the Deputy Public Works Director/City Engineer on an Open basis. After a lengthy discussion, your Honorable Body directed staff to order the examination for Deputy Public Works Director/City Engineer on a Promotional basis. An appeal was filed by the Project Managers regarding this action with regard to the City Charter and a legal opinion was issued by Michael H. Miller, former Legal Counsel to the Civil Service Commission. This opinion is attached for your review and information (Attachment A). At your meeting on September 12, 2005, after reviewing the submitted material, your Honorable Body again voted to direct staff to order the examination on a Promotional basis. The position was subsequently placed on hold due to budgetary restraints. The new salary has been approved by the City Council and the department is now requesting an examination.

In addition to Mr. Miller's opinion, Brad Wohlenberg, Legal Counsel to the Civil Service Commission has also issued an opinion regarding this matter. This opinion is attached for your review and information (Attachment B). Based on the opinions of Mr. Miller and Mr. Wohlenberg, staff has brought back the Ordering of Examination for the Deputy Public Works Director/City Engineer for consideration by your Honorable Body.

SALARY: \$9201 to \$12697 per month.

BASIS: Open is recommended. No previous examinations have been conducted. This is a new position.

EXAMINATION PARTS/WEIGHTS:

In-Basket Performance Test (50%) - Oral Interview (50%) is recommended. The In-Basket exercise will consist of realistic managerial problems requiring analysis and written responses. The factors measured will be leadership style, handling priorities and sensitive situations, conflict resolution, and organizational practices. The oral interview will assess preparation for the position, management principles, interpersonal and related skills.

For this examination, staff recommends the retention of an executive search firm to conduct the recruitment. The Civil Service Commission approved the use of an executive search firm for a similar position (Division Engineer).

EXAMINATION SCOPE:

Refer to Knowledge and Abilities listed in the Minimum Qualifications section of attached Job Specification (Attachment C).

REASON FOR EXAMINATION:

Vacancy due to new position; no list.

Respectfully submitted,



Melody Lawrence
Human Resources Manager

NOTED:



Stacey Lewis
Civil Service Manager

Attachments: A: Summary Legal Opinion – Michael H. Miller
 B: Summary Legal Opinion – Brad Wohlenberg
 C: Classification Specification for Deputy Public Works Director/City Engineer

CITY OF TORRANCE

INTEROFFICE COMMUNICATION

DATE: AUGUST 15, 2005

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: RONALD T. POHL, ASSISTANT CITY ATTORNEY 

CC: LEROY J. JACKSON, CITY MANAGER
STACEY LEWIS, CIVIL SERVICE MANAGER ✓

SUBJECT: OPINION OF CIVIL SERVICE COMMISSION LEGAL COUNSEL
REGARDING DEPUTY PUBLIC WORKS DIRECTOR/CITY ENGINEER

As you may know, the Civil Service Commission recently rejected staff recommendation that the examination for the position of "Deputy Public Works Director/City Engineer" be made an open exam. As is customary with Commission meetings where there is no hearing on the agenda, the Commission's legal counsel was not present.

Subsequent to the decision by the Commission to limit the taking of the exam to only Torrance employees who are members of the Civil Service System, the Commission's independent counsel, Michael H. Miller, reviewed the action of the Commission and issued the attached opinion.

It is my understanding that Staff will be placing the matter on the Commission Agenda for reconsideration in light of the opinion issued by their attorney.

Attachment A

2005 AUG 16 PM 4:21
CITY OF TORRANCE
HUMAN RESOURCES DEPT.

MEMORANDUM
Summary Legal Opinion ¹

August 15, 2005

TO: The Honorable Chairperson and Members of the Civil Service Commission
Stacey Lewis, Civil Service Manager

FROM: Michael H. Miller, Legal Counsel-Torrance Civil Service Commission (Commission) *MHM*

RE: Deputy Public Works Director/ City Engineer (Engineer)-Commission action to preclude Project Manager (Public Works) from competition for Engineer position.

INTRODUCTION

I have reviewed the recent action of the Commission set forth above. This legal opinion is based on concerns that such action may be inconsistent with the City Charter and, in part, because of the appeals filed by the Project Managers contesting the validity of the Commission action.

ISSUE

Is the action of the Commission to preclude those Torrance employees designated as Project Managers from competition for the Engineer position consistent with Torrance City Charter Section 1300 - Civil Service System? (Charter section attached)

ANSWER

No. Exclusion of a class or group of city employees from competition for a civil service position is a violation of Charter Section 1300 because the exclusion is based on factors that are unrelated to considerations of merit and fitness as set mandated by the referred to Charter Section.

DISCUSSION

The Torrance Project Manager position involves the performance of difficult engineering work. Likewise as to the Associate Engineer position. In terms of hierarchy, responsibility, and qualifications, the Project Manager position exceeds that of the Associate Engineer position. This does not mean that an Associate Engineer cannot exceed the merit and fitness of a Project Manager in competition for the Engineer position. At the same time, amongst city employees, the Project Managers possess all of the qualifications to serve in the Engineer position. Their exclusion from

¹This opinion is in summary format addressing key points. A full blown legal opinion can be prepared with complete legal authority.

the competitive exam process based on their at-will (non civil service status) is not consistent with the goals of the civil service system to base all appointments and promotions according to merit and fitness (Charter Section 1300).

Two decisions of the California Supreme Court attest to the primacy of preserving civil service systems by not allowing employment decisions to be based on considerations that are not related to competence. The most recent case decided on July 28, 2005 involved the California State Personnel Board v. California State Employees Association, Local Seiu. Afl-Cio (No. S 122058), hereinafter called Personnel Board.

In Personnel Board the Supreme Court ruled that the California Constitution requirement that employment and promotion in the State Civil Service System be based on merit, precludes the legislature from approving collective bargaining agreements that base appointment and promotion on the basis of seniority with regard to all qualified candidates. The Court determined that seniority may or may not reflect fitness for a position. The Court decision supports hiring and promotions on the basis of a broad range of criteria related to fitness and efficiency. Anything else, according to the Court, is in conflict with the Constitutional command that "all appointments and promotions ..be made solely on the basis of merit."

In Personnel Board the Court cited and confirmed their 1980 decision in the case of Lucchesi v. City of San Jose, 104 Cal. App. 3d 323, 163 Cal. Rptr. 700. (Lucchesi) In Lucchesi the Court invalidated a City ordinance giving preference to City employees for firefighter positions.

Comparable to the Constitutional provision in the Personnel Board case and Section 1300 of the Torrance City Charter, the City of San Jose Charter provides that "All appointments and promotions ...shall be made on the basis of merit and fitness, demonstrated by examination..." In view of this Charter provision establishing civil service requirements, the Court reviewed a San Jose ordinance and related employment process that accorded priority to city employees versus non-city employees who were also qualified for the position (of firefighter). The Court determined that "the ordinance takes into account the status of employment rather than performance. No consideration is given to a City employee's performance record...Thus, a City employee with an extensive ..poor work record..would be placed on the promotion eligible list and offered an available firefighter position before a non-City employee who scores 100% ..." The Court pointed out that the City's approach gave preference to a City employee with no experience in a field related to the position sought versus a non-City employee with years of experience in a related field. Accordingly, the Court determined that San Jose's system entailed an irrational approach to the determination of job competence and was therefore inconsistent with the Charter mandate based on merit and fitness.

As stated by the Court:

"The preferential treatment of City employees over non-City employees provided by the Ordinance here,...does not bear any reasonable basis or bear any rational relationship to a conceivable , legitimate state purpose. City employment, in and of itself, is not evidence of competence."(p.333)

The Court confirmed the long standing law that "an ordinance can no more change or limit the effect of a charter than a statute can modify or supercede provisions of the State Constitution." Accordingly, the Court determined that the San Jose ordinance was invalid because it was in conflict with the City Charter. (cases cited at page 328: *Simons v. Los Angeles* (1977) 72 Cal.App. 3d 924, 140 Cal. Rptr.484; *McDonald's System of California Inc. v. Board of Permit Appeals*, (1975) 44 Cal. App. 3d 525, 119 Cal. Rptr. 26, and other cases cited at page 328).

Torrance City Charter Section 1300 is directly analogous to the Constitutional and City Charter civil service provisions which were the subject of the Supreme Court cases discussed above. The elimination of Project Managers from competition for the Engineer position because they are classified "at will" and therefore non-classified bears less of a relationship to merit and fitness than the seniority and employee status factors litigated in both Personnel Board and Lucchesi. In fact, the Project Manager positions in Torrance appears to be the amongst the most qualified for the position. Accordingly, there is little doubt that a Court would strike down the current action of the City and mandate inclusion of the Project Managers in the competition for the position of Deputy Public Works Director/ City Engineer. It is far less likely that a suit brought by the proponents of the current practice (California Employees Association--Associate Engineers) would achieve a court mandate to effectively eliminate a qualified class of employees from competition.

THE APPEALS

In sum, the appeals filed by individual Project Managers seek allowance for non-civil service employees to be eligible for the pending promotional opportunity. They also allege that City Charter section 1300 does not preclude their inclusion in the competition and that no other ordinance establishes grounds for their exclusion. Finally, as set forth in one of the appeals, it is contended that the act of excluding them "limits the pool of potential candidates to a relative few ...and does not take advantage of the many other qualified candidates..." Assurance that the best qualified candidates compete and that the Civil Service system requires this for the benefit of the City government and the public is an integral part of the pending appeals.

CONCLUSION

The Civil Service Commission exercised its discretion without the opportunity to be apprised of the City Charter and legal precedent. The subsequent appeals of the Commission action are premised on concerns dealt with by the California Supreme Court. Thus, the City should consider possible action to allow the Project Managers to compete. This can be accomplished through different means including re-calendaring the issue for commission reconsideration in view of this legal opinion or by City action to decide the appeals consistent with legal requirements.

c. LeRoy J Jackson, City Manager
John L. Fellows, City Attorney
Ronald T. Pohl, Assistant City Attorney

THE CHARTER

ARTICLE 13 - CIVIL SERVICE

SECTION 1300. CIVIL SERVICE SYSTEM.

All appointments and promotions in the classified service of the City shall be made according to merit and fitness, to be ascertained, so far as practicable by competitive examination. The civil service system existing on April 10, 1962, whether created or amended in whole or in part by ordinances adopted by vote of the People or by ordinances adopted by the City Council shall continue in full force and effect; provided, however, that the City Council may amend, delete or replace any provisions of said ordinances by ordinance or ordinances by a five-sevenths vote of the City Council after consideration thereof by the Civil Service Commission. The City Council shall not have the authority to withdraw any departments, appointive officers or employees from the operation of such system, either by outright repeal of the civil service ordinances or otherwise, unless and until the withdrawal thereof shall have been submitted to the qualified electors of said City at a regular or special municipal election held in said City. Nothing contained in this Section 1300 shall repeal or modify any of the provisions of Article 9 of this Charter which established the City Manager form of government. (Ratified Gen. Mun. Elec. 4/10/62, Amend. No. 3; Approved by State Legislature Concurrent Res. No. 21, 4/13/62).

August 25, 2005

Note: TO THE HONORABLE CIVIL SERVICE COMMISSION

I was going to distribute the attached at the meeting of August 22, however, since the item for reconsideration was continued, I am distributing it now via mail.

The attached shows that the current issue has a definite history in Torrance. Please review as part of your consideration for the September 12 agenda.

M HM

Michael H. Miller, legal counsel to the Commission

c. John Fellows, City Attorney
Stacey Lewis, Civil Service Manager ✓

CITY OF TORRANCE
HUMAN RESOURCES DEPT.
2005 AUG 31 AM 11:09

AUGUST 22, 2005

7
SUPPLEMENT TO AGENDA ITEM 8 (attached)-Deputy Public Works Director/City Engineer.

Re: Background information consistent with current legal opinion and recommendation.

Please see attached 1998 Staff Report and City Attorney Note concerning Charter Section 1300 and a related ordinance based on the fact that civil service status is not a reasonable basis for discriminating between potential applicants.

m m

August 19, 1998

Council Meeting
September 1, 1998

Honorable Mayor and Members
of the Torrance City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Proposed Change to Civil Service Rules to allow non-Civil Service Employees to Compete in Promotional Examinations for Department Head Classifications.

ABSTRACT

It is recommended that your Honorable Body concur in the recommendation of staff and the Civil Service Commission to modify Municipal Code section 14.1.29 to allow non-civil service employees to participate in promotional examinations for department head positions.

BACKGROUND

At their meeting of August 17, 1998, a recommendation was presented to the Civil Service Commission to alter the Civil Service Rules and Regulations to allow non-civil service employees to compete in promotional examinations for department head positions (Attachment I). The Civil Service Commission, on a divided vote, approved the staff recommendation (see minutes, Attachment II).

The Torrance Engineers Association submitted a letter of protest to the Commission with a recommendation that all at-will employees be converted to civil service positions instead (Attachment III).

ANALYSIS

The current rules allow department head examinations to be given on an open basis (i.e., open to the public in general) or on a promotional basis (i.e., restricted to current employees in the City's civil service). The City has created a number of non-civil service mid-management level positions in recent years. These non-civil service positions involve all the skills and responsibilities that prepare one to assume a department head job, however they are not eligible to compete for a department head position on a promotional basis, as are the employees holding civil service status.

When filling a department head position, especially when there are a number of City employees ready to promote, it is desirable to do so on a promotional examination. When there are non-civil service employees, otherwise eligible, such a decision will preclude them from being considered, no matter how well qualified they may be. On the other hand, when both civil service and non-civil service employees are involved, and the recruitment is given on an open basis, it is typical that one of the internal candidates will fill the vacancy. This creates an image of unfairness in the eyes of the outside candidates. In the end, a great amount of additional time and resources, both for the City and the open candidates, will have been spent and a great deal of ill will is engendered. This could be avoided if all the City employees had the opportunity to compete in a promotional examination.

The Civil Service Commission has discussed the topic of allowing non-civil service employees to compete in all promotional examinations in the past. However, each time there has been opposition by most City employee organizations and no change has been made. Recognizing this, staff is making a limited recommendation at this time. Rather than change the rules for all examinations, we are proposing that a rule affecting only department head examinations be adopted. The current rule governing department head promotional exams is:

Torrance Municipal Code Section 14.1.29

The Civil Service Board shall determine in advance of every examination whether such examination shall be a promotional examination or an open examination or an open and promotional examination; provided, however, that an examination for a department head shall be either a promotional examination or an open examination and such determination shall be made by the City Council after recommendation by the Board. Such determination shall be recorded in the minutes of the Board and the City Council, as the case may be.

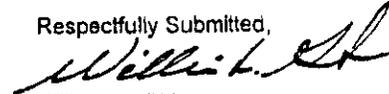
To the above rule we would add:

Applicants to take a promotional examination for a department head position must be actually in the City employ at the time of the examination and have completed six (6) months of actual service in either a permanent civil service position or a non-civil service position.

RECOMMENDATION

It is recommended that your Honorable Body concur in the recommendation of staff and the Civil Service Commission to modify, as described above, Municipal Code section 14.1.29 to allow non-civil service employees to participate in promotional examinations for department head positions.

Respectfully Submitted,



William L. Ghio
Civil Service Administrator

Concur:



LeRoy J. Jackson
City Manager

Attachments

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CITY ATTORNEY NOTE:

Section 1300 of the City Charter requires that all appointments and promotions in the civil service be made on the basis of merit and fitness. Lucchesi v. City of San Jose (1980) 104 Cal.App.3d 323, 330 invalidated a city hiring process that gave preference to current city employees merely by reason of their employment status. Civil service status is not a reasonable basis for discriminating between potential applicants. Thus, the proposed ordinance significantly advances the goal of making the City's civil service ordinance consistent with the City charter.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE
AMENDING SECTION 14.1.29
OF THE TORRANCE MUNICIPAL CODE, RELATING TO THE
ELIGIBILITY OF CITY EMPLOYEES TO PARTICIPATE
IN EXAMINATIONS FOR DEPARTMENT HEAD POSITIONS

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

SECTION 1

That Section 14.1.29 of the Torrance Municipal Code shall be amended to read in its entirety as follows:

The Civil Service Board shall determine in advance of every examination whether such examination shall be a promotional examination or an open examination or an open and promotional examination; provided, however, that an examination for a department head shall be either a promotional examination or an open examination and such determination shall be made by the City Council after recommendation by the Board. Such determination shall be recorded in the minutes of the Board and the City Council, as the case may be.

Applicants to take a promotional examination for a department head position must be actually in the City employ at the time of the examination and have completed six (6) months of actual service in either a permanent civil service position or a non-civil service position.

SECTION 2

Any provision of the Torrance Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 3

If any section, subsection, sentence, clause or phrase or this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

JENKINS & HOGIN, LLP
A LAW PARTNERSHIP

MICHAEL JENKINS
CHRISTI HOGIN
MARK D. HENSLEY
BRADLEY E. WOHLBERG
KARL H. BERGER
GREGG KOVACEVICH
JOHN C. COTTI
LINDA A. BURROWS
LAUREN B. FELDMAN

October 24, 2006

Stacey Lewis, Civil Service Manager
CITY OF TORRANCE
3031 Torrance Boulevard
Torrance, California 90503

Reference: Examination Status of Deputy Public Works Director Position

Dear Ms. Lewis:

You asked for an opinion from our office regarding whether the position of Deputy Public Works Director for the City of Torrance should be filled by a promotional or an open examination. After careful consideration of this issue, including a thorough review of the City Charter, local employment rules, and applicable law, we have concluded that the position should be filled by open examination.

Analysis

1. Controlling Charter Provision

Torrance City Charter section 1300 states in part, "All appointments and promotions in the classified service of the City shall be made according to merit and fitness, to be ascertained, so far as practicable by competitive examination."

Fortunately for our interpretation of this language, the California Court of Appeal has interpreted language from another city charter that is very, very similar. In *Lucchesi v. City of San Jose* (104 Cal.App.3d 323 (1980)), the Court of Appeal reviewed the applicability of a San Jose charter section that read, "All appointments and promotions to positions in the Classified Services shall be made on the basis of merit and fitness,

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demonstrated by examination and other evidence of competence, in accordance with Civil Service Rules adopted in the manner provided in this Chapter.”

Aside from some semantic differences, the San Jose Charter language and the Torrance Charter language are essentially identical. Based on that language, the *Lucchesi* court set aside an ordinance that created a hiring preference for current city employees when filling new firefighter positions.

The reasoning of the *Lucchesi* court explained how this preference violated the charter requirement for hiring on the basis of “merit and fitness”:

“[T]he Ordinance takes into account only the status of employment rather than performance. No consideration is given to a City employee's performance record, attendance record, quality of work, or other substantive factors, in order to be placed on the preferred ‘promotional eligible’ list. Thus, a City employee with an extensive disciplinary record, poor work record, but a written test score of 80 percent or better, would be placed on the promotion eligible list and offered an available firefighter position before a non-City employee who scores 100 percent and who is on the ‘open competitive’ list.

“Further, in order to be on the preferred ‘promotional’ list, the City employee's prior employment history with the City does not have to include experience related to the position sought. City employment, in and of itself, is not evidence of competence. No evidence to the contrary was introduced by the City. For example, a City employee with no experience in a field related to the position sought, is not more competent than a non-City employee with 25 years of experience in a related field. Experience as a secretary, gardener or custodian within the City for even a considerable period of time is not more indicative of competence as a firefighter with the City than actual experience as a firefighter in another jurisdiction.” (329-330)

The court concluded that the use of existing city employment was an unreasonable classification, especially since it could result in employees with lower scores being appointed over non-employees with higher scores. There is nothing to support mere existing employment as “merit and fitness” for a particular position. The existing

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employment could be in an unrelated field, resulting in an employee without relevant experience being selected over a non-employee with relevant experience.

The parallels to the current situation with the Deputy Public Works Director position are clear. The tasks assigned to the unclassified Project Managers are similar to those for classified Associate Engineers, and as noted in previous counsel's opinion (dated August 15, 2005), the Project Manager position exceeds the Associate Engineer position in hierarchy, responsibility, and qualifications. With equal or greater work requirements for the Project Manager positions, it cannot reasonably be said the Project Managers lack "merit and fitness" or are not as qualified as the Associate Engineers for the Deputy Public Works Director position. If Project Managers were excluded from the examination for the Deputy Public Works Director position, it would be solely on the basis of their status as unclassified employees, and not on the basis of "merit and fitness" as dictated by the City Charter. By permitting the Project Managers and the Associate Engineers to all compete through the examination, the selection of the Deputy Public Works Director would be made on the basis of merit and fitness, as determined by competitive examination in accordance with the Charter.

2. Municipal Code Provisions

In California, a city charter, "represents the supreme law of [a city], subject, of course, to conflicting provisions in the United States and California Constitutions and to preemptive state law" *Harman v. City and County of San Francisco* (7 Cal. 3d 150, 161 (1972)(citations omitted)). The City's Civil Service rules were passed by ordinance, which must comply with the greater authority of the Charter. Therefore, when analyzing any of the Civil Service rules of the City, they cannot conflict with any applicable section of the City Charter.

Torrance Municipal Code section 14.1.15 states, "In the event examinations are held, the same shall be open and competitive. In such event appointments subsequently made shall be from those certified as being qualified as a result of such examinations and in accordance with the rules and regulations duly adopted." There is no language in this section regarding preference for existing employees in the classified service over non-classified employees. As discussed above, the Charter and case law would prevent using mere employment status as a qualification for examination. The plain language of this section supports the use of an open examination for the Deputy Public Works Director

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position, and does not appear to conflict with the Charter mandate for selection on merit and fitness.

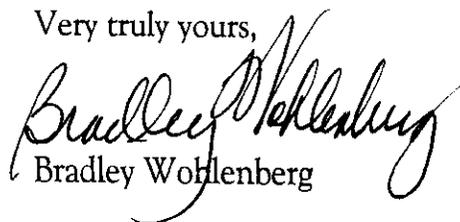
Division 1, Article 12 of the Torrance Municipal Code contains the rules for employment examinations. However, as explained above, this section must be interpreted in accordance with the controlling Charter provision. Sections 14.12.6 through 14.12.8 set up two types of competitive promotional examinations, one for employees in the same department as the promotional position, and one for employees in other departments. These are further limited by a requirement that employees be actually in the City's employ (or on leave) and have completed six months of service. There may be examinations where these requirements do provide some rational basis for exclusion of otherwise qualified applicants. However, in the case of the Deputy Director of Public Works position, where two groups of employees likely are qualified for the promotional position, these sections appear to exclude candidates based solely on existing employment status, and so may conflict with the Charter "merit and fitness" mandate.

We also examined section 14.1.29, but that applies only to department heads. The Deputy Director of Public Works is not considered a department head, and so Section 14.1.29 is not relevant to this issue.

Conclusion

Under the Charter, the guiding principle of appointments and promotions in the classified service is "merit and fitness," which is determined by competitive examination whenever practicable. With regard to the examination for Deputy Public Works Director, it is contrary to that Charter mandate to allow only certain categories of qualified employees to attempt to demonstrate that merit and fitness through examination. Solely using classified status to differentiate among employees with similar qualifications for the position does not appear to be a reasonable standard under Torrance City Charter section 1300 and applicable case law.

Very truly yours,


Bradley Wohlenberg

cc: John Fellows, City Attorney

Deputy Public Works Director/City Engineer

Definition

Under general direction, manages the activities of the Engineering division; manages specialized engineering work in the analysis, design and construction of public works infrastructure; acts for and represents the Director in specified areas; and performs related work as required.

Distinguishing Characteristics

The Deputy Public Works Director/City Engineer is distinguished from the Public Works Director in that the incumbent does not have responsibility for the entire department. Distinguished from division managers in that the incumbent is responsible for developing long-range plans for construction functions that cross divisional lines; and acts on behalf of the department head. Work is performed within a broad framework of general policy and requires creativity and resourcefulness to accomplish goals and objectives and to apply concepts, plans and strategies that may require non-traditional methods to achieve established goals and objectives. The incumbent exercises broad judgement in defining work objectives and determining methods and systems to meet objectives. Work is reviewed for overall results.

Supervision Exercised/Received

Receives general direction from the Public Works Director; provides direct supervision to managers, supervisors and support staff of the department.

Examples of Essential Duties

The following duties represent the principal job duties; however, they are not all-inclusive.

- Manages the work of staff including: coaching staff for improvement and development, training, assigning, reviewing and evaluating work performance; coordinating activities, maintaining standards, allocating personnel, selecting new employees, acting on employee problems and recommending and implementing employee discipline.
- Provides leadership, maintains effective employee relations and works with other department managers in the development and retention of competent personnel.
- Develops, implements and evaluates department plans, policies and procedures to achieve annual goals and objectives.
- Plans, assigns and directs the design and construction of municipal engineering projects.
- Plans, organizes, directs and reviews professional civil engineering work in the areas of development review, geographic imaging systems (GIS), permits and records, public works and water inspection, and utility standards review.
- Manage the administration of subdivisions, vacations, easements and encroachments.
- Reviews and recommends approval of engineering plans and specifications, cost estimates, and contract provisions.
- Plans and develops future infrastructure for community needs.
- Coordinate franchising licensing and grants.
- Supervises field inspections of contract construction work.
- Inspects field work in progress for compliance with policies, procedures, safety guidelines and work specifications.
- Plans, assigns and directs the operations and maintenance of roads, bridges, traffic control devices and other related public infrastructure.

- Develops and administers division budget; reviews and coordinates financial sources for funding projects; maintains accountability for all revenue generated by the Division.
 - Develops and implements department programs and capital improvements.
 - Develops and recommends a five (5) year Capital Improvement Program (CIP) of Public infrastructure projects and provides project management; conducts CIP and non-CIP review as required.
 - Conducts project and non-project field review.
 - Acts as the department liaison with internal and external teams and committees and other outside agencies including local and State officials and utility companies, the community, and other interested groups.
 - Keeps abreast of current engineering principles and practices, technology, regulations and literature that apply to City Public Works or infrastructure projects.
 - Stays abreast of current developments in legislation and trends, which may affect the City and/or department.
 - Implements and maintains Federal, State and local mandates.
 - Prepares reports and makes recommendations for City Council and commission agenda items.
 - Attends and conducts meetings as required.
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Examples of Other Duties

The following duties represent duties that are generally performed by this position, but are not considered to be principal job duties:

- Receives and responds to public inquiries and requests for assistance regarding current or planned projects and takes appropriate action to resolve problems.
 - Develops and reviews reports and other documents submitted by subordinates.
 - Participates in EOC operations as needed.
 - Performs related duties as required.
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Qualification Guidelines

Knowledge of:

- Civil Engineering principles and practices as applied to the field of public works, design, construction and operations including street and highway, hydraulic and mechanical operations, water and sewer systems, and urban drainage and hydrology, planning and development, inspections and GIS.
- Professional, technical, legal and financial issues involved in municipal engineering programs.
- Project management methods and practices, including methods of preparing designs, plans, specifications, estimates, reports and recommendations.
- Management and supervisory principles and practices.
- Budget preparation and administration principles and practices.
- Applicable Federal, State and local regulations.
- High quality customer service methodology and principles.
- Safety regulations as required by OSHA and other regulatory agencies.
- Hazards and safety principles involved in the construction and maintenance of public infrastructure.
- City ordinances and administrative rules and regulations affecting departmental operations and personnel matters.
- General City operations.

Ability to:

- Manage the work of subordinates including coaching, training, assigning, monitoring and evaluating work, counseling and disciplining staff, and resolving grievances.
- Plan, organize, assign, coordinate and manage the activities of professional, support staff, and outside contractors.

- Develop and monitor the division budget and establish budgetary controls.
 - Evaluate projects and determine cost-effective approaches.
 - Negotiate project or maintenance contracts on behalf of the division.
 - Analyze complex issues, evaluate alternative solutions, develop sound conclusions, and recommend a course of action.
 - Interpret and apply Memoranda of Understanding, City ordinances and administrative rules and regulations affecting departmental operations and personnel matters.
 - Develop, understand, interpret laws and execute rules, regulations, policies and procedures.
 - Establish and maintain effective working relationships with the City Council, public officials, other department heads, staff, private and community organizations and others encountered in the course of work.
 - Present proposals and recommendations effectively in public meetings.
 - Develop clear, concise, and comprehensive studies, reports, and agenda items.
 - Communicate effectively orally and in writing.
 - Read and understand technical reports, maps, drawings, contracts and specifications.
 - Operate office equipment including a computer, calculator, copier, and related systems such as Supervisory Control and Data Acquisition (SCADA).
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License and/or Certificate

Must possess and maintain the following:

- An appropriate, valid California driver's license.
 - A valid certificate of registration issued by the California State Board of Registration for Civil and Professional Engineers.
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Education and/or Experience

Any combination of education and experience that provides the required knowledge and skills is qualifying. A typical way of obtaining the necessary knowledge and abilities is:

Bachelor's degree from a college or university in Civil Engineering or a related field and eight (8) years of progressively responsible professional civil engineering experience involving the design and construction of a variety of public works projects, which includes at least five (5) years of management or supervisory experience.

Special Requirements

Performance of the essential duties of this position includes the following physical demands and/or working conditions:

Requires the ability to exert a small amount of physical effort in sedentary to light work involving moving from one area of the office to another; requires sufficient hand/eye coordination to use standard office equipment. Tasks require color and visual perception and discrimination, as well as oral communications ability; requires the ability to operate a motor vehicle. Tasks are regularly performed without exposure to adverse environmental conditions.

Career Ladder Information

Experience gained in this classification in addition to training and course work may serve towards meeting the minimum requirements for promotion to Public Works Director.