



CITY COUNCIL AGENDA STATEMENT



July 14, 2020

File ID: 20-0277

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA CERTIFYING THE NECESSITY OF APPOINTING A CALPERS RETIREE WITHIN 180-DAYS OF RETIREMENT, PURSUANT TO GOVERNMENT CODE SECTIONS 7522.56 AND 21224

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

Staff is requesting that City Council adopt a resolution waiving the 180-day separation period for CalPERS retiree Gary Halbert which will allow him to work in a limited duration capacity as an Assistant Director of Development Services. Under this temporary appointment expected not to exceed a total of 80 work hours, Mr. Halbert will be responsible for reviewing and responding to remaining Commercial Cannabis application appeals.

ENVIRONMENTAL REVIEW

The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

The California Public Employees' Retirement System (CalPERS) recognizes that retirees can play an important role in maintaining city operations, particularly in short-term or emergency situations; however, they also specify limitations on a retiree's service when returning to work for a CalPERS agency. Government Code sections 7522.56 & 21224 provides specific guidance on employing a CalPERS retiree without interruption to retirement benefits or reinstatement from retirement. Key terms of hiring a retired annuitant under the Government Code and by which the City will be following are:

- **The retiree must wait 180 days after his or her retirement date before he or she can return to work for a CalPERS employer, unless there is a qualifying exception.** Adoption of a Resolution by the City Council waiving the waiting period would fulfill the exception requirement for the limited duration appointment of Mr. Halbert.

- **The appointment of a retired annuitant must be for a limited duration.** CalPERS provides examples of work of limited duration to include work to eliminate a backlog, work on a special project, and work that is in excess of what regular staff can do. Mr. Halbert will be responsible for reviewing and responding to the remaining Commercial Cannabis appeals received from applicants who were sent a Notice of Decision and not chosen to proceed in the selection process. Prior to retiring from the City of Chula Vista on June 19, 2020, he reviewed and responded to all such appeals. Staff believes it would be most beneficial to the City to temporarily rehire Mr. Halbert, which would ensure that a consistent review process is applied to the remaining appeals. The temporary appointment will be made at the Assistant Director of Development Services level as similar duties are within the scope of the position.
- **The retired annuitant's salary must be an hourly pay rate that falls within the regular salary schedule for the position.** Mr. Halbert will be temporary appointed as an Assistant Director of Development Services (Step E) and earning an hourly pay rate of \$88.91. (Attachment A)
- **The retired annuitant cannot be paid any other compensation or benefits in addition to the hourly pay rate.** Section 2 and 3 of Mr. Halbert's employment agreement (Attachment B) specifies that his temporary appointment is not eligible to receive any compensation or benefits other than his hourly pay rate.
- **A maximum of 960 hours can be worked within a fiscal year (July 1 to June 30) and CalPERS does not provide any exception to this limit. Nonpaid or volunteer hours can't be used in order to exceed 960 hours in a fiscal year.** Mr. Halbert is expected to work no more than a total of 80 hours. The City will be required to enroll Mr. Halbert as a retired annuitant in the CalPERS system and report hours worked to CalPERS per Government Code section 21220.
- **The retiree will not accrue service credit or any additional retirement rights or benefits.** While the City is required to report hours worked by Mr. Halbert, those hours will not be counted as additional retirement service credits and reported only for the purposes of tracking the fiscal year hours limit.

The Employment Agreement (*Attachment B*) identifies the detailed terms of Mr. Halbert's temporary appointment. His knowledge and understanding of the Commercial Cannabis application and appeal process will enable him to efficiently and effectively complete the requirements of the temporary project within the expected total work hours. Mr. Halbert possesses specialized skills needed in performing work of a limited duration [21224(a)]. Furthermore, temporarily appointing Mr. Halbert will help ensure the continuity and consistency of the process for decisions on remaining appeals. Staff would like to request that City Council adopt a Resolution waiving the CalPERS 180-day waiting period and allowing the temporary appointment of Mr. Halbert as a retired annuitant effective July 15, 2020.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

In accordance with CalPERS requirements, Mr. Halbert will not be eligible for any compensation or benefits in addition to his hourly pay rate while working for the City as a retired annuitant. He will be earning an hourly pay rate of \$88.91. Given that the temporary assignment is expected to last up to, but no more than, 80 total hours, the maximum impact to the Fiscal Year 2020-2021 budget is estimated at \$7,215.94. This cost will be absorbed in the Administration Department budget.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact associated with the temporary appointment of Mr. Halbert as a retired annuitant.

ATTACHMENTS

Attachment A – FY2020-2021 Compensation Schedule for Assistant Director of Development Services

Attachment B – Agreement for Temporary Limited-Term Employment (G. Halbert)

Staff Contact: Courtney Chase, Director of Human Resources/Risk Management