

AN ORDINANCE 99630

**AN ORDINANCE ESTABLISHING AN EMPLOYEE-MANAGEMENT COMMITTEE TO PROVIDE A CONSULTATION PROCESS FOR MANAGEMENT AND EMPLOYEES TO DISCUSS ISSUES AND CONCERNS RELATING TO EMPLOYMENT CONDITIONS.**

\* \* \* \* \*

**WHEREAS**, the fair and equitable treatment of all employees of the City of San Antonio is essential to the effective operation of city government and to promoting better morale and efficiency among city employees;

**WHEREAS**, public employees and public employee organizations have rights to freedom of speech and association; and to be free from discrimination in exercising such rights;

**WHEREAS**, the effectiveness and efficiency of city services is improved by a constructive and cooperative working relationship between the City and its employees and through a structured communications process between the City and its employees on matters pertaining to wages, hours and other terms and conditions of employment;

**WHEREAS**, public employees have a right under state law and the City Charter of San Antonio to present and discuss grievances concerning their wages, hours, or conditions of work with City management either individually or through a representative;

**WHEREAS**, the public interest is best served by adopting clear guidelines and a structured process through which City employees can select representatives to meet and consult with their employer on matters pertaining to working conditions and to communicate their views through representatives of their own choosing; and

**WHEREAS**, it is in the public interest that the process for selection of employee representatives be fair but not unduly burdensome on the City;

**WHEREAS**, City representatives shall maintain a position of neutrality with respect to employee organizations and their role in labor - management issues;

**WHEREAS**, city employees are free to meet and talk with representatives of employee organizations in designated areas during non-work periods; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City Code of San Antonio, Texas, is amended to add a new Division 4 (Employee-Management Committee) to Article IV (Equal Opportunity and Employee Relations) of Chapter 2 (Administration), to read as follows:

**DIVISION 4. EMPLOYEE-MANAGEMENT COMMITTEE**

**SECTION 2-137. CONSULTATION WITH CITY EMPLOYEES.**

(a) City management will consult with employees and registered employee organizations on terms and conditions of employment through the Employee-Management Committee established by this division in accordance with the process established by this division.

(b) This division does not apply to an employee whose terms and conditions of employment are governed by a collective bargaining agreement authorized by state law or to an employee organization authorized to engage in collective bargaining with the city on behalf of its members.

(c) Nothing in this division is intended nor shall it be construed to authorize collective bargaining, a collective bargaining agreement of any type or characterization, or to recognize a registered employee organization as a bargaining agent for any group of employees. The City is not obligated to implement any issue discussed during consultations and retains the right to unilaterally determine employment conditions for employees.

(d) In this division,

- (1) "Consultation" means that the employees, representative(s) of registered employee organizations, and city management shall meet to discuss terms and conditions of employment affecting employees. Although no party is required to agree to a proposal, it is expected that all participants will consult in good faith to reach consensus on issues and matters raised.
- (2) "Employee" means an individual employed by the City, but does not include a confidential, or managerial employee or an employee described by subsection (b) of this section.
- (3) "Confidential employee" means an employee (i) who has access to confidential or discretionary information regarding the formulation of City policy or procedures; (ii) whose functional responsibilities or knowledge concerning employee relations makes the employee's membership in an employee organization incompatible with that employee's duties; or (iii) who is the executive secretary of the chief administrator or executive officer of a department.
- (4) "Managerial employee" means an employee who (i) is engaged predominantly in executive functions or (ii) charged with the responsibility of directing the effectuation of management policies and practices.
- (5) "Terms and Conditions of Employment" means wages, salaries, hours and other terms and conditions of employment with the city, including but not limited to:

- (A) compensation and incentive plans;
- (B) policies related to employee attendance, leave and hours of employment;
- (C) recommendations concerning employee health insurance, life insurance and other employee benefits;
- (D) the grievance process (but not an individual or group grievance that is to be considered pursuant to that process);
- (E) recommendations made to the Legislature concerning the terms and conditions of covered employees;
- (F) training, safety, and equipment; and
- (G) all other issues related to working conditions, wages, hours and conditions of employment.

**SECTION 2-138. EMPLOYEE-MANAGEMENT COMMITTEE.**

(a) The Employee-Management Committee will consist of the following:

- (1) One (1) representative from each registered employee organization;
- (2) One (1) city employee member of each registered employee organization, as designated by the registered employee organization;
- (3) One (1) representative from the City Manager's Office;
- (4) One (1) representative from the Human Resources Department (Director of Human Resources or designee);
- (5) Three (3) Department Directors (on a rotating basis); and
- (6) One (1) employee from each of the EEO categories designated in Section 2-138, subsection C.

(b) For purposes of this division, a "registered employee organization" means an association or organization that includes among its members employees of the City of San Antonio and that exists for the purpose of dealing with an employer concerning terms and conditions of employment, and which meets all of the following eligibility criteria:

- (1) certified copies of the association or organization's charter, bylaws, and a listing of the name, address, and phone number of the business agent for the association and the officers of the association, and any amendments thereto, have been provided to and are on file with the Director of Human Resources; and
- (2) the Director of Human Resources has sufficient evidence that the association or organization represents, as members, either (i) five percent (5%) of the total number of employees "eligible" or "targeted" for membership by the association or organization, if that population is less than one thousand (1,000) employees, or (ii) fifty (50) employees. A signed form authorizing deduction and payment of dues to an association or organization from an employee's paycheck shall be considered proof of membership by that employee. The Director of Human Resources shall audit the membership requirement established by this subsection (b)(2) on a semi-annual basis. An association or organization that does not meet this eligibility requirement shall be given a three-month notice and the opportunity to provide evidence of sufficient membership before losing eligibility to participate on the Employee-Management Committee.
- (3) Organizations not certified within thirty (30) days of the establishment of this ordinance may only petition for recognition and respective representation on the committee during the

semi-annual certification/audit period mentioned in subsection (b)(2).

(4) Representatives seated in accordance with (a)(1) & (a)(2) of this section shall collectively cast a single vote.

(c) An election will be conducted bi-annually by the City Clerk's Office to determine the representation for each EEO category/unit listed below. "Representation" can be by either a registered employee organization or individual employee:

- (1) Office/Clerical;
- (2) Para-professionals;
- (3) Protective Services;
- (4) Professionals;
- (5) Service Maintenance;
- (6) Skilled Craft; and
- (7) Technician.

1. To be placed on the ballot, a registered employee organization or an individual employee must submit a petition approved by the City Clerk's Office with signatures representing a minimum of ten percent (10%) of employees in the respective EEO category. The signatures will be certified by the City Clerk's Office, with assistance provided by the Human Resources Department.
2. Eligible "candidates" will be placed on the ballot in random order as determined by drawing. The organization or individual that receives a majority of the votes during the election shall be deemed the representative for the category. In the event that no organization or individual gets a majority of the vote, a run off election will be held between the two candidates who receive the greatest number of votes.
3. For individual employees, they shall select an alternate at least five business (5) days prior to the election. The individual's and alternate's names both shall appear on the ballot as a ticket.
4. Registered employee organizations shall select the representatives in a manner of their choosing. The employees they select may change at any time at the organization's discretion.
5. The winners of the elections in each EEO category will serve for two (2) years, to coincide with the Fiscal Year.
6. Due to the timing of the effective date of this ordinance to the fiscal year, the first term will be guided by the timeline set forth in Appendix A.

(d) Any employee on the Committee must have completed his or her initial probationary period and must not have incurred any of the following disciplinary actions within the six (6) months prior to selection: suspension, disciplinary demotion, or termination. Any employee who resigns from the City or who receives a finalized disciplinary suspension, demotion or termination during his or her term will be removed from the committee and the alternate employee in that category will be selected to serve the remainder of that member's term.

(e) Each employee organization will designate one (1) covered employee from its membership. A committee member selected under this subsection serves at the pleasure of their respective organization(s). A change in a designated representative by an employee association/organization shall be communicated in writing to the Human Resources Department at least ten (10) days prior to the meeting.

(f) If for any reason any employee cannot or chooses not to serve the full term, the alternate employee will serve the remainder of that employee's term. That alternate shall then select a qualified alternate from the respective EEO category.

(g) All employee committee members will be paid for time spent at meetings, even if not assigned to 7:45 a.m. – 4:30 p.m. shift.

#### **SECTION 2-139. MEETINGS OF THE EMPLOYEE-MANAGEMENT COMMITTEE.**

(a) The Employee-Management Committee shall be scheduled to meet at least once each quarter, or more frequently as determined by the City Manager.

(b) An agenda will be distributed to all members at least five (5) business days prior to each meeting and include all topics of discussion. Topics must involve issues of a general nature or suggestions for improved or more effective operation on a citywide basis. The agenda for the following meeting will be discussed and voted on for approval at each meeting of the committee, with topics receiving a majority vote placed on the agenda for the next meeting.

(c) Meetings of the Employee-Management Committee shall be audio taped. A copy of the audiotape of each meeting shall be retained by the Director of Human Resources in accordance with applicable state law.

(d) Meetings will be of an informal nature. Minutes, including items discussed and solutions proposed, will be prepared by the Human Resources Department and copies will be provided to all committee members at least five (5) business days prior to the next meeting. Minutes shall be approved by majority vote of the members in attendance at the meeting for which minutes are proposed, with such vote being documented by signatures of the members present and said document being attached to the approved minutes. The Director of Human Resources shall retain a copy of the approved minutes in accordance with applicable law.

(e) The Director of Human Resources shall report on the status of consultations through the Employee-Management Committee during the annual budget presentation to the City Council and to the appropriate City Council committee as established by ordinance, as needed or desired by the committee or its Chair.

#### **SECTION 2-140. EMPLOYEE RIGHTS CONCERNING EMPLOYEE ORGANIZATIONS.**

(a) An employee shall not be discriminated against for discussing or expressing his or her view regarding workplace issues, membership in and/or representation by an employee organization.

(b) City employees are free to communicate with one another and with representatives of employee organizations on pertinent issues and to receive and distribute literature regarding union issues during non-work periods and in non-work areas.

**SECTION 2-241. REVIEW**

(a) This ordinance will be reviewed in its entirety by the City Council of the City of San Antonio six (6) months prior to the end of FY 2006 (March 2006) and thereafter every four (4) years.

**SECTION 3.** This Ordinance is effective ten days from the date of passage.

**PASSED AND APPROVED THIS 26<sup>th</sup> DAY OF AUGUST, 2004.**



**MAYOR**

**EDWARD D. GARZA**

ATTEST: *Leticia M. Vaca*  
City Clerk

APPROVED AS TO FORM: *Andrew Martini*  
City Attorney

## **Appendix A**

### **Initial Certification and Election Timeline**

Ordinance Adoption	August 26, 2004
Ordinance Effective Date	September 7, 2004
Unions/Organizations to provide Human Resources Department with necessary documentation to be recognized	October 8, 2004
Final Date for Human Resources Department to certify Unions/Organizations	October 29, 2004
Petition Filing Deadline to get onto ballots for EEO Units Election	December 15, 2004
Election for EEO Unit Representatives	January 14, 2005
Run-off Election (if needed)	January 28, 2005
Elected Representatives Begin Terms	February 1, 2005
First Term Ends	September 30, 2006

### **Subsequent Elections Timeline**

Deadline to hand in Petitions to get on Ballots	End of July
Elections Held	End of August
Two-Year Term Begins	October 1

# Agenda Voting Results

*Main Motion as amended*

**Name:** 21.

**Date:** 08/26/04

**Time:** 08:26:10 PM

**Vote Type:** Multiple selection

**Description:** 21. An Ordinance to establish an Employee-Management Committee to provide a consultation process for management and employees to discuss issues and concerns relating to employment conditions [Presented by Sharon De La Garza, Director, Human Resources; Frances A. Gonzalez, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
JOEL WILLIAMS	DISTRICT 2	Not present			
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9		x		
CHRISTOPHER "CHIP" HAAS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR	Not present			

# Agenda Voting Results

**Name:** Item 21 - Amendment 2 as presented by Councilman Barrera

**Date:** 08/26/04

**Time:** 08:24:08 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
JOEL WILLIAMS	DISTRICT 2	Not present			
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8			x	
CARROLL SCHUBERT	DISTRICT 9		x		
CHRISTOPHER "CHIP" HAAS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR	Not present			