

RESOLUTION NO. 6121

A RESOLUTION OF THE CITY OF SANTA PAULA ESTABLISHING RULES AND REGULATIONS GOVERNING EMPLOYER-EMPLOYEE RELATIONS

The City Council for the city of Santa Paula does resolve as follows:

The City Council adopts the following rules and regulations governing employer-employee relations:

Article I – General Provisions

Sec. 1. Statement of Purpose:

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned “Local Public Employee Organizations,” by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. However, nothing contained herein will supersede the provisions of state law, City ordinances, resolutions and rules which establish and regulate the merit and civil service system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen merit, civil services and other methods of administering relations by establishing uniform and orderly methods of communications between employees, employee organizations and the City.

It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly and significantly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law. However, nothing herein will restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or other lawful reasons; determine the content of job classifications; subcontract work and transfer work out of a bargaining unit; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Sec. 2. Definitions:

Unless the contrary is stated or clearly appears from the context, the definitions set forth below will govern the construction of the words and phrases used in this Resolution:

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a. "Appropriate unit" means a unit of employee classes or positions, established pursuant to Article II, below.

b. "City" means the City of Santa Paula, and, where appropriate, refers to the City Council or any duly authorized City representative as herein defined.

c. "Confidential Employee" means an employee who, in the course of his or her duties, has access to confidential information relating to the City's administration of employer-employee relations.

d. "Consult/Construction in Good Faith" means to communicate orally or in writing with any or all employee organizations, whether exclusively recognized or not, for the purpose of presenting and obtaining views or advising of intended actions; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposal with an exclusively recognize employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article IV, below.

e. "Day" means calendar day unless expressly stated otherwise.

f. "Employee Relations Officer" means the City Manager, or designee.

g. "Impasse" means that the representatives of the City and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

h. "Management Employee" means an employee having responsibility for formulating, administrating or managing the implementation of City policies and programs.

i. "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee is not proof of employee support for any employee organization. The only authorization, which is considered as proof of employee support hereunder is the authorization last signed by an employee. The words "recently signed" means within ninety (90) days before filing a petition.

j. "Exclusively Recognized Employee Organization" means an employee organization which is formally acknowledged by the City as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article II, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

k. "Supervisory Employee" means any employee having authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not merely routine or clerical, but requires the use of independent judgment.

Article II – Representation Proceedings

Sec. 3. Filing of Recognition Petition by Employee Organization:

An employee organization, which seeks to be formally acknowledged as an Exclusively Recognized Employee Organization representing the employees in an appropriate unit, must file a petition with the Employee Relations Officer containing the following information and documentation:

- a. Name and address of the employee organization.
- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- d. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the City.
- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
- f. Certified copies of the employee organization's constitution and bylaws.
- g. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.

h. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, mental or physical disability or medical condition.

i. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.

j. A petition for certification must be accompanied by proof of employee approval equal to at least thirty percent (30%) of the employees within the proposed unit. Proof may be shown by payroll dues deductions, membership cards, signed authorization cards or petitions or statements of intent signed by the employees.

k. A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The Petition, including the proof of employee support and all accompanying documentation, must be declared to be true, correct and complete under penalty of perjury under the laws of the state of California, by the duly authorized officer(s) of the employee organization executing it.

Sec. 4. City Response to Recognition Petition:

Upon receipt of the Petition, the Employee Relations Officer must determine whether:

- a. There was compliance with the requirements of the Recognition Petition, and
- b. The proposed representation unit is an appropriate unit in accordance with Sec. 8. of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she must so inform the petitioning employee organization, give written notice of such request for recognition to the employees in the unit and take no action on said request for thirty (30) days thereafter. If any of the foregoing matters are not affirmatively determined, the Employee Relations Officer will offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, must provide written notice to the organization regarding the reasons the determination is unchanged. The petitioning employee organization may appeal such determination in accordance with Sec. 10 of this Resolution.

Sec. 5. Open Period for Filing Challenging Petition:

Within thirty (30) days after the date written notice was given to affected employees that a valid recognition petition for an appropriate unit was filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classification or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Sec. 3 of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer must call for a hearing on such overlapping petition for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations information will be reviewed. Thereafter, the Employee Relations Officer will determine the appropriate unit or units in accordance with the standards in Sec. 8 of this Article II. The petitioning employee organizations have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Sec. 10 of this Article II.

Sec. 6. Election Procedure:

The Employee Relations Officer must arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s) in accordance with these rules and procedures. All employee organizations who have duly submitted petitions, determined to be in conformance with this Article II by the Employee Relations Officer, must be included on the ballot. The ballot must also reserve to employees the choice of representing themselves individually in their employment relations with the City. Employees entitled to vote in such election are those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately before the date ending at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. An employee organization must be formally acknowledged by the Employee Relations Officer as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election must be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There cannot be more than one valid election under this Resolution pursuant to any petition in a twelve (12) month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct election, the election will be conducted by the California State Mediation and Conciliation Service.

Costs of conducting elections will be borne in equal shares by the City and by each employee organization appearing on the ballot.

Sec. 7. Procedure for Decertification of Exclusively Recognized Employee Organization:

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of July of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred twenty (120) days before the termination date of a Memorandum of Understanding which was in effect less than three (3) years, whichever occurs later. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and must contain the following information and documentation declared by the duly authorized signatory under penalty of perjury under the laws of the state of California to be true, correct and complete:

- a. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- b. The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.
- c. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- d. Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof must be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this Section in the form of Recognition Petition that evidences proof of employee support of at least thirty (30) percent, that includes the allegation and information required under paragraph (c.) of this Sec. 7, and otherwise conforms to the requirements of Sec. 3 of this Article.

The Employee Relations Officer must initially determine whether the Petition was filed in compliance with the applicable provisions of this Article II. If the Employee Relations Officer determines that the Petition is not in compliance, he/she must offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, must return such Petition to the employees or

employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Sec. 10 of this Article II. If the Employee Relations Officer determines that the Petition does comply, or if a previous determination of noncompliance is reversed on appeal, he/she must give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

The Employee Relations Officer must thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election must be conducted in conformance with Sec. 6 of this Article II.

During the "open period" specified in the first paragraph of this Sec. 7, the Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be organized, inform all unit employees that there will be an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with this Sec. 7, which the Employee Relations Officer must act on in accordance with this Sec. 7.

If, pursuant to this Sec. 7, a different employee organization is formally acknowledged by the Employee Relations Officer as the Exclusively Recognized Employee Organization, such organization will be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

Sec. 8. Policy and Standards for Determination of Appropriate Units:

The policy objectives in determining the appropriateness of units will be the effect of a proposed unit on (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit be the broadest feasible grouping of positions that shares an identifiable community of interest. Factors to be considered are:

a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

b. History of representation in the City and similar employment; except however, that no unit is deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

c. Consistency with the organizational patterns of the City.

d. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classification and proliferation of units.

e. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classification among two or more units.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Sec. 2 of this Resolution, are determining factors in establishing appropriate units hereunder. Therefore managerial, supervisory and confidential employees may only be included in a unit consisting solely of managerial, supervisory or confidential employees respectively. Managerial, supervisory and confidential employees may not represent any employee organization, which represents other employees.

Peace officers may join, participate in, and be represented by separate units composed solely of such peace officers. These units are not subordinate to any other employee organization.

The Employee Relations Officer must, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section. The decision of the Employee Relations Officer is the City's final decision.

Sec.9. Procedure for Modification of Established Appropriate Units:

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Sec.7 of this Article II. Such requests must be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Sec.3 of this Article, contain a complete statement of all relevant facts and documents in support of the proposed modified unit in terms of the policies and standards set forth in Sec.8 hereof. The Employee Relations Officer must process such petitions as other Recognition Petitions under this Article II.

The Employee Relations Officer may on his/her own motion propose during the period specified in Sec.7 in this Article that an established unit be modified. The Employee Relations Officer may at the request of any employee or group of employees, or by his/her own motion propose that an established unit be modified. The Employee Relations Officer must give written notice of the proposed modification(s) to any affected employee organization and hold a meeting concerning the proposed modification(s), at which time all affected employee organizations, will be heard. Thereafter the Employee Relations Officer must determine the composition of the appropriate unit or units in accordance with Sec.8 of this Article II, and give written notice of

such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Sec. 10 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer, employee organizations may then file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Sec.3 hereof.

Sec. 10. Appeals:

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer under Sec. 9 of this Article may, within ten (10) days of notice thereof, request the intervention of the California State Mediation and Conciliation Service pursuant to Government Code Sections 3507.1 and 3507.3, or may, in lieu thereof or thereafter appeal such determination to the City Council for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of proceedings pursuant to Government Code Sections 3507.1 and 3507.3, whichever is later.

An employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Sec. 3); Challenging Petition (Sec. 5) or Decertification Petition (Sec. 7) – or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Sec. 7) – has not been filed in compliance with the applicable provisions of this Article may, within fifteen (15) days of notice of such determination, appeal the determination to the City Council for final decision.

Appeals to the City Council must be filed in writing with the City Clerk, and a copy thereof served on the Employee Relations Officer. The City Council will commence to consider the matter within thirty (30) days of the filing of the appeal. The City Council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the City Council on the use of such procedure, and/or any decision of the City Council determining the substance of the dispute is the City's final decision.

Article III – Administration

Sec. 11. Submission of Current Information by Recognized Employee Organizations:

All changes in the information filed with the City by an Exclusively Recognized Employee Organization under items (a.) through (h.) of its Recognized Petition under Sec. 3 of this Resolution must be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Sec. 12. Payroll Deductions On Behalf of Employee Organizations:

Upon formal acknowledgement by the City of an Exclusively Recognized Employee Organization under this Resolution, only that Recognized Employee Organization may be paid

payroll deductions of membership dues and insurance premiums for plans sponsored by that Organization. However, receipt of these funds is subject to written authorization of employees in the unit represented by the Exclusively Recognized Employee Organization on forms provided for such service to the Exclusively Recognized Employee Organization by the City and subject to the provisions of Memoranda of Understanding and/or applicable administrative procedures.

Sec. 13. Employee Organization Activities – Use of City Resources:

Access to City work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them are authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, are limited to lawful activities consistent with the provisions of this Resolution that pertain directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for public office, and organization meetings and elections, and must not interfere with the efficiency, safety and security of City operations.

The City will furnish adequate bulletin board space where available and recognized employee organizations may use portions of City bulletin boards under the following conditions:

- No materials shall be defamatory, violate the City's Personnel Rules, nor shall they advocate election or defeat of candidates for public office.
- All materials must be dated and must identify the organization that published them.
- The actual posting of materials will be done as soon as possible after they have been approved. Unless special arrangements are made, materials posted will be removed 31 days after the publication date.
- The City reserves the right to determine where bulletin boards shall be placed and what portion of them are to be allocated to recognized employee organizations' materials.

A recognized employee organization that does not abide by these rules will forfeit its right to have materials posted on City bulletin boards.

Sec. 14. Administrative Rules and Procedures:

The City Manager is authorized to promulgate administrative policies and procedures as needed to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

Sec. 15. Reasonable Time Off to Meet and Confer:

The formally recognized employee organization may select not more than three employee members of such organization to attend scheduled meetings with the Municipal Employee Relations Officer or other management officials on subjects within the scope of representation during regular work hours without loss of compensation. Where circumstances warrant, the

Municipal Employee Relations Officer may approve the attendance at such meetings of additional employee representatives without loss of compensation. The employee organization must, whenever practicable, submit the names of all such employee representatives to the Municipal Employee Relations Officer at least two working days in advance of such meetings.

Provided, further:

1. That no employee representative may leave his or her duty or work station or assignment without specific approval of his supervisor, department head or other authorized City management official.
2. That any such meeting is subject to scheduling by City management in a manner consistent with operating needs and work schedules.

Nothing provided herein, however, limits or restricts City management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances.

Sec. 16. Access to Information:

The City will make non-confidential employee information available to Exclusively Recognized Employee Organizations in accordance with the requirements of the California Public Records Act (Cal. Gov't Code sec. 6250 et seq.) Access to this information will be made during regular hours and subject to payment of reasonable costs for copying. In addition, the City will impose additional charges for requests for records that are produced only periodically or for requests that require programming, or compilation or extraction of electronic data.

The following types of information are examples of the type of information that is not subject to this provision:

- Personnel, medical and similar files, the disclosure of which would cause the City to violate individual privacy rights;
- Working papers or memoranda that are not retained in the ordinary course of business;
- Records pertaining to pending litigation to which the City is a party;
- Records pertaining to claims or appeals that the City has not yet settled; or
- Records for which the public interest served by non-disclosure clearly outweighs the public interest served by disclosure of the record.

Article IV – Impasse Procedures

Sec. 17. Initiation of Impasse Procedures:

If the meet and confer process has reached impasse as defined in Sec. 2 of this Resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its positions on all issues.

An impasse meeting must then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting will be.

a. To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding: and

b. If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

Sec. 18. Impasse Procedures:

Impasse procedures are as follows.

a. Mediation- If the parties agree to submit the dispute to meditation, and agree on the selection of a mediator, the dispute will be submitted to meditation. All mediation proceedings must be private. The mediator may not make public recommendations or take any public position at any time concerning the issues being mediated.

b. Determination by the City Council- If the parties did not agree on mediation or the selection of mediator, or having so agreed, the impasse has not been resolved, the City Council may take such action regarding the impasse, as in its discretion deems appropriate as in the public interest. Any legislative action by the City Council on the impasse is the City's final decision.

Sec. 19. Costs of Impasse Procedures:

The cost for the services of a mediator and fact-finder or chairperson of a fact-finding panel utilized by the parties, and other mutually incurred costs of mediation and fact finding, will be borne equally by the City and Exclusively Recognized Employee Organization. The cost for a fact-finding panel member selected by each party, and other separately incurred costs, will be borne by such party.

Article V –Miscellaneous Provisions

Sec. 20. Construction:

This resolution will be administered and construed as follows:

a. Nothing in this Resolution may not be construed to deny to any person, employee, organization, the City, or any authorized officer, body or other representative of the city, the rights, powers and authority granted by federal or state law.

b. This Resolution must be interpreted so as to carry out its purpose as set forth in Article I.

c. Nothing in this Resolution may not be construed as making the provisions of California Labor Code § 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the City, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they subject themselves to discipline up to and including termination, and may be replaced, to the extent such actions are not prohibited by preemptive law.

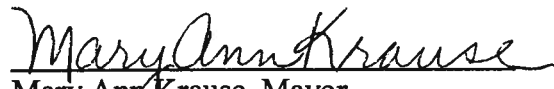
Sec. 21. Severability

If any part of this resolution or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Resolution are severable.

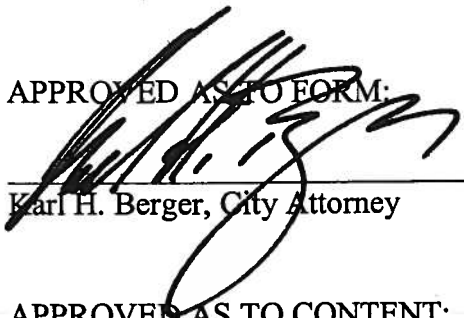
Sec. 22. Effective Date

This Resolution becomes effective immediately upon adoption.

PASSED AND ADOPTED this 6th day of June, 2005.


Mary Ann Krause, Mayor

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

APPROVED AS TO CONTENT:



Wally Bobkiewicz, City Manager

STATE OF CALIFORNIA }
COUNTY OF VENTURA } ss
CITY OF SANTA PAULA }

I, Josie G. Herrera, City Clerk of the City of Santa Paula, do hereby certify that the above and foregoing Resolution No. 612 was duly passed and adopted by the City Council of the City of Santa Paula at a regular meeting thereof held on June 6, 2005, by the following vote:

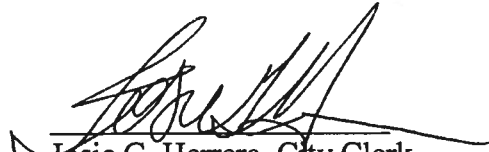
AYES: Aguirre, Luna, Procter, Cook, Krause

NOES: None

ABSTAIN: None

ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City this 6 day of June, 2005.


Josie G. Herrera, City Clerk



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6/30/2005

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