



## City of Sacramento City Council

915 I Street, Sacramento, CA, 95814  
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**Meeting Date:** 1/15/2013

**Report Type:** Staff/Discussion

**Title:** Appointment of Sabina Gilbert as a Temporary Employee under California Government Code Sections 7522.56 and 21224

**Report ID:** 2013-00087

**Location:** Citywide

**Recommendation:** Pass a Resolution Appointing Sabina Gilbert as a Temporary Employee under California Government Code Sections 7522.56 and 21224.

**Contact:** Max Fernandez, Community Development Director, (916) 808-7940, Community Development Department

**Presenter:** Max Fernandez, Community Development Director, (916) 808-7940, Community Development Department

**Department:** Community Development Dept

**Division:** Long Range Planning

**Dept ID:** 21001222

**Attachments:**

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- 1-Description Analysis
- 2-Background
- 3-Resolution

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**City Attorney Review**

Approved as to Form  
 Sandra Talbott  
 1/10/2013 10:49:39 AM

**City Treasurer Review**

Reviewed for Impact on Cash and Debt  
 Russell Fehr  
 1/10/2013 8:30:55 AM

**Approvals/Acknowledgements**

Department Director or Designee: Max Fernandez - 1/10/2013 9:37:55 AM



## Description/Analysis

**Issue:** The Community Development Department is in the process of developing a new Planning and Development Code to replace the existing Zoning Code (Title 17 of the Sacramento City Code). Sabina Gilbert, the attorney who primarily worked with the planning division, retired from city employment on December 28, 2012. Due to the complexity of the Zoning Code and given her specialized skills and institutional knowledge, the City desires to appoint Ms. Gilbert to work for the City to provide temporary extra help with the preparation and adoption of the new Planning and Development Code.

**Policy Considerations:** The Public Employee's Retirement Law (PERL) generally prohibits CalPERS employers from hiring retirees unless they are first reinstated from retirement. An exception to this rule is found under Government Code sections 7522.56 and 21224, provided certain key eligibility requirements are satisfied.

Under the Government Code, a retiree may serve without reinstatement during an emergency to prevent stoppage of public business; or when the services of a retiree possessing specialized skills are needed for a limited duration.

This employee has specialized skills and the institutional knowledge needed to perform work of a limited duration as temporary extra help due to the complexity of the Zoning Code and the institutional knowledge of its application obtained over many years, required in its revision. Updating the Zoning Code was identified as a priority implementation measure of the City's 2030 General Plan when it was adopted in 2009. The City's economic development strategy also calls for zoning regulatory reform. The current economic challenges facing the City indicate an urgent need to ensure new development and business attraction are not hampered by outdated and unnecessarily burdensome regulations.

**Economic Impacts:** None

**Environmental Considerations:** This report concerns administrative activities that will not have any significant effect on the environment, and that do not constitute a "project" as defined by CEQA [CEQA Guidelines Sections 15061(b)(3) and 15378(b)(2)].

**Sustainability:** Not applicable.

**Commission/Committee Action:** Not applicable.

**Rationale for Recommendation:** Because the work of revising the Zoning Code is substantially underway, it is essential that the current momentum be maintained in order to complete this project without delay. Appointing Ms. Gilbert will ensure that existing knowledge and skills can be put to immediate use in completing this important task. All other options, such as hiring a new staff person or hiring a consultant would be less efficient, less effective and would result in substantial delay because no other attorney possesses the extent and depth of knowledge of the particularities of the Sacramento Zoning Code, existing City procedures, and the plan to improve both.

**Financial Considerations:** Retirees are restricted to a maximum of 960 hours of work each fiscal year regardless of whether the retiree works for one or more employers. The agreement with the retiree requires that her hours not exceed 960 hours for any employer during the 2012-2013 fiscal year and that notice be provided to the City when the maximum number of hours is reached.

The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule, divided by 173.333 to equal an hourly rate. The annual pay for a Senior Deputy City Attorney in the City of Sacramento is a minimum \$101,253 to a maximum of \$151,879. The hourly rate for the retiree will be based on an annual rate within this pay scale of \$144,233. The monthly rate is \$12,018.93 and the hourly rate is \$69.34.

A retired person shall not receive any benefit, incentive, and compensation in lieu of benefits or other form of compensation in addition to the hourly pay rate.

CalPERS member cities may not hire a retiree if the retiree has collected unemployment during the 12 months preceding the appointment. The retiree has certified that she has not collected unemployment during the 12 months preceding her appointment.

Funding for the position will be provided by the Community Development Department operating budget with salary savings from vacant positions. There will be no negative effect on the General Fund.

**Emerging Small Business Development (ESBD):** Not applicable.

## Background

Sabina Gilbert (“Retiree”) retired from the City of Sacramento in the position of Senior Deputy City Attorney effective December 28, 2012. She has worked for many years as advisor to the City’s Planning Division and Planning Commission. She is familiar with the General Plan and Zoning Code, and has been working on implementing the plan by assisting Planning staff in revising the zoning regulations.

Updating the Zoning Code was identified as a priority implementation of the 2030 General Plan in 2009, and the City Manager has directed that the code be completed this year. An initial draft of the code is well underway, and loss of Ms. Gilbert’s expertise would be a serious setback to timely completion of this important project.

Under California Government Code sections 7522.56 and 21224, a retired person may serve without reinstatement from retirement or loss of interruption of benefits provided by CalPERS either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration.

The Retiree has specialized skills and the institutional knowledge needed to perform work of a limited duration as temporary extra help due to the institutional knowledge of its application she has obtained over many years, given the complexity of the Zoning Code and the unique understanding she has of the work required in its revision.

The annual pay for a Senior Deputy City Attorney in the City of Sacramento is a minimum \$101,253 to a maximum of \$151,879. The hourly rate for the retiree will be based on an annual rate within this pay scale of \$144,233. The monthly rate is \$12,018.93 and the hourly rate is \$69.34, therefore pay of \$69.34 per hour is within the salary permitted by the Government Code.

The Retiree has attained “normal retirement age” as that term is used in the Government Code and therefore no bona fide separation is required. The retiree has received no retirement incentives. The City desires to appoint Retiree to work for the City to provide temporary extra help and it is within the authority of the City Attorney to execute an employment agreement with Retiree.



## RESOLUTION NO.

Adopted by the Sacramento City Council

### **A RESOLUTION APPOINTING SABINA GILBERT AS A TEMPORARY EMPLOYEE UNDER CALIFORNIA GOVERNMENT CODE SECTIONS 7522.56 AND 21224**

#### BACKGROUND

- A. Sabina Gilbert (“Retiree”) retired from the City of Sacramento in the position of Senior Deputy City Attorney effective December 28, 2012.
- B. Under California Government Code sections 7522.56 and 21224, a retired person may serve without reinstatement from retirement or loss of interruption of benefits provided by CalPERS either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration.
- C. The Retiree has specialized skills and the institutional knowledge needed to perform work of a limited duration as temporary extra help due to the institutional knowledge of its application she has obtained over many years, given the complexity of the Zoning Code and the unique understanding she has of the work required in its revision.
- D. The annual pay for a Senior Deputy City Attorney in the City of Sacramento is a minimum \$101,253 to a maximum of \$151,879. The hourly rate for the retiree will be based on an annual rate within this pay scale of \$144,233. The monthly rate is \$12,018.93 and the hourly rate is \$69.34, therefore pay of \$69.34 per hour is within the salary permitted by the Government Code.
- E. The Retiree has attained “normal retirement age” as that term is used in the Government Code and therefore no bona fide separation is required. The retiree has received no retirement incentives.
- F. The City desires to appoint Retiree to work for the City to provide temporary extra help and it is within the authority of the City Attorney to execute an employment agreement with Retiree.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The Retiree is appointed to work for the City pursuant to Government Code sections 7522.56 and 21224 to provide temporary extra help and to perform work of a limited duration.

Section 2. The appointment shall be effective on January 15, 2013 and will not exceed a total of 960 hours in the 2012-2013 fiscal year, regardless of whether the Retiree works for one or more employers.

Section 3. The Retiree's sole compensation from the City shall be payable at the rate of \$69.34 and Retiree will not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to this hourly pay rate.

Section 4. The City Attorney has authority to execute an employment agreement under the terms as described above.