



City of San Leandro

Meeting Date: July 16, 2018

Staff Report

File Number: 18-317

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.K.

TO: City Council

FROM: Jeff Kay
Acting City Manager

BY: Jeff Kay
Acting City Manager

FINANCE REVIEW: Not Applicable

TITLE: Staff Report for a Resolution of the City Council of the City of San Leandro Affirming the City's Continued Cooperation with the Public Sector Unions in the City of San Leandro to Ensure their Health and Success; and Supporting the Freedom of City of San Leandro Employees to Collectively Bargain After a United States Supreme Court Decision in *Janus v. AFSCME*

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council review and consider adoption of the attached resolution, affirming support for public sector unions and City employees in response to an anticipated ruling by the U.S. Supreme Court in *Janus v. AFSCME*.

BACKGROUND AND ANALYSIS

At the May 21, 2018 City Council meeting, the City Council directed staff to bring forward a resolution affirming support for City workers and unions in the face of an anticipated ruling in *Janus v. AFSCME*.

At the time of writing of this staff report, this case is currently pending before the United States Supreme Court and a decision is anticipated soon. The case involves a challenge to the Illinois Public Labor Relations Act, which, like laws in California and 32 other states, requires public employees represented by unions to pay an "agency fee" to the union if an employee does not wish to pay full dues. The plaintiff contends that the agency fee requirement amounts to "compelled speech" in violation of the First Amendment.

A 1977 Supreme Court case, *Abood v. Detroit Board of Education*, gave public employees represented by a union the right to opt-out of paying full dues, but upheld the legality of requiring them to pay an "agency fee," sometimes referred to as a "fair share" fee. That fee is an amount calculated to cover the costs of representation. It does not include the costs of political activities.

California's Educational Employment Relations Act ("EERA") requires payment of agency fees as a condition of employment. Employers covered by the Meyers-Milias-Brown Act ("MMBA") may negotiate agency fee provisions or employees may establish them via an election.

If the Court rules that agency fee requirements violate the First Amendment, the provisions of the MMBA and EERA that provide for them will no longer be valid. The precise effect on Memorandum of Understanding (MOU) agency fee provisions will depend on the language of the decision.

Based on the Justices' votes in prior cases and their comments and questions during oral argument, the Court is expected by some observers to rule that agency fee requirements do violate the First Amendment. If that happens, public agencies may need to react quickly to achieve compliance. San Leandro's Human Resources Division has already begun preparations including outreach to potentially impacted bargaining groups.

In the meantime, the attached resolution affirms the City's commitment to the rights of public sector employees to fair compensation and working conditions, as well as their right to collectively bargain. Further, the resolution affirms the City Council's acknowledgement of the value of public sector employees in providing a high quality of life for the entire community.

ATTACHMENT(S)

None

PREPARED BY: Jeff Kay, Assistant City Manager



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Resolution - Council

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TO: City Council

FROM: Jeff Kay
Acting City Manager

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Acting City Manager

FINANCE REVIEW: Not Applicable

TITLE: RESOLUTION of the City Council for the City of San Leandro Affirming the City's Continued Cooperation with the Public Sector Unions in the City of San Leandro to Ensure their Health and Success; and Supporting the Freedom of City of San Leandro Employees to Collectively Bargain After a United States Supreme Court Decision in *Janus v. AFSCME*

WHEREAS, all families should have the means to thrive in safe and healthy communities; and

WHEREAS, the working people who make San Leandro run deserve good jobs that can support families; and

WHEREAS, over the last forty years, working people have become more productive than ever, yet real wages have declined and Chief Executive Officers make more than ever before; i.e., 347 times more than the average person in 2016; and

WHEREAS, being able to work together in unions gives people - particularly women and people of color - a powerful voice in speaking up for themselves, their families, and their communities and ensures they are treated with dignity and respect at work; and

WHEREAS, when people stick together in unions, they leverage power in numbers to raise wages and improve benefits like health care for themselves, their families, and communities; and

WHEREAS, people working collectively together in unions have won victories like the 40-hour work week, overtime pay, and health and safety standards, as well as advanced policies especially important to women like paid leave, earned sick time, and reducing the gender pay gap; and

WHEREAS, when people can negotiate together for strong contracts, higher wages, and safer, dignified working conditions, all of society benefits, communities become stronger, and the entire economy is made fairer; and

WHEREAS, the United States Supreme Court is considering the case *Janus v. AFSCME Council 31*, which could restrict unions from requiring dues from non-member employees who benefit from collective bargaining, thereby weakening the unions' power to effectively negotiate on behalf of all public sector workers - such as teachers, police officers, and

firefighters; and

WHEREAS, an unfavorable decision by the United States Supreme Court in *Janus v. AFSCME* may deny public sector workers the freedom to access strong unions that make our communities safe, more equitable, and strong; and

WHEREAS, in states where public union rights have come under attack, there have been different outcomes - in Wisconsin, for example, union membership has fallen 38% after the state passed a law in 2011 curtailing collective bargaining, but in other states such as Ohio and New Hampshire, unions have been able to survive similar attacks through proactive strategies; and

WHEREAS, the City of San Leandro relies on those who work in public service to provide health care, educate our children, prevent crime, put out fires, fix our potholes, pick up our trash, and more.

NOW THEREFORE, the City Council of the City of San Leandro does hereby RESOLVE that the City of San Leandro supports the freedom of all employees to exercise their rights to a collective voice and dignity on the job through joining together in strong unions; and,

BE IT FURTHER RESOLVED, that the City of San Leandro City Council urges the City Manager and appropriate staff to work with public sector unions at the City of San Leandro to ensure their health and success following a *Janus v. AFSCME* Supreme Court decision by cooperating to mitigate impacts and by engaging in good faith discussions around implementing a membership card if desired by unions, and granting reasonable release time for rank and file union leaders to explain the implications of the *Janus* decision.