



Meeting Date: May 5, 2009
Agenda Item: 14
Reviewed by Town Manager:

Yountville Town Council Staff Report

TO: Mayor and Town Council

FROM: Steven Rogers, Town Manager

SUBJECT: Consider Adoption of Employee-Employer Relations Resolution Documenting the Procedures for the Administration of Employee-Employer Relations between the Town and its Employee Bargaining Units

BACKGROUND/DISCUSSION

The purpose of this Resolution is to provide the Town of Yountville's procedures for the administration of employee-employer relations between the Town and its employee organization(s) and for resolving disputes regarding wages, hours and other terms and conditions of employment pursuant to Sections 3500 *et seq.* of the Government Code of the State of California (the Meyers-Milias-Brown Act or "MMBA").

In California, State law allows public sector employees the right to organize for purposes of collective bargaining with their public agency employers. The Town of Yountville has collectively bargained with the Yountville Employee Association (YEA) for non-department head employee positions. Department Head positions and the Town Manager are governed by at-will employment agreements.

It is a public sector industry standard to adopt an Employee-Employer Relations Resolution which outlines and documents the various elements involved with the labor negotiations and relations process such as:

- Definition of terms
- Employee Rights
- Town Rights
- Process for Determination of a Bargaining Unit
- Process for Modification of a Bargaining Unit
- Certification of Exclusive Bargaining Representative
- Process for Decertification of Exclusive Bargaining Representative
- Elections Process for Bargaining Units
- Exclusive Bargaining Unit Rights and Responsibilities
- Impasse Resolution Procedures
- Grievance Procedures
- Noticing Provisions

In preparing for contract negotiations with our employee bargaining unit (Yountville Employee Association) I researched the Town's archives and consulted with the Town Attorney, Town Clerk, Administrative Services Supervisor and Yountville Employee Association bargaining representatives and no one could recall adoption or use of such a document.

The Town Manager developed a draft Employer-Employee Relations Resolution using samples from the League of California Cities. A draft of the proposed resolution was provided to the YEA to discuss with their members. The Town Manager then met with representatives from the YEA to discuss the resolution,

answer questions, obtain feedback, and listen to proposed modifications to the draft document. Concerns and modifications requested by the YEA representatives have been incorporated into the proposed final draft of the resolution. The representatives of YEA support implementing the proposed resolution with the input they have provided to the Town Manager. The Town Attorney has also reviewed the proposed resolution.

I have been asked why is there a need for adopting a resolution such as this and when things have been working well. That is a very good question, but the primary basis for adopting the resolution is that doing so formally documents the definitions, understandings, and processes and it lays out a process for outcomes that could happen in the event they may occur in the future. For example, if a different group of employees indicated they wanted to form their own bargaining unit, what would we do? What would we do if the labor relations process is not concluded prior to the conclusion of the existing agreement? What is the difference between "meet and confer" and "meet and agree"? Also, there are a number of rights and benefits that are available to an exclusively recognized bargaining unit such the right to voluntary dues deductions, use of town facilities for meetings, etc. The proposed resolution provides documentation to these and other elements in the labor relations process.

FISCAL IMPACT

Is there a Fiscal Impact?	No not directly. There is a cost involved in the administration of the Town's Personnel System and the Labor Relations process.
Is it currently budgeted?	Personnel and Labor Relations costs are budgeted within the Administration and Non-departmental budgets.
Where is it budgeted?	Not a specific cost with adoption of Resolution.
Is it Mandatory or Discretionary?	Discretionary but adoption of such Employee-Employer Relations Resolutions is a public sector industry standard and best management practice.
Is there a Staff Resource Impact?	Minimal, provides clarification for

ALTERNATIVES

The Town Council has the following options it may consider:

1. To **not adopt** the proposed Employee-Employer Relations Resolution and maintain the status quo without a formally documented process to govern the administration of the employee-employer relations process.
2. To **adopt** the proposed Employee-Employer Relations Resolution and establish a formally documented process to govern the administration of the employee-employer relations process.
3. To **adopt** the proposed Employee-Employer Relations Resolution **with modifications** as made by the Town Council and establish a formally documented process to govern the administration of the employee-employer relations process.

RECOMMENDATION

1. Adopt Resolution Number 2780-09 approving the proposed Employee-Employer Relations Resolution formally documenting the process to govern the administration of the Town's Employee-Employer Relations Process.

ATTACHMENTS

1. Resolution Number 2780-09

TOWN OF YOUNTVILLE
Resolution Number 2780-09

**EMPLOYEE-EMPLOYER RELATIONS PROCEDURES FOR THE
YOUNTVILLE EMPLOYEE ASSOCIATION**

BE IT RESOLVED by the Town Council of the Town of Yountville that it hereby adopts the following employee-employer relations rules and regulations to govern the administration of the Town's employee-employer relations process:

Section 1. SHORT TITLE.

This Resolution shall be known as the Employee-Employer Relations Resolution of the Town of Yountville.

Section 2. BACKGROUND AND PURPOSE.

The purpose of this Resolution is to formally document the Town of Yountville's procedures for the administration of employee-employer relations between the Town and its employee organization(s) and for resolving disputes regarding wages, hours and other terms and conditions of employment pursuant to Sections 3500 *et seq.* of the Government Code of the State of California (the Meyers-Milias-Brown Act or "MMBA"). Nothing contained herein shall be deemed to supersede the provisions of state law, Town, ordinances, resolutions and rules which establish and regulate the merit service system, or which provide for other methods of administering employee-employer relations.

Section 3. DEFINITIONS.

As used in this Resolution, the following terms shall have the meanings indicated:

AGENCY SHOP means an arrangement that requires an employee, as a condition of continued employment, either to join the exclusively recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues and general assessments of the organization.

BARGAINING UNIT means a unit of employee classifications and/or positions established by the Town.

CERTIFY means the process by which the Town Council formally acknowledges an employee organization as the exclusive representative of a bargaining unit.

TOWN means the Town of Yountville, a municipal corporation, and where appropriate herein, "Town" refers to the Town Council, the governing body of said Town, or any duly authorized management employee as herein defined.

CONSULT means to communicate orally or in writing with all affected employee organizations for the purpose of presenting and obtaining views or advising of proposed actions in an effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of representation, does not involve an exchange of proposals and counterproposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a memorandum of understanding.

DAY means calendar day unless expressly stated otherwise.

EMPLOYEE means any person regularly employed by the Town except (1) those persons elected by popular vote; (2) self-employed persons or persons employed by contract with a third party agency or company; and (3) independent contractors.

EMPLOYEE, CONFIDENTIAL means an employee who, in the normal course of his or her duties, is privy to decisions of Town management affecting employee-employer relations and/or directly involved in the support and administration of the Town's employee-employer relations, employee benefits, etc. (as of April 2009 Administrative Services Supervisor/Manager position)

EMPLOYEE, MANAGEMENT means any employee having significant responsibilities for formulating and administering Town policies and programs, including but not limited to the chief executive officer and department heads.

EMPLOYEE, PROFESSIONAL means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.

EMPLOYEE, SUPERVISORY means any employee having authority, in the interest of the Town, 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 the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

EMPLOYEE ORGANIZATION means any organization which includes employees of the Town and which has as one of its primary purposes representing such employees in their employment relations with the Town.

EMPLOYEE-EMPLOYER RELATIONS means the relationship between the Town and its employees and their employee organization, or when used in a general sense, the relationship between Town management and employees or employee organizations.

EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION means an employee organization which has been formally recognized by the Town as the exclusive representative of a bargaining unit or units for purposes of meeting and conferring on matters within the scope of representation under the MMBA.

GRIEVANCE means an employee complaint concerning the interpretation or application of this Ordinance, or of rules or regulations governing personnel practices or of the practical consequences of the Town's decision on wages, hours and other terms and conditions of employment except disciplinary matters.

IMPASSE means a deadlock in negotiations concerning matters subject to an obligation to meet and confer in good faith, where the parties' differences are so substantial and prolonged that further meeting and conferring would be futile.

MEDIATION OR CONCILIATION means the efforts of an impartial third person, functioning as an intermediary, to assist the parties in reaching a voluntary resolution to an impasse through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.

MEET AND CONFER (or "meeting and conferring") means performance by duly authorized Town representatives and duly authorized representatives of an exclusively recognized employee organization of their mutual obligation to personally meet at reasonable times and to confer in good faith regarding matters within the scope of representation, including wages, hours, and other terms and conditions of employment, in an effort to: (1) freely exchange information, opinions and proposals; and (2) reach agreement on those matters within the scope of representation. This does not require either party to agree to a proposal or to make a concession.

MEMORANDUM OF UNDERSTANDING ("MOU") means a written agreement between the Town and an exclusively recognized employee organization regarding wages, hours and working conditions within the scope of representation. MOU's shall not be valid or enforceable unless and until adopted by the Town Council.

MUNICIPAL EMPLOYEE RELATIONS OFFICER means the Town Manager or his or her designee.

NOTICE means depositing the information at issue, properly addressed with correct postage for first class delivery, in a United States Postal Service (USPS) facility. Unless otherwise specified in this Resolution, or otherwise agreed between the affected parties in writing, notice shall be complete upon deposit in a USPS mail box or facility.

SCOPE OF REPRESENTATION includes all matters relating to employment conditions and employee-employer relations, including, but not limited to wages, hours and other terms and conditions of employment, provided, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order, or any other matter excluded by applicable case law or statute.

RESOLUTION means, unless the context indicates otherwise, the Employee-Employer Relations Resolution of the Town of Yountville.

YOUNTVILLE EMPLOYEE ASSOCIATION (YEA) means the currently recognized employee organization representing classified Town employees in accordance with the provisions of Sections 3500 *et seq.* of the Government Code of the State of California (the Meyers-Milias-Brown Act) .

Section 4. EMPLOYEE RIGHTS.

All employees shall enjoy the following rights:

- a. The right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee-employer relations including but not limited to wages, hours and other terms and conditions of employment;
- b. The right to refuse to join or participate in the activities of employee organizations and to represent themselves individually in their employment relations with the Town; and
- c. The right to be free from interference, intimidation, restraint, coercion or discrimination because of exercising rights specified in this section.
- d. The YEA shall have the option of representation (1 member only) at the meeting with the Yountville Town Council in which items of request are brought forward for discussion, to answer any questions and/or to ensure such requests are presented as intended about the bargaining units initial MOU bargaining requests.

Section 5. TOWN'S RIGHTS.

All management rights shall remain vested exclusively with the Town and are outside the scope of representation. Town's exclusive management rights include, but are not limited to:

- a. The right to determine the mission of its constituent departments, commissions, agencies, boards and institutions;
- b. The right to set standards of service;
- c. The right to determine the procedures and standards of selection for employment and promotion;
- d. The right to direct its employees, to take disciplinary action or to relieve its employees from duty because of lack of work or for other legitimate reasons;
- e. The right to inquire and investigate complaints or concerns about employee performance deficiencies or misconduct of any sort, including the right to require employees to appear, respond truthfully and cooperate in good faith regarding any Town investigation;
- f. The right to determine the methods, means and personnel by which government operations are to be conducted and to maintain the efficiency of governmental operations;
- g. The right to determine the content of job classifications;
- h. The right to take all necessary actions to carry out its mission in emergencies;
- i. The right to introduce different, new or improved operations, technologies, methods or means regarding any Town work, and to contract out for work providing that the effects of contracting out work currently performed by existing bargaining unit members shall be subject to meet and confer;
- j. The right to introduce bargaining units or modification of bargaining units; and

Section 6. POLICY AND STANDARDS FOR DETERMINATION OF BARGAINING UNITS.

a. The Municipal Employee Relations Officer will include the YEA in discussions pertaining to changes and/or modifications to potential and/or existing bargaining units and shall have the management discretion to form, define and designate all appropriate bargaining units in the Town, and to modify bargaining units based on the procedures specified in this Resolution. The Municipal Employee Relations Officer, shall maintain a list of the classifications in each unit. In exercising discretion regarding bargaining unit composition, including initial formation and subsequent modification, the Municipal Employee Relations Officer shall consider the following criteria:

1. Community of interest among employees, and avoiding actual or potential conflicts of interest within the bargaining unit;
2. Historical relationships (i) within the unit; (ii) among other employees of the Town; and (iii) in similar public employment.;
3. The effective delivery of services;
4. Similarities of duties, qualifications, skills, wages, and working conditions;
5. The effect of the unit on the efficient operation of the Town and sound employee-employer relations;
6. The application and consistency of wage, hour, and benefit packages (including retirement benefits) within the bargaining unit;
7. Specific legal requirements, such as the rights of public safety and professional employees to form their own bargaining units;
8. Employees' right to freely choose labor representatives according to their preference and to freely exercise their rights under this Resolution; and
9. The interest of broad-based unit's, composed of the largest number of employees having a reasonable community of interest.
10. The impact of uniquely-applicable and legally-required procedures for resolving impasse situations.

b. Managerial, and confidential responsibilities (as defined in Section 5 of this Resolution) are determining factors in establishing appropriate bargaining units, and therefore, managerial, and confidential employees may only be included in units that do not include non-managerial, and non-confidential employees. Managerial and confidential employees may not represent any employee organization which represents other employees.

c. No single job classification may be included within two or more bargaining units simultaneously.

d. Peace officers may be required to be represented in separate units composed solely of such peace officers. These units shall not be represented by an organization that, directly or indirectly, is subordinate to any other employee organization that includes non-peace officer employees.

e. The Municipal Employee Relations Officer shall allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with this section.

Section 7. BARGAINING UNIT MODIFICATIONS.

Previously established bargaining units may be modified, and such modifications may be initiated by: (a) a group of employees; (b) the Town; or (c) an exclusively recognized employee organization.

a. Employee and union-initiated modifications. A group of two or more employees or an exclusively recognized employee organization may request that a unit be modified, or that one or more classifications be reallocated to a new or existing bargaining unit. Such requests shall be submitted in the form of a Recognition Petition (pursuant to Section 8) and shall address the policies and standards set forth in Section 6 by presenting a complete statement of all relevant facts and citations in support of the proposed modification.

1. The Municipal Employee Relations Officer may exercise discretion to deny the request in the event the criteria in Section 6 of this Resolution suggests that the modification or reallocation is inappropriate. The Municipal Employee Relations Officer shall provide notice of the rejection to all exclusively recognized employee organizations promptly after such determination.

2. If the Municipal Employee Relations Officer determines that the modification or reallocation of a unit is consistent with the criteria listed in Section 6, he or she shall process the request according to the procedures in Section 8 applicable to recognition petitions.

b. Town-initiated unit modifications. The Town may initiate a modification of its unit structure, including the creation of new units, or the reallocation of classifications from one bargaining unit to another bargaining unit. The Town shall provide written notice to all affected employee organizations and to each employee who may be affected by the proposed change. Before implementing any modification or reallocation, the Town shall consult with affected employee organizations who request consultation within the period specified in the notice. The Municipal Employee Relations Officer shall then determine the composition of the bargaining unit(s) in accordance with Section 6 and shall give written notice of such determination to the affected employees and employee organizations. The Municipal Employee Relations Officer's determination may be appealed pursuant to Section 12.

c. Notice of Rights. If a bargaining unit is modified, the Municipal Employee Relations Officer shall notify the affected employees of their rights under this Resolution, including the right to select an employee organization of their choice for the

purpose of meeting and conferring with the Town regarding wages, hours and working conditions under the MMBA.

d. Timing: Unless required by law, unit modifications or reallocations may not be initiated sooner than twelve (12) months following the effective date of any MOU which covers the classifications proposed to be reallocated or moved from the bargaining unit.

e. Appeals. The modification of an existing bargaining unit is subject to appeal pursuant to Section 12.

Section 8. CERTIFICATION OF EXCLUSIVE BARGAINING REPRESENTATIVE

a. Elements of Petition.

An employee organization that seeks formal recognition as an exclusively recognized employee organization representing employees in a bargaining unit shall file a written petition for certification ("Recognition Petition") with the Municipal Employee Relations Officer containing the following information and documentation:

1. The complete name and street address of the employee organization;
2. Names, titles, mailing addresses, telephone numbers and e-mail addresses of the organization's officers;
3. Names, mailing addresses and telephone numbers of those persons who are authorized to speak on behalf of the organization;
4. The name of the bargaining unit and/or the job classifications for which it seeks certification;
5. A statement that the primary purpose of the organization is to represent employees in the Town on matters concerning wages, hours and other terms and conditions of employment;
6. A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with another organization (for example, a regional or state, or national or international organization), and, if so, the name and address of each such regional, state, or national or international organization;
7. Copies of the employee organization's constitution and by-laws, accompanied by a statement of authenticity;

8. A designation of those persons or unit officers, not exceeding two in number, and their addresses, to whom notice by the Town should be sent and how it should be sent (United States mail, internal mail, e-mail etc.) If not specified, notice sent by regular United States mail will be deemed sufficient notice to the employee organization for any purpose;

9. A statement that the employee organization recognizes that the provisions of Section 923 of the Labor Code are not applicable to Town employees;

10. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, national origin, sex, age, mental or physical disability, sexual orientation, or political affiliation;

11. Authorization cards demonstrating support for the petition, signed by fifty percent plus 1 (>50%) or more of the employees within the bargaining unit, that are dated within two (2) months of the date of the petition, and which appear authentic to the satisfaction of the Municipal Employee Relations Officer.

12. A request that the Town Council certify the petitioner as the exclusive bargaining representative for those employees in the bargaining unit(s) at issue.

b. Town Evaluation of Petition

At some reasonable time after receiving a petition, the Municipal Employee Relations Officer shall determine whether the petition contains the necessary elements demonstrating the requisite showing of interest. If the petition is defective in some respect, the Municipal Employee Relations Officer may reject and return it with a brief explanation. Alternatively, the Municipal Employee Relations Officer may retain the petition, and permit the petitioner to cure the deficiencies promptly.

After the Municipal Employee Relations Officer determines that a petition meets the requirements under this Resolution, the Municipal Employee Relations Officer shall provide notice that a petition has been filed to: (1) all employees in the bargaining unit at issue; (2) any and all exclusively recognized employee organizations; and (3) the Town Council.

c. Challenge Period.

Within thirty (30) days of the Town issuing written notice that a valid recognition petition has been 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 unit by filing a petition providing proof of support by at least thirty percent (30%) of the employees in the affected unit and complying with the other requirements of this Section. Such a petition shall be known as a "Challenging Petition."

d. Certification Without Election

If no Challenging Petition is filed against a Recognition Petition, and unless the Municipal Employee Relations Officer has reasonable doubt as to the accuracy of the petitioner's proof of employee support, the Municipal Employee Relations Officer shall certify the petitioner as the exclusively recognized employee organization for the identified bargaining unit(s).

**Section 9. PROCEDURE FOR DECERTIFICATION OF EXCLUSIVELY
RECOGNIZED EMPLOYEE ORGANIZATIONS.**

a. A decertification petition alleging that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in an established bargaining unit may be filed with the Municipal Employee Relations Officer during the month of October of any year following the first full year of recognition, or during the thirty (30) day period beginning one hundred twenty (120) days prior to the termination date of the applicable MOU, whichever occurs later. A decertification petition may be filed by two or more employees or their representative, or by an employee organization, and shall contain the following information and documentation declared under penalty of perjury to be true, correct, and complete:

(1) The name, address, and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information;

(2) The name of the established bargaining unit at issue and the incumbent exclusively recognized employee organization sought to be decertified as representative of that unit.

(3) An allegation that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in the bargaining unit at issue, and any other relevant and material facts.

(4) Authorization cards demonstrating support for the petition, signed by thirty percent (30%) or more of the employees within the bargaining unit, that are dated within two (2) months of the date of the petition, and which appear authentic to the satisfaction of the Municipal Employee Relations Officer.

Alternatively, an employee organization may file a petition under this section in the form of a Recognition Petition under Section 8 that evidences proof of at least thirty percent (30%) employee support and includes the allegation and information required under subsection a(3) above.

b. If the Municipal Employee Relations Officer determines that the petition does not satisfy the requirements of this Section, he or she shall return it to the

petitioner with a short written statement explaining why the petition is deficient. The petitioner may appeal such determination of insufficiency pursuant to Section 12.

c. If the Municipal Employee Relations Officer determines that the petition is sufficient, he or she shall give written notice of the Town's receipt of a valid decertification petition to the incumbent exclusively recognized employee organization and to all employees in the bargaining unit at issue. He or she shall then arrange for a secret ballot election to be held, pursuant to Section 10, within thirty (30) days of such notice to determine the wishes of the employees in the bargaining unit at issue.

Section 10. ELECTIONS

The following procedures are applicable to elections conducted pursuant to this Resolution, except as specified herein:

a. Elections will be conducted by the Town Clerk, or by another Town employee or third party jointly agreed upon by the Municipal Employee Relations Officer and the concerned employee organization(s). The Municipal Employee Relations Officer may take reasonable measures, not in conflict with this Resolution or applicable law, to ensure the integrity of elections.

b. Employees entitled to vote in elections pursuant to this Section shall be those persons employed in regular, permanent positions within the designated bargaining unit who were employed during the pay period immediately prior to the date of the election, including those who did not work during such period because of illness, vacation, or other authorized leave of absence and who are employed in the same unit on the date of the election.

c. Elections will be conducted by secret ballot. All ballots shall include the choice "no representation."

d. 50%+1 (>50%) of the employees in the bargaining unit must participate in the election in order for the election to be certified. Elections will be determined by majority vote of those employees casting votes.

e. In an election involving three (3) or more ballot choices where no ballot choice receives a majority of the votes, the Municipal Employee Relations Officer shall conduct a runoff between the two (2) choices receiving the most votes. The rules governing an initial election also apply to a run-off election.

f. Costs of conducting elections shall be borne in equal shares by the Town and by each employee organization appearing on the ballot.

g. Elections concerning the proposed decertification of an exclusive bargaining organization may not be held sooner than twelve (12) months following the

date the Town certified and recognized the bargaining organization as the exclusive recognized employee organization for the bargaining unit(s) at issue.

h. No more than one vote to rescind an agency shop agreement may be taken during the life of a MOU which provides for agency shop.

Section 11. CERTIFICATION AFTER ELECTION.

The Town Manager shall provide notice of the election outcome to all affected employee organizations and the Town Council. For petitions to certify, the Town Council shall certify the prevailing organization, if any, as the exclusive bargaining representative for the bargaining unit(s) at issue. For petitions to decertify, the Town Council shall revoke the recognition rights of an exclusively recognized employee organization which has been found by secret ballot election no longer to be the majority representative.

Section 12. APPEALS.

a. The following persons or groups may appeal the corresponding decisions listed below pursuant to the procedures set forth in this Section:

1) An employee organization aggrieved by the Municipal Employee Relations Officer's determination of an appropriate bargaining unit; or

2) An employee organization aggrieved by the Municipal Employee Relations Officer's determination that a Recognition Petition (see Section 8), Challenging Petition, Decertification Petition, or Unit Modification Petition has not been filed in compliance with the applicable provisions of this Resolution; or

3) Employees aggrieved by the Municipal Employee Relations Officer's determination that a Decertification Petition has not been filed in compliance with the applicable provisions of this Resolution.

b. A party with standing to appeal a decision under subsection (a) above may, within ten (10) days of the Municipal Employee Relations Officer's issuance of a final determination, appeal such determination to the Town Council by filing a written appeal request with the Town Clerk and serving a copy on the Municipal Employee Relations Officer. The Town Council shall consider the matter within thirty (30) days of the filing of the appeal. Any decision of the Town Council regarding either (1) whether the appeals procedure has been properly used or (2) the substance of the dispute shall be final and binding.

Section 13. BARGAINING UNIT RIGHTS AND RESPONSIBILITIES.

An employee organization certified as the representative of a majority of all employees in a representational unit in accordance with the procedure hereinafter set forth shall be afforded appropriate rights and privileges affecting normal organization business and subject to managerial review, including, but not limited to, the following:

a. **Meet and Confer.**

An exclusive bargaining representative shall have the right to meet and confer in good faith with authorized representatives of the Town regarding matters within the scope of representation. If an agreement is reached, the parties shall jointly prepare a written MOU and present it to the Town Council. If the Town Council adopts the written MOU, it shall become binding on the parties. The Town is under no obligation to meet and confer with an employee organization unless it has been certified as an exclusively recognized employee organization.

b. **Current Information.**

Exclusively recognized employee organizations have the on-going responsibility to inform the Municipal Employee Relations Officer, in writing, of any changes in the information specified in Section 8(a)(1)-(9) within ten (10) business days of such a change. There shall be no relief from time limits imposed by this Resolution because of an employee organization's failure to keep the Town apprised of current information required under this Resolution.

c. **Release Time.**

During the period of meeting and conferring regarding a memorandum of understanding, exclusively recognized employee organizations shall be entitled to a limited number of representatives who may receive paid release time during the period when negotiations are occurring at the table. The precise number shall be subject to the Town's approval at the outset of negotiations. Employee organizations shall cooperate with the Town on a reasonable schedule, and the employees released for negotiations shall notify their supervisors, obtain their consent and ensure that the dates scheduled for negotiations do not adversely affect Town operations. Release time may not be authorized for activities such as soliciting membership, campaigning for office or other political activity, organizing efforts, or for any other purpose not authorized by this Resolution or a MOU.

d. **Use of Town Resources, including:**

1. The right to have regular membership costs and dues of its members, who so request, collected by payroll deductions pursuant to procedures prescribed by the Finance Director provided such deductions are mutually agreed to by the employer and employee organization.
2. The reasonable use of space on bulletin boards in Town departments and places of employee gathering.
3. The right to contact Town employees during their duty period, provided that the department head is notified of such activities and such contact does not interfere with public service or safety requirements.
4. The right to use Town conference rooms and meeting facilities during regular work hours, on the same basis as other governmental organizations.
5. The right to distribute information to Town employees and, when practicable, to use Town information channels for such distribution.
6. The right to be informed by management, in advance, before any proposed policy, benefit, or working condition changes directly affecting employee interests are made.

Section 14. AGENCY SHOP

Agency shop arrangements between the Town and any exclusively recognized employee organization shall be made in accordance with the MMBA, as amended, and other applicable law.

Section 15. IMPASSE RESOLUTION PROCEDURES.

a. If impasse is reached during negotiations concerning matters within the scope of representation, either party may declare an impasse. Upon impasse being declared, either party may request that the dispute be submitted to mediation or to any other alternative dispute resolution ("ADR") method agreed upon by the parties. If the other party agrees to meditation/ADR, the costs of the mediation/ADR shall be borne equally by the Town and the exclusively recognized employee organization. Mediation shall be conducted by a mutually agreed upon mediator, or a mediator supplied by the State Mediation and Conciliation service. Mediation shall be private. The mediator shall not make public recommendations or issue any decision concerning the issues.

b. If no agreement is reached after mediation or other ADR procedure, or if one party refuses to mediate the dispute or submit it to ADR, the matter shall be referred to the Town Council for final determination. The Town Council may take such action regarding the impasse as it, in its discretion, deems appropriate and in the public

interest. Any legislative action by the Town Council on the impasse shall be final and binding.

c. This section shall not apply to economic disputes involving employees governed by different impasse resolution procedures imposed by statute.

Section 16. GRIEVANCE PROCEDURES.

Grievances with respect to the Town's compliance with the provisions of this Resolution shall be processed in accordance with the definitions and procedures established either by the Town's personnel rules or the applicable bargaining unit's MOU.

Section 17. RULES AND REGULATIONS.

The Municipal Employee Relations Officer may adopt such Rules and Regulations as are necessary or convenient to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

Section 18. NOTICE.

Reasonable written notice shall be given to each exclusively recognized employee organization affected of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the Town Council or by any board or commission of the Town, and each shall be given the opportunity to meet with such body prior to adoption.

Section 19. MISCELLANEOUS PROVISIONS.

a. Nothing in this Resolution shall be construed to deny any person or employee the rights granted by federal and state laws.

b. The rights, powers and authority of the Town Council in all matters, including the right to maintain any legal action, shall not be modified or restricted by this Resolution.

c. Nothing contained in this Resolution shall abrogate any written agreement between any employee organization and the Town in effect on the effective date of this Resolution. All such agreements shall continue in effect for the duration of the term specified therein unless modified or rescinded by mutual agreement of the parties thereto.

d. This Resolution is intended to comport with all applicable state and federal laws and it should be interpreted and applied to harmonize with all such law, reserving the broadest legal measure of authority to the Town Council. In the event a court of competent jurisdiction determines that some provision of this Resolution is inconsistent

with applicable and binding law, then that provision shall be severed and all remaining portions of the Resolution shall continue in full force and effect. Promptly upon request by the Town, an exclusively recognized bargaining organization shall meet and consult with the Town in an effort to resolve any amendments that are necessary or advisable in light of changes to existing law, or interpretations of the law that impact this Resolution.

- e. This Resolution shall be construed and interpreted based on its plain meaning so as to carry out its purpose as set forth in Section 2. Nothing in this Resolution shall be construed to give employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sick-out or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the Town, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly provided by law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be replaced; and employee organizations may thereby forfeit rights accorded them under law or contract.

Cynthia Saucerman, Mayor

ATTEST:
State of California)
County of Napa)§
Town of Yountville)

I, Michelle Dahme, Town Clerk of the Town of Yountville, do hereby certify that the Town Council of the Town of Yountville duly adopted the foregoing Resolution at a regular meeting thereof held on the 5th day of May 2009, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michelle Dahme, Town Clerk