

2609 Capitol Avenue
Suite 200, Sacramento
California 95816
(916) 443-2500

August 30, 1984

Connie Petersen
Janice Beaman
Office of the City Clerk
915 I Street, Room 203
Sacramento, CA 95814

Re: Deputy City Clerk Appointments

Dear Ms. Petersen and Ms. Beaman:

At your request, I have reviewed all of the relevant correspondence and memoranda pertaining to your appointments to the positions of Deputy City Clerk, classified as exempt unrepresented management. Based on that review, I am of the opinion that Mr. Slipe's refusal to process your appointments is an unwarranted and illegal denial of your employment rights, which rights were obtained on July 28 and August 11, 1984, when you were each properly appointed by the City Clerk to the Deputy City Clerk positions, to be placed in the exempt unrepresented management unit.

It is eminently clear that the City Clerk has the exclusive authority to make these appointments (City Charter Sec. 71) and that the positions were lawfully part of the City's approved budget as of June 1984. It is also clear that prior to Mr. Slipe's intervention, all responsible officials agreed the positions would be in the exempt unrepresented management unit. I also understand that both of you were informed of this classification prior to your appointments, and in reliance thereon, and the benefits commensurate with exempt unrepresented management employment, accepted the appointments.

It is apparent that the City Attorney shares the view that Mr. Slipe does not have the authority to delay (or refuse) to process your appointments (see the August 8, 1984 letter, James P. Jackson to Walter J. Slipe, attached).

In light of the foregoing, I believe you are legally entitled to the benefits of the exempt management position from your dates of appointment until such time as the City Council lawfully changes the classification.

Connie Petersen/Janice Beaman
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The second issue is whether the City Council should, as Mr. Slipe proposes, immediately change the classification to a non-management unit. Putting aside the question of the legal proprieties of doing this on August 31, 1984 to your obvious detriment, I think you should appeal to the City Council to have this entire question of management vs. non-management unit placement properly studied.

The reasons for this are obvious from the City Clerk's memorandum to Walter Slipe on August 17, 1984, including the attachments. The arbitrary selection of these two Deputy positions for reclassification without a thorough review of the actual current duties (i.e., a proper "job audit") and a comparison with similarly situated City appointees in other departments suggests a discriminatory intent on Mr. Slipe's part. In the conscientious exercise of her responsibilities, I am sure that Ms. Magana would not have maintained the exempt management classification were it not supported by the duties and responsibilities inherent in the position. The fact that the Personnel Department advised Mr. Slipe to the contrary, based on a 1981 job description and without consulting the City Clerk or her Assistant so as to properly understand the Deputy positions - and compare that position with others - should alone give the Council pause to take the action Mr. Slipe requests at this time.

I suggest that you ask to be heard at the Friday meeting of the Council, that you circulate this letter to the Council and, in particular, draw the Council's attention to the matters noted in Ms. Magana's August 17 memorandum. The Council should be urged to avoid a hasty decision and seek to have the proper classification studied by a qualified independent consultant.

In the meantime, of course, your appointments should be processed and your management benefits made retroactive to your respective appointment dates. If this is not done, please feel free to contact me.

Sincerely,



DAVID M. BLICKER
Attorney at Law

CITY OF SACRAMENTO

Exhibit J



DEPARTMENT OF LAW
12 TENTH STREET SACRAMENTO, CA 95814
SUITE 201 TELEPHONE (916) 448-5246

August 8, 1984

JAMES P. JACKSON
City Attorney
THEODORE H. KOBEY, JR.
Assistant City Attorney
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
LAWRENCE M. LUNARDINI
DIANE B. BALTER
RICHARD F. ANTOINE
Deputy City Attorneys

Walter J. Slipe
City Manager
City of Sacramento
Sacramento, CA 95814

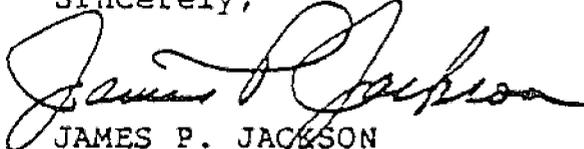
Re: Deputy City Clerk Appointments

Dear Mr. Slipe:

I am writing concerning the appointment by the City Clerk of two Deputy City Clerks. These appointments were made by Lorraine in late July, 1984. One appointment was effective on July 28, 1984. The other will be effective on August 13, 1984. The positions had been authorized and funded by the City Council in the 1984-85 budget. The City Clerk is authorized by City Charter Sec. 71 to appoint such deputies as the Council authorizes. These appointments do not require City Manager approval. However, you have stated to me that you have instructed Donna Giles to hold up the processing of the papers for the Deputy City Clerk appointments. Your reason for this is that you want to ask the Council to change the unit classification of the deputies from the current "Exempt-Management" to "Exempt-Confidential." It is unknown when your request will be submitted to the Council. One of the new deputy clerks has attempted to sign up for the management fringe benefits and has been refused by the Personnel Department.

I am writing to advise you that you do not have legal authority to delay the processing of these deputy city clerk appointments. In addition, the new deputy clerks are entitled to the exempt management fringe benefits from the effective date of their appointment by the City Clerk until such time as the Council places the deputies in a non-management unit classification. Therefore, the deputy city clerk who was prohibited from signing up for management benefits should be allowed to select the desired management benefits at this time.

Sincerely,


JAMES P. JACKSON
City Attorney

JPJ:mb

cc: Lorraine Magana, City Clerk
Donna Giles, Personnel Director