

**REPORT TO MAYOR AND CITY COUNCIL**

TO HONORABLE MAYOR AND CITY COUNCIL:

DATE: December 9, 2014

SUBJECT: ADOPTING A RESOLUTION FOR EXCEPTION TO THE 180-DAY PERS WAIT PERIOD FOR THE REHIRE OF A RETIRED PUBLIC SAFETY OFFICER, CORPORAL DAVID SWEANY, FOR THE LIMITED SERVICE PUBLIC SAFETY ASSISTANT POSITION OF “K9 OPERATIONS TRAINER”

Report in Brief

Corporal David Sweany retired from the City of Concord effective December 4, 2014. His services are needed to perform the duties of the K9 Operations Trainer for the City of Concord Police Department. Section 7522.56 of the Government Code requires that post-retirement employment commence no earlier than 180 days after the retirement date unless it is necessary to fill a critically needed position.

Staff is requesting that the City Council adopt Resolution No. 14-87 (Attachment 1) appointing David Sweany to perform the duties of K9 Operations Trainer for the City of Concord Police Department under Government Code sections 7522.56 and 21224 effective December 10, 2014.

Background

David Sweany retired from the City of Concord in the position of Police Corporal effective December 4, 2014. He is the Concord Police Department’s current and sole K9 Operations Trainer and has been in that role for the past six years. The K9 Operations Trainer is crucial to the Concord Police Department. The person who occupies this position is responsible for conducting mandatory basic training and certification for new K9 Teams (dogs and handlers), weekly maintenance training and certification for the incumbent K9 Teams, continuous training needs assessments of the dogs and handlers, as well as pre and post incident risk management issue spotting and resolution, record keeping, equipment procurement, and related responsibilities. Without a K9 Operations Trainer, the K9 Unit cannot effectively operate.

Upon Corporal Sweany’s retirement, the K9 Operations Trainer position is vacant, as the Concord Police Department does not have another employee with the expertise, training, or knowledge to fill this position. Given the importance the K9 Operations, the Police Department cannot wait six months to reinstate David Sweany as the K9 Operations Trainer.

ADOPTING A RESOLUTION FOR EXCEPTION TO THE 180-DAY PERS WAIT PERIOD FOR THE REHIRE OF A RETIRED PUBLIC SAFETY OFFICER, CORPORAL DAVID SWEANY, FOR THE LIMITED SERVICE PUBLIC SAFETY ASSISTANT POSITION OF “K9 OPERATIONS TRAINER”

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Discussion

Section 7522.56 of the Government Code requires that post-retirement employment commence no earlier than 180 days after the retirement date, but a public agency may hire an annuitant prior to the expiration of 180 days following his/her retirement, if the nature of the employment and the appointment is necessary to fill a critically needed position before 180 days have passed.

This appointment is limited to 960 hours per fiscal year, and the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties. The position is categorized as a Limited Services Public Safety Assistant, and does not include any other benefit, incentive, or compensation in lieu of benefit or other form of compensation in addition to an hourly rate.

Fiscal Impact

The hourly rate paid will be \$31.13 (Schedule 0960, Grade 063, Step 1). There are sufficient funds in the Police Department operating budget to fund this position.

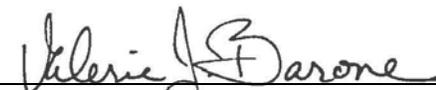
Public Contact

The agenda has been posted.

Recommendation for Action

Staff recommends that the City Council adopt Resolution No. 14-87 for exception to the 180-day PERS wait period for the rehire of a retired public safety officer, Corporal David Sweany, for the Limited Service Public Safety Assistant position of “K9 Operations Trainer.”

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**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**Resolution for exception to the 180-Day wait period
GC sections 7522.56 & 21224**

Resolution No. 14-87

WHEREAS, in compliance with Government Code section 7522.56 the Concord City Council must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since his or her retirement date; and

WHEREAS, David Sweany (CalPERS #8572) retired from the City of Concord in the position of Police Corporal (City of Concord Employee #1539), effective December 4, 2014; and

WHEREAS, section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is August 28, 2015 without this certification resolution; and

WHEREAS, pursuant to section 7522.56, a public agency may hire an annuitant prior to the expiration of 180 days following his/her retirement, if the nature of the employment and the appointment is necessary to fill a critically needed position before 180 days have passed; and

WHEREAS, section 7522.56 provides that this exception to the 180 day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the Concord City Council, the City of Concord and David Sweany certify that David Sweany has not and will not receive a “Golden Handshake” or any other retirement-related incentive; and

WHEREAS, the Concord City Council hereby appoints David Sweany as an extra help retired annuitant to perform the duties of the K9 Operations Trainer for the City of Concord Police Department under Government Code sections 7522.56 and 21224, effective December 10, 2014; and

WHEREAS, the entire employment agreement, contract or appointment document between David Sweany and the City of Concord has been reviewed by this body and is attached herein; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

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1 **WHEREAS**, the employment shall be limited to 960 hours per fiscal year; and

2 **WHEREAS**, the compensation paid to retirees cannot be less than the minimum nor exceed
3 the maximum monthly base salary paid to other employees performing comparable duties (Limited
4 Service Public Safety Assistant), divided by 173.333 to equal the hourly rate; and

5 **WHEREAS**, the maximum base salary for this position is \$7,771.69705 per month and the
6 hourly equivalent is \$44.8368, and the minimum base salary for this position is \$1,389.95733 per
7 month and the hourly equivalent is \$8.0190; and

8 **WHEREAS**, the hourly rate paid to David Sweany will be \$31.1340 (Schedule 0960, Grade
9 063, Step 1); and

10 **WHEREAS**, David Sweany has not and will not receive any other benefit, incentive,
11 compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate.

12 **THEREFORE, BE IT RESOLVED THAT** the Concord City Council hereby certifies the
13 nature of the appointment of David Sweany as described herein, and as detailed in the attached
14 employment agreement/contract/appointment document; and that this appointment is necessary to fill
15 the critically needed position of K9 Operations Trainer for the City of Concord by December 10, 2014
16 because David Sweany is the Concord Police Department's current and sole K9 Operations Trainer
17 (an ancillary duty of his K9 Corporal position) and has been in that role for the past 6 years. The K9
18 Operations Trainer is responsible for conducting mandatory basic training and certification for new
19 K9 Teams (dogs and handlers), weekly maintenance training and certification for the incumbent K9
20 Teams, continuous training needs assessments of the dogs and handlers, as well as pre and post
21 incident risk management issue spotting and resolution, record keeping, equipment procurement, and
22 the like. Upon David Sweany's retirement, the K9 Operations Trainer position will be vacant, as the
23 Concord Police Department does not have another employee with the expertise, training, or
24 knowledge to fill this position. The Concord Police Department cannot wait six months to reinstate
25 David Sweany as the K9 Operations Trainer. Rather, this transition must be immediate for the
26 preservation of the Concord Police Department K9 program.

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