

MEMORANDUM

TO: Honorable Mayor and Council of the City of San Jose
FROM: Board of Administration of the Police and Fire Department Retirement Plan
DATE: January 14, 2008
RE: Board Comments on the Proposed Ordinance Providing for an Alternative Allocation of Costs of Providing Medical Insurance Coverage for Calendar Year 2008

Pursuant to section 3.36.485 of the San Jose Municipal Code, the Board of Administration of the Police and Fire Department Retirement Plan hereby respectfully offers to the Council the following comments on the proposed ordinance providing for an alternative allocation of costs of providing medical insurance coverage for calendar year 2008. The Board received the proposed ordinance on January 8, 2008 and convened a special meeting on January 9, 2008 to consider it. On behalf of retirees and dependants, the Board of Administration wishes to express its gratitude to the Council for the speed with which it has addressed this issue and the manner in which it is addressing this issue. The Board agrees with the Council that the concepts underlying the pending ordinance provide an appropriate short-term solution to the issue.

Looking to the longer term, the Board of Administration wishes to acknowledge its understanding of its responsibility to interpret the provisions of the Municipal Code applicable to the Police and Fire Department Retirement Plan, including sections 3.36.1930 and 1940. The Board also wishes to affirm its commitment to fulfilling this obligation in a collaborative manner, respectful of the views of all interested stakeholders. As to the current issue, the Board at its December 2007 meeting was confronted with interpreting the term "lowest cost medical plan" as used in these sections and concluded that the Municipal Code provisions were ambiguous and not self-defining.

In furtherance of its commitment to engage in collaborative decision-making, the Board of Administration has reviewed the proposed ordinance, and has concluded that two changes need to be made to the ordinance. For ease of Council review of these comments, attached is a copy of the proposed ordinance as submitted to the Board.

First, the Board of Administration considers it appropriate to delete from the fourth "whereas" provision of the proposed ordinance the phrase "in order that retirees and survivors have sufficient time to plan for these changes". It appears to the Board that the issue as to the meaning of the term "lowest cost medical plan" remains in flux. It is not clear now what the status of this issue will be in calendar year 2009. For example, there perhaps may be a legislative modification in 2008 of the current Municipal Code language. The Council will be maintaining a maximum degree of flexibility concerning this issue by deleting this language.

Second, the Board of Administration considers it appropriate to delete the introductory “notwithstanding” phrase from section 2 of the proposed ordinance. The current wording suggests an interpretation of sections 3.36.1930 and 1940 which the Board does not believe is appropriate. The Board agrees that a rule of priority is appropriate and so suggests the replacement of the current “notwithstanding” phrase in section 2 with the following language: “notwithstanding anything in the Municipal Code to the contrary,”.

The Board of Administration would like to remind the Council that the traditional open enrollment month for the next healthcare year is the month of November. Accordingly, the open enrollment period for calendar year 2009, absent change, will be November 2008. So the vexing issue of interpreting the term “lowest cost medical plan” for purposes of calendar year 2009 will soon be back before us. The Board wishes the Council to know that it will do all it can to help achieve a resolution of this issue.

As a final comment, the Board of Administration believes that some of the comments you may have previously heard about the financial implications of this issue may require clarification. First, the projected cost of the proposed ordinance will be borne by the retirement fund, not the general fund. Second, the investment earnings on the retirement fund in 2008 will offset to some degree the projected cost. Third, with respect to the overall issue of funding retiree medical benefits, the City is responsible for only half of the actuarially determined contribution rate calculated to fund these benefits.

The Board of Administration thanks the Council for its consideration of these comments.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN JOSÉ PROVIDING FOR AN
ALTERNATIVE ALLOCATION OF COSTS OF PROVIDING MEDICAL
INSURANCE COVERAGE FOR CALENDAR YEAR 2008**

WHEREAS, both the Federated City Employees Retirement System (“Federated System”) and the Police and Fire Department Retirement Plan (“Police and Fire Plan”) provide for medical insurance coverage for eligible retirees and survivors; and

WHEREAS, the Federated System and the Police and Fire Plan further provide for an allocation between the retiree or survivor and the Medical Benefits Account in the respective retirement funds of the costs of the premiums for such coverage; and

WHEREAS, recent changes in the medical plans made available to City employees have affected the amounts to be paid by retirees and survivors for medical insurance coverage; and

WHEREAS, the City Council desires that such changes not affect retirees and survivors during calendar year 2008 in order that retirees and survivors have sufficient time to plan for these changes

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
SAN JOSE:**

SECTION 1. Notwithstanding Section 3.28.1980 of Chapter 3.28 of Title 3 of the San José Municipal Code, for the period from January 1, 2008, to December 31, 2008, inclusive, the costs of premiums for medical insurance coverage for retirees and survivors who have elected coverage under the provisions of the Federated System shall be allocated as follows:

A. Except as provided in subsection B:

1. For a retiree or survivor who has elected single coverage, the portion of the premium to be paid from the Medical Benefits Account shall be the lesser of (a) the amount which is equivalent to the 2008 premium for single medical insurance coverage for the Kaiser Permanente Plan that

was in effect for calendar year, 2007, or (b) the actual premium for the eligible medical plan in which the retiree or survivor enrolls.

2. For a retiree or survivor who has elected family coverage, the portion of the premium to be paid from the Medical Benefits Account shall be the lesser of (a) the amount which is equivalent to the 2008 premium for family medical insurance coverage for the Kaiser Permanente Plan that was in effect for calendar year 2007, or (b) the actual premium for the eligible medical plan in which the retiree or survivor enrolls.
 3. Retirees and survivors shall pay that portion of the premium which represents the difference between the cost of the premium for the medical plan selected by the member or the survivors and the portion paid from the Medical Benefits Account. Such premium as is required to be paid by a retiree or survivor shall be deducted from the allowance payable to such retiree or survivor by the Federated City Employees Retirement System.
- B. A surviving spouse or surviving domestic partner who is otherwise eligible only for single coverage, but who elects family coverage pursuant to San José Municipal Code Section 3.28.1970.D.2, shall be required to pay that portion of the medical premium which exceeds the sum of the amount payable by the surviving spouse or surviving domestic partner and the amount payable from the Medical Benefits Account for single coverage as provided in subsection A.1. above. The portion of the premium required to be paid by the surviving spouse or surviving domestic partner shall be deducted from the monthly allowances otherwise payable to the surviving spouse or surviving domestic partner by the Federated City Employees Retirement System.

SECTION 2. Notwithstanding Section 3.36.1930 of Chapter 3.36 of Title 3 of the San José Municipal Code, for the period from January 1, 2008, to December 31, 2008, inclusive,:

- A. For a retiree, former member or survivor who has elected medical insurance coverage from the Police and Fire Plan and has elected single coverage, the

“lowest cost medical plan” shall be the single-coverage Kaiser Permanente Plan that was in effect for calendar year 2007.

- B. For a retiree, former member or survivor who has elected medical insurance coverage from the Police and Fire Plan and has elected family coverage, the “lowest cost medical plan” shall be the family-coverage Kaiser Permanente Plan that was in effect for calendar year 2007.

SECTION 3. The provisions of this ordinance shall be retroactive to January 1, 2008.

SECTION 4. For any retiree or survivor who is receiving medical insurance coverage under the Federated System and who has incurred costs for medical insurance premiums that would not have been incurred had this ordinance been in effect at the time the costs were incurred, the Board of Administration for the Federated City Employees Retirement System shall reimburse the retiree or survivor for such additional costs or shall adjust future payments from the Federated System to cover such costs. In addition, in accordance with procedures approved by the Board, the Board may reimburse retirees and survivors from the retirement fund for out-of-pocket costs, including co-pays, incurred by the retiree or survivor on or after January 1, 2008, that the retiree or survivor would not have incurred had this ordinance been in effect at the time the retiree or survivor enrolled in medical coverage.

SECTION 5. For any retiree, former member or survivor who is receiving medical insurance coverage under the Police and Fire Plan and who has incurred costs for medical insurance premiums that would not have been incurred had this ordinance been in effect at the time the costs were incurred, the Board of Administration for the Police and Fire Department Retirement Plan shall reimburse the retiree or survivor for such additional costs or shall adjust future payments from the Police and Fire Plan to cover such costs. In addition, in accordance with procedures approved by the Board, the Board may reimburse retirees and survivors from the retirement fund for out-of-pocket costs, including co-pays, incurred by the retiree or survivor on or after January 1,

2008, that the retiree or survivor would not have incurred had this ordinance been in effect at the time the retiree or survivor enrolled in medical coverage.

PASSED FOR PUBLICATION of title this ____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk