



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Alex Gurza

**SUBJECT:** SEE BELOW

**DATE:** June 2, 2008

Approved

Date

6/3/08

**SUBJECT:** ORDINANCE TO REVISE THE BENEFIT FORMULA FOR CERTAIN SURVIVING SPOUSES AND SURVIVING DOMESTIC PARTNERS OF MEMBERS OF THE FIRE DEPARTMENT WHO ARE MEMBERS OF THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

**COUNCIL DISTRICT:** N/A

**RECOMMENDATION**

Approval of an ordinance amending Chapter 3.36 of Title 3 of the San Jose Municipal Code to revise the benefit formula for certain surviving spouses and surviving domestic partners of members of the Fire Department who are members of the Police and Fire Department Retirement Plan.

**OUTCOME**

Adoption of the ordinance amending the Police and Fire Department Retirement Plan would implement an enhanced benefit formula for certain surviving spouses and surviving domestic partners that was awarded in arbitration between the City and the San Jose Fire Fighters, International Association of Firefighters, Local 230 ("San Jose Fire Fighters"). This would include a revision to the arbitration award that would maintain the current minimum benefit for certain eligible surviving spouses and surviving domestic partners. The enhanced benefit would be extended to all current eligible fire department members of the Plan who retire on or after July 1, 2008.

**BACKGROUND**

An interest arbitration award between the City of San Jose and the San Jose Fire Fighters was issued on or about August 11, 2007. The award applies to employees in classifications represented by the San Jose Fire Fighters and contains changes to retirement benefits, including an increased spousal survivorship benefit. The change to the survivorship retirement benefit is effective for eligible employees who retire on or after July 1, 2008.

## ANALYSIS

### Current Benefits

The current survivorship benefit provides a survivorship allowance payable to the surviving spouse or surviving domestic partner, an amount equal to 37.5% of the deceased person's final compensation, if at the time of the deceased person's death the deceased person was entitled to a retirement allowance less than seventy-five percent of the deceased person's final compensation. If at the time of the deceased person's death the deceased person was entitled to a retirement allowance of at least seventy-five percent, the surviving spouse or surviving domestic partner would receive fifty percent of the deceased person's retirement allowance. The current maximum monthly surviving allowance payable to a surviving spouse or surviving domestic partner is 42.5%.

### Fire Arbitration Proposals and Costs

In arbitration with the San Jose Fire Fighters, the City proposed to maintain the 42.5% maximum monthly surviving allowance payable to a surviving spouse or surviving domestic partner. The San Jose Fire Fighters offer in arbitration was to change the spousal survivorship benefit to fifty percent of the member benefit up to a maximum of 45% of the member's final average salary. The union's last offer, however did not maintain the current minimum benefit level.

The Police & Fire Department Retirement Board's actuary, The Segal Company, developed a cost estimate of this increased spousal survivorship benefit, while maintaining the current minimum benefit level. This cost estimate was provided to the Arbitration Panel. (Please see attached.) The total annual cost of providing this benefit, paid by the City, is approximately \$60,860 (.07% of payroll).

### Arbitration Award

The Chair of the Arbitration Panel selected the proposal made by the San Jose Fire Fighters, rather than the benefit proposed by the City. The proposal as drafted by the union reads as follows:

#### **ARTICLE 28 RETIREMENT**

28.7 Effective July 1, 2008, the spousal survivorship benefit shall be equal to fifty percent (50%) of the member benefit up to a maximum of forty-five percent (45%) of the member's final average salary.

Although the union's offer does not maintain the current minimum level of 37.5% for certain eligible spouses or domestic partners, the Administration recommends maintaining the current minimum level.

An amendment to the arbitration award is subject to mutual agreement by both parties. A Side Letter amending the arbitration award to maintain the current minimum level was executed on June 2, 2008.

This increased survivorship benefit (proposed ordinance attached) will be effective for all Police and Fire Department Retirement plan members who are in classifications in the San Jose Fire Department who retire on or after July 1, 2008. Although the arbitration award applies only to employees in classifications represented by Local 230, it is recommended that the increased benefit apply to all current Fire Department members of the Plan, including Deputy Fire Chiefs, the Assistant Fire Chief and the Fire Chief. This makes the retirement benefits consistent with all sworn-personnel within the Fire Department and also is consistent with prior benefit enhancements.

#### Retirement Board Review

San Jose Municipal Code Section 3.36.485 (A) (copy attached) requires that prior to adoption of any ordinance amending the Police and Fire Department Retirement Plan, a copy of the proposed ordinance be provided to the Board for the Board's review and recommendation. Although the Board is not required to do so, the Board may submit a report or recommendation on the proposed amendment to the City Council within sixty (60) days upon receipt of the proposed ordinance by the Secretary of the Board.

Pursuant to Municipal Code Section 3.36.485 (B), in any case where the City Council finds that there is a need to adopt an ordinance amending the system within a time period which would not allow for a sixty-day review period, the Council may act on the ordinance without first submitting it to the Board. At the time the Council passes the ordinance for publication of title, the Council refers the ordinance to the Board for study and consideration. The Board can then make recommendations to the Council, and the Council may amend the adopted ordinance with any further changes, subject to the meet-and-confer process if applicable.

#### PUBLIC OUTREACH/INTEREST

- X **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
  
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
  
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item will be placed on the June 17, 2008, Council Agenda and the memorandum will be available to the public on the City's website.

June 2, 2008

**Subject: Retirement Spousal Survivorship Benefit for Fire Department Members  
of the Police & Fire Department Retirement Plan**

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## COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office. A copy of this memorandum and the proposed ordinance will be provided to the San Jose Fire Fighters.

## COST IMPLICATIONS

The Board's actuary estimated that providing the increased survivorship benefit for Police and Fire Retirement plan members who are in classifications in the San Jose Fire Department would increase the City's contribution rate to the Police and Fire System by approximately .07% percent of covered payroll annually. (Please see attached.) It is anticipated that the contribution rates for this benefit change will be effective on June 29, 2008.

The estimated annual on-going cost to the City of the enhanced survivorship benefit awarded in arbitration, with the amendment to the arbitration award to maintain the current minimum level is approximately \$60,860.



Alex Gurza  
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

Attachment 1: Proposed Ordinance to amend the San Jose Municipal Code

Attachment 2: The Segal Company Report, dated January 12, 2007

Attachment 3: San Jose Municipal Code, Section 3.36.485

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING CHAPTER 3.36 OF TITLE 3 OF THE SAN JOSE MUNICIPAL CODE RELATED TO SERVICE CONNECTED DISABILITY BENEFITS FOR EMPLOYEES OF THE FIRE DEPARTMENT WHO ARE MEMBERS OF THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN**

**WHEREAS**, pursuant to the Opinion and Award in Interest Arbitration Proceedings Pursuant to San Jose City Charter Section 1111 dated August 3, 2007 (the "Arbitration Award"), the benefit formula for members of the Police and Fire Department Retirement Plan (the "Plan") who are employed in the Fire Department and retire on or after July 1, 2008 will be changed from the current benefit formula; and

**WHEREAS**, implementation of the Arbitration Award requires amendments to the Plan; and

**WHEREAS**, on May 6, 2008, the City Council of the City of San Jose approved Ordinance No. 28300, in partial implementation of the Arbitration Award; and

**WHEREAS**, Ordinance No. 28300 included provision for enhancement of the service connected disability benefits for employees of the Fire Department who are members of the Police and Fire Department Retirement Plan; and

**WHEREAS**, the City and the San Jose Fire Fighters, IAFF, Local 230 have agreed to modify the Arbitration Award to provide an alternative structure to that set forth in Ordinance No. 28300 for service connected disability benefits for employees of the Fire Department who are members of the Police and Fire Department Retirement Plan; and

**WHEREAS**, the Board of Administration for the Plan (the "Board") has received a report from the Board's actuary regarding the actuarial cost of such benefits; and

**WHEREAS**, the Board has been provided a copy of the proposed amendments to the Plan for its review and recommendation;

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

**SECTION 3.** Section 3.36.1020 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

**3.36.1020 Service-Connected Disability Benefits.**

A. Any member retired for service-connected disability pursuant to the provisions of Section 3.36.1000 shall thereafter be paid from the retirement fund, while incapacitated for the performance of duty as a result of such disability, subject to all other provisions of this Chapter, a monthly disability retirement allowance in the following amount:

1. If such member's service-connected disability retirement occurred prior to January 1, 1970, the monthly allowance shall be equal to fifty percent of such member's final compensation.
2. If such member's service-connected disability retirement occurred on or after January 1, 1970, but prior to February 4, 1996, the monthly disability retirement allowance shall be as follows:
  - a. From and after the date of such member's retirement prior to September 1, 1970, the monthly allowance shall be equal to fifty percent of such member's final compensation plus one and two-thirds percent of said final compensation for each full year of service in excess of the first twenty years of service for which such member is entitled to credit; provided, however, that in no event shall the total monthly disability retirement allowance during said period of time exceed a maximum of sixty-six and two-thirds percent of such member's final compensation; and
  - b. From and after September 1, 1970, while so retired for disability, the monthly allowance shall be equal to fifty percent of such member's final compensation plus two and one-half percent of said final compensation for each full year of service in excess of the first

twenty years of service for which such member is entitled to credit; provided, however, that in no event shall the total monthly disability retirement allowance exceed a maximum of seventy-five percent of such member's final compensation.

3. If such member's service-connected disability retirement occurred or occurs on or after February 4, 1996, but prior to February 4, 2000, the monthly allowance shall be equal to fifty percent of such member's final compensation plus three percent of said final compensation for each full year of service in excess of twenty years of service for which such member is entitled to credit; provided, however:
  - a. In no event shall the total monthly disability retirement allowance exceed a maximum of eighty percent of such member's final compensation.
  - b. This paragraph A.3. shall not apply in the case where the member was retired for service prior to February 4, 1996, was not reemployed by the city for any period on or after February 4, 1996, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1. or A.2., above, as applicable.
4. Except as provided in paragraph 5 or paragraph 6 below, if such member's service-connected disability retirement occurred or occurs on or after February 4, 2000, the monthly allowance shall be equal to fifty percent of such member's final compensation, plus three percent of said final compensation for each year of the first five full years of service in excess of twenty years, plus four percent of his or her final compensation for each full year of service in excess of twenty-five years of service; provided, however:

- a. In no event shall the total monthly disability retirement allowance exceed a maximum of eighty-five percent of such member's final compensation.
  - b. This paragraph A.4. shall not apply in the case where the member was retired for service prior to February 4, 2000, was not reemployed by the City for any period on or after February 4, 2000, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1., A.2. or A.3. above, as applicable.
5. With respect to those members of the Plan who are employed in the Police Department:
- a. If such member's service-connected disability retirement occurred or occurs on or after February 4, 2000, but prior to July 1, 2006, the monthly allowance shall be calculated in accordance with paragraph A.4 above.
  - b. If such member's service-connected disability retirement occurred or occurs on or after July 1, 2006, the monthly allowance shall be equal to fifty percent of his or her final compensation, plus four percent of his or her final compensation for each full year of service in excess of twenty years; provided, however, that in no event shall the monthly allowance exceed a maximum of ninety percent of the member's final compensation.
  - c. This paragraph A.5. shall not apply in the case where the member was retired for service prior to July 1, 2006, was not reemployed by the city for any period on or after July 1, 2006, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1., A.2., A.3. or A.4 above, as applicable.

6. With respect to those members of the Plan who are employed in the Fire Department:
- a. If such member's service-connected disability retirement occurred or occurs on or after February 4, 2000, but prior to July 1, 2008, the monthly allowance shall be calculated in accordance with paragraph A.4 above.
  - b. If such member's service-connected disability retirement occurred or occurs on or after July 1, 2008, the monthly allowance shall be equal to fifty percent of his or her final compensation; and, if the member had twenty or more years of service, an additional ten percent of said final compensation, plus three percent of his or her final compensation for each full year of service in excess of twenty years; provided, however, that in no event shall the monthly service retirement allowance exceed a maximum of ninety percent of the member's final compensation.
  - ~~b. If such member's service-connected disability retirement occurred or occurs on or after July 1, 2008:~~
    - ~~i. If the member was credited with less than twenty years of service credit on the date of retirement, the monthly allowance shall be fifty percent (50%) of the member's final average salary.~~
    - ~~ii. If the member was credited with twenty or more years of service credit on the date of retirement, the monthly allowance shall be equal to three percent of his or her final compensation for each year of service credit; provided, however, that in no event shall the monthly service retirement allowance exceed a maximum of ninety percent of the member's final compensation.~~
  - c. This paragraph A.6. shall not apply in the case where the member was retired for service prior to July 1, 2008, was not reemployed by

the City for any period on or after July 1, 2008, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1., A.2., A.3. or A.4 above, as applicable.

- B. For the purposes of this Section 3.36.1020, "service" means service performed for the City and for which the member is entitled to credit under the provisions of this Chapter. "Service" shall not include service as an officer or employee of a reciprocal agency which is used to qualify for benefits pursuant to Section 3.36.3020.
- C. Notwithstanding any other provision of this section, in computing the amount of allowance payable under this section for service in excess of the first twenty years, pro rata credit shall be given for a fraction of a full year.

PASSED FOR PUBLICATION of title this \_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote:

AYES:

NOES:

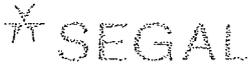
ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
CHUCK REED  
Mayor

ATTEST:

\_\_\_\_\_  
LEE PRICE, MMC  
City Clerk



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January 12, 2007

VIA EMAIL and US MAIL

Mr. Edward F. Overton  
 Director/Retirement Services  
 City of San Jose Police and Fire Department Retirement Plan  
 1737 North First Street, Suite 580  
 San Jose, CA 95112-4505

Re: **Results of the Firefighter Benefit Improvement Study**

Dear Ed:

On December 12, 2006, we provided you with a proposal to carry out various benefit improvement studies requested by IAFF Local 230 and the City. This letter provides the results of those studies.

**Background and Discussions**

The following table compares the current benefit formula accrual rates (expressed as a percent of final average compensation) with those studied:

Current Benefit		5% at 25		4% at 20		3% per year of service	
1-20 years	2.5%	1-20 years	2.5%	1-20 years	2.5%	1-20 years	2.5%
21-25 years	3.0%	21-25 years	3.0%	21-30 years	4.0%	Once member earns 20 years of service:	
26-30 years	4.0%	26-30 years	5.0%			1-30 years	3.0%
>	85% Cap	>	90% Cap	>	90% Cap	>	90% Cap

Further details regarding these proposed improvements follow.

Benefits, Compensation and HR Consulting ATLANTA BOSTON CALGARY CHICAGO CLEVELAND DENVER HARTFORD HOUSTON LOS ANGELES  
 MINNEAPOLIS NEW ORLEANS NEW YORK PHILADELPHIA PHOENIX PRINCETON RALEIGH SAN FRANCISCO TORONTO WASHINGTON, D.C.



Multinational Group of Actuaries and Consultants BARCELONA BRUSSELS DUBLIN GENEVA HAMBURG JOHANNESBURG LONDON MELBOURNE  
 MEXICO CITY OSLO PARIS

- The current continuance benefit is equal to the greater of 37.5% of final average compensation or 50% of the member's retirement allowance with a maximum continuance benefit of 42.5% of final average compensation. The pricing of each of the above possible improved formulas includes the alternative cost of either maintaining the current maximum continuance benefit at 42.5% of final average compensation or increasing the continuance benefit to 45% of final average compensation.
- The service and non-service connected disability retirements for members with less than 20 years of service will remain unchanged. However, for members with over 20 years of service, the benefit will increase to a level equal to that described above for service retirement.
- We assumed that the cost of converting the prior service for active members will be paid for entirely by the City and that firefighters will be required to contribute 3/11 of the normal cost under the improved formula.

We received no specific direction as to the anticipated effective date of any improvement. As an alternative, we have assumed that the effective date would be July 1, 2006, the same date at which the Police improvements became effective. If the actual effective date is different from that, it may affect the results of this study. Unfortunately, it is not possible to predict in advance the impact of a change in the effective date.

#### **Actuarial Valuation Results**

The following two pages provide the results of our study. These results are for Fire Member only.

The "4% at 20" formula matches the current Police member formula, although the Fire member version provides an increased continuance benefit. We observe that the additional Fire cost under that formula is just slightly higher than that for the Police, specifically a slightly lower normal cost and a higher UAAL cost.

We believe the lower 4% at 20 normal cost for Fire versus Police stems from Fire members typically entering the Plan at a later age than Police. This means that, under the current uniform retirement age assumptions, Fire members are expected to retire with a shorter career than Police, hence will draw less of a benefit increase from a back-loaded formula like the 4% at 20. We believe the relatively higher UAAL cost comes from current Fire members having about ½ year more average service than Police, resulting in a higher past service liability.

Firefighter Benefit Improvement Study - Assuming July 1, 2006 Effective Date			
Firefighter Results Only	Based on June 30, 2005 Valuation Results (Dollars in 000's)		
	5% at 25	4% at 20	3% per year of service
Scenario #1 – No Change in Maximum Spousal Continuance Benefit (42.5% of Final Average Compensation)			
Change in Actuarial Accrued Liability	\$11,150	\$19,220	\$30,423
Change in Actuarial Value of Assets	\$0	\$0	\$0
Change in Unfunded Actuarial Accrued Liability (UAAL)	\$11,150	\$19,220	\$30,423
Increase in Employer UAAL Rate (% of Payroll*)	1.33%	2.29%	3.63%
Increase in Employer Normal Cost (% of Payroll*)	0.44%	1.03%	1.95%
Increase in Total Employer Rate (% of Payroll*)	1.77%	3.32%	5.58%
Increase in Employee UAAL Rate (% of Payroll*)	0.00%**	0.00%**	0.00%**
Increase Employee Normal Cost (% of Payroll*)	0.16%**	0.38%**	0.73%**
Increase in Total Employee Rate (% of Payroll*)	0.16%**	0.38%**	0.73%**

\* Estimated payroll for plan years 2005-2006 and 2006-2007 are \$71,434 and \$74,291, respectively.

\*\* See later discussion in this letter.

<b>Firefighter Benefit Improvement Study - Assuming July 1, 2006 Effective Date</b>			
Firefighter Results Only	Based on June 30, 2005 Valuation Results (Dollars in 000's)		
	5% at 25	4% at 20	3% per year of service
<b>Scenario #2 – Increase in Maximum Spousal Continuance Benefit (45% of Final Average Compensation)</b>			
Change in Actuarial Accrued Liability	\$11,600	\$19,683	\$30,908
Change in Actuarial Value of Assets	\$0	\$0	\$0
Change in Unfunded Actuarial Accrued Liability (UAAL)	\$11,600	\$19,683	\$30,908
Increase in Employer UAAL Rate (% of Payroll*)	1.38%	2.35%	3.69%
Increase in Employer Normal Cost (% of Payroll*)	0.45%	1.04%	1.96%
Increase in Total Employer Rate (% of Payroll*)	1.83%	3.39%	5.65%
Increase in Employee UAAL Rate (% of Payroll*)	0.00%**	0.00%**	0.00%**
Increase Employee Normal Cost (% of Payroll*)	0.17%**	0.39%**	0.74%**
Increase in Total Employee Rate (% of Payroll*)	0.17%**	0.39%**	0.74%**

\* Estimated payroll for plan years 2005-2006 and 2006-2007 are \$71,434 and \$74,291, respectively.

\*\* See later discussion in this letter.

### **Impact of Delaying Contribution Rate Increase for Members**

In our study for the cost of the Police benefit improvement, we also provided the cost associated with collecting member contributions retroactive to the date of the improvement. We would be glad to provide such cost calculation later if it is called for in the Fire benefit improvement.

### **Assumptions Used in the Analysis**

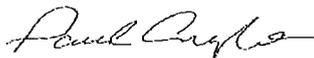
In general, the assumptions used in this analysis are identical to those used in our October 4, 2006 reconciliation of the June 30, 2005 valuation results; however, there are two items worthy of discussion:

UAAL Amortization Period – Earlier this year, the Board decided to amortize the increase in Plan's Unfunded Actuarial Accrued Liability (UAAL) due to the June 30, 2005 experience study and the 2003-2005 actuarial experience over a period of 16 years. The 16 year period was also used in amortizing the UAAL for the Police improvement. We have continued to apply the 16-year period in this study.

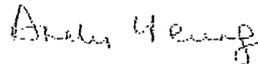
Service Retirement Rates – We have assumed that the current retirement rates will be unaffected by the benefit improvement. Although some Fire members may be able to retire a little earlier with the same retirement income after these improvements, others may decide to delay retirement further so that they can accrue a higher benefit. We will monitor the retirement pattern and make changes, if necessary, in the next experience study.

If you have any questions, please let us know.

Sincerely,



Paul Angelo, FSA, EA, MAAA  
Senior Vice President & Actuary



Andy Yeung, ASA, EA, MAAA  
Associate Actuary

AYY/bqb

## San Jose Municipal Code

### 3.36.485 Review of proposed amendments.

- A. Except as provided in subsection B., prior to the adoption of any ordinance amending the police and fire department retirement plan, a copy of the proposed ordinance shall be provided to the board for the board's review and recommendation.
1. The board may, but is not required to, submit a report or recommendation on the proposed amendment to the city council.
  2. If the board declines or fails to submit a report or recommendation on a proposed amendment within sixty days of receipt of the proposed ordinance by the secretary to the board, the city council may proceed to adopt or not adopt the ordinance without first receiving a report or recommendation from the board.
  3. Nothing in paragraph 2. shall be deemed to preclude the board from thereafter submitting a report or recommendation to the city council.
- B. In any case where the city council finds that there is a need to adopt an ordinance amending the system within a time period which would not allow for a sixty-day review period, the council may act on the ordinance without first submitting it to the board, and the following procedures shall apply:
1. At the time the council passes the ordinance for publication of title or, in the case of an urgency ordinance, at the time the council adopts the ordinance, the council shall refer the ordinance to the board for study and consideration.
  2. Following its study, the board may submit to the council a recommendation that the council take one or more of the following actions:
    - a. Repeal the ordinance.
    - b. Readopt the provisions of the ordinance with such amendments, additions or changes, if any, as the board may wish to recommend.
    - c. Make such other changes or provisions as the board may recommend.
  3. Upon receipt of the board's recommendation, the council may implement or disapprove the recommendation.

(Ords. 24922, 24979.)