COUNCIL AGENDA: 08-03-10
ITEM: 3.3(e)

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Lee Price, MMC
City Clerk

SUBJECT: **SEE BELOW**

DATE: 07-28-10

SUBJECT: **CONSIDERATION OF MODIFICATIONS TO CHARTER SECTIONS 1504 AND 1505 REGARDING MINIMUM BENEFITS AND CONTRIBUTIONS/COST SHARING FOR PENSIONS**

RECOMMENDATION

As recommended by the Rules and Open Government Committee on July 28, 2010 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, council consideration of modifications to Charter Sections 1504 and 1505 regarding minimum benefits and contributions/cost sharing for pensions.

RULES COMMITTEE: 07-28-10
ITEM: H.1

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE

FROM: Mayor Chuck Reed

SUBJECT: **Ballot Measures**

DATE: 7/22/10

APPROVED: Chuck Reed

DATE: 7/22/10

RECOMMENDATION:

1. Agendize for Council consideration at the City Council meeting on August 3, 2010:

   Discussion and action on potential measures to be placed on the November 2010 ballot:

   - City/Redevelopment Agency participation in a Downtown ballpark project
   - Sales tax increase
   - Marijuana tax
   - Amendment to, or repeal of, Charter Section 1111 regarding binding arbitration
   - Modifications to Charter Section 1504 and 1505 regarding minimum benefits and contributions/cost sharing for pensions

2. Direct staff to prepare resolutions prior to August 3, 2010 as may be necessary for Council action.

RULES COMMITTEE: 07-28-10
ITEM: H.2

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: Rules Committee **FROM: Councilmember Pierluigi Oliverio**

SUBJECT: Pension Reform Voter Approval **DATE: July 19, 2010**

Approved Pierluigi Oliverio by D.F. Date July 19, 2010

RECOMMENDATION

Direct the City Attorney to prepare legally binding ballot language for a ballot measure to be considered at the August 3, 2010 council meeting for the November 2010 election allowing the residents of San Jose to vote on changing the City Charter by removing charter language regarding "minimum benefit" and "contributions/ cost sharing" in regards to pensions (Sections 1504 and 1505).

Removing this language would allow the flexibility to negotiate a 2nd Tier pension for new employees whose hiring date is after January 1, 2011. This proposal would not change current legally vested benefits for existing employees.

BACKGROUND

Public pensions costs are soaring and forcing our City to reduce essential services to residents. In fiscal year (2009-2010) the cost of pensions was $138 million. In fiscal year 2010-2011 the amount jumped to $200 million. (The $62 million increase is double the citywide Library budget). In fiscal year 2011-2012 that number will grow to $240-250 million ($240-250 million is approximately the annual Police budget) and could balloon to $350 million by 2015-2016 ($350 million is double the citywide Fire Department budget or more than the annual property tax and sales tax revenues).

The average private sector employer match is 3% for a 401K in the USA. In comparison, the City of San Jose as an employer matches at an 8 to 3 ratio or 250%. Individuals with retirement plans like a 401k, IRA and SEP IRA bear 100% of the investment risk. However San Jose employees do not have this risk and are guaranteed a net return of approximately 8% which means the gross return must hit 9%. The average combined return on the retirement funds for the last 10 years has only been 4.4% thus the taxpayer makes up the difference; this fiscal year alone it was $52 million. Therefore, since the taxpayers are responsible for paying the difference in pensions, I believe that residents should have the right to vote on whether or not they want to continue to pay sums such as $52 million for pensions in a single fiscal year.

It is imperative that the 2nd Tier pension be put on the 2010 ballot for the following reasons:

1). The City should give voters the opportunity to vote on the pension system. To not allow the voters the chance to vote on this issue is undemocratic. Some may say that we should just handle this "in house" and create a committee to look into alternatives and/or have closed meetings with the unions to try and negotiate an agreement.

Closed door meetings are not transparent nor do we know how many years it will take to negotiate or if a consensus of any kind can be reached by a committee or by negotiations. Additionally, any recommendation that may come out of negotiations or a recommendation by a committee would need to be voted on in a citywide election anyway. We need to take advantage of the November 2010 election to know whether or not the residents of San Jose support a 2nd Tier retirement system for NEW employees. Delay will result in missing out on the numerous "Baby Boomer" retirements that will take place and be filled by new employees.

2). A 2nd Tier provides flexible options. The 2nd Tier may have a 1 to 1 match instead of 8-3 or it may have a 1 to 2 instead of 8-3 or it may be simply a new system like a 401K with a generous match from taxpayers of some reasonable percentage. Retirement contributions from new employees and the City shall be put in an escrow account until a new 2nd Tier pension plan has been selected. Actuarial studies must be completed and presented prior to making a final decision.

3). Reforming the pension system now will allow the City to balance the structural budget deficit and over time hire additional police officers, extend libraries hours and pave more roads in San Jose. If these costs are not addressed then the rapid growth of pensions will force our City to make additional cuts to essential city services or layoff more employees. Delay of pension reform may force our City into bankruptcy and raise taxes significantly. Even with higher taxes the new revenue is unlikely to keep pace with pension growth. This proposal maintains the benefits for retired and existing employees.

If the City Charter is not changed to allow the option for 2nd Tier system, the City will face continued severe financial duress. The current pension system is absolutely unsustainable and threatens the quality of life for San Joseans. Let the voters vote!