



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Debra Figone

SUBJECT: ANNUAL SUMMARY OF LABOR
NEGOTIATIONS

DATE: April 17, 2012

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

RECOMMENDATION

Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations.

OUTCOME

As recommended by the Sunshine Reform Taskforce and approved by the City Council, this report will provide the public an opportunity to have information related to labor negotiations in advance of the commencement of negotiations and to provide input to the City Council.

BACKGROUND

Pursuant to the Public Information provisions of the Sunshine Reform Task Force Phase 1 Report approved by the City Council on August 21, 2007, staff is to bring forward to the City Council in open session on an annual basis a summary of labor negotiations for the upcoming year. The purpose of this process is to provide an opportunity for the public to be informed about the City's labor negotiations before the City commences negotiations and to provide the City Council input before the negotiations begin.

This memo provides a summary of background information related to labor negotiations, a summary of bargaining unit information, personnel cost information, and a summary of labor negotiations cost saving strategies.

The following chart shows the City's bargaining units, total Full Time Equivalents (FTEs¹) for the 2012-2013 Base Budget represented by each bargaining unit and the expiration of their most recent contract. In addition to the bargaining units listed below, there are approximately 227 FTE's in the unrepresented employee groups known as Units 99, 81 and 82.

Bargaining Unit/Union	FTEs²	Contract Expiration
International Brotherhood of Electrical Workers, Local 332 (IBEW)	74	06/30/11
International Union of Operating Engineers, Local #3 (OE#3)	692	06/30/11
Municipal Employees' Federation, AFSCME Local 101 (MEF)	1785	06/30/11
Confidential Employees' Organization, AFSCME Local 101 (CEO)	178	09/18/11
Association of Legal Professionals of San Jose (ALP)	32	06/30/12
San Jose Police Officers' Association (POA)	1109	06/30/13
San Jose Fire Fighters, IAFF, Local 230 (IAFF)	645	06/30/13
Association of Building, Mechanical and Electrical Inspectors (ABMEI)	64	06/30/13
Association of Engineers and Architects, IFPTE Local 21 (AEA) Unit 41/42 and Unit 43	203	06/30/13
Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP)	77	06/30/13
City Association of Management Personnel, IFPTE Local 21 (CAMP)	322	06/30/13
TOTAL	5181	

In November 2010, the City Council in open session approved a Fiscal Year 2011-2012 goal of reducing the total ongoing employee compensation for all City employees by ten percent (10%) and rolling back any general wage increases received in Fiscal Year 2010-2011, which also included the healthcare changes recommended by the City Auditor and approved by the City Council in August 2009. "Total compensation" is the total cost to the City of pay and benefits, including base pay, retirement contributions, health insurance and other benefits. In addition, the City Council approved direction to achieve the following reforms in Fiscal Year 2011-2012: retirement reform, including pension and retiree healthcare benefits for new hires; options for current employees; Supplemental Retiree Benefit Reserve (SRBR) or "13th Check;" sick leave payout; disability leave supplement, overtime calculation, vacation sellback and compensation structure.

The City reached agreement with seven bargaining groups. The City/ALP agreement will expire on June 30, 2012, and the remaining six contracts will expire on June 30, 2013. In May 2011, the City Council imposed terms and conditions for IBEW, OE#3, MEF and CEO.

The City has made significant progress towards the goals and negotiation parameters established by the City Council for Fiscal Year 2011-2012. The 10% total compensation reduction was

¹ Full Time Equivalents (FTEs) are the combined total number of budgeted full-time positions. For example, one full-time position equals one FTE. Similarly, two half-time positions equal one FTE.

² Source: 2012-2013 Base Budget. Does not include 227 unrepresented positions.

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achieved with all eleven bargaining units, including the City Auditor's recommendations for changes to healthcare, specifically, plan design changes (\$25 co-pay plan), elimination of dual coverage and reduced Health-In-Lieu amounts. The chart below demonstrates our progress in the additional areas of reform included in the Council's direction:

Employee Unit	Ongoing Total Compensation Reduction	Modify Step Increases	Disability Leave Supplement	Sick leave Payout	Modify Overtime Calculation	Vacation Sellback
AEA	-10%	N/A	Phased Out 06/24/12	In Negotiation/Mediation	N/A	Phased Out 12/23/12
ALP	-10%	N/A	Reduced to 3 months	In Negotiation/Mediation	N/A	Reduced to 60 Hours
AMSP	-10%	N/A	Phased Out 06/24/12	In Negotiation/Mediation	N/A	Phased Out 12/23/12
CAMP	-10%	N/A	Phased Out 06/24/12	In Negotiation/Mediation	N/A	Phased Out 12/23/12
ABMEI	-10%	Reduced to 2.5%	Phased Out 06/24/12	In Negotiation/Mediation	Status Quo	N/A
IBEW	-10%	Reduced to 2.5%	Reduced to 3 months	Eliminated 01/01/12	Actual Hours Worked Only	N/A
OE#3	-10%	Reduced to 2.5%	Reduced to 3 months	Eliminated 01/01/12	Actual Hours Worked Only	N/A
MEF	-10% ³	Reduced to 2.5%	Reduced to 3 months	Eliminated 01/01/12	Actual Hours Worked Only	N/A
CEO	-10% ⁴	Reduced to 2.5%	Reduced to 3 months	Eliminated 01/01/12	Actual Hours Worked Only	N/A
POA	-10%	Status Quo	Status Quo	In Negotiation/Mediation	Status Quo	N/A
IAFF, Local 230	-10%	Status Quo	Status Quo	In Negotiation/Mediation	Status Quo	N/A
Unit 99/Unit 82 ⁵	-10%	N/A	Phased Out 06/24/12	TBD	N/A	Phased Out 12/23/12

In addition to negotiations for successor agreements, the City has been in negotiations with all bargaining groups regarding retirement reform and a related ballot measure. On May 24, 2011, the City Council approved the Fiscal Reform Plan which included recommendations for retirement benefit reforms. The City Council also provided direction to staff to prepare a draft ballot measure that would include various proposed changes to the City Charter regarding retirement benefits for new employees, current employees and current retirees. This ballot measure was approved on March 6, 2012, for the June 2012 election.

³ Also achieved Council direction to roll back 2% General Wage Increase received in Fiscal Year 2010-2011.

⁴ Also achieved Council direction to roll back 2% General Wage Increase received in Fiscal Year 2010-2011.

⁵ Unit 99/Unit 82 are comprised of unrepresented employees whose benefits are determined by the City Council through the recommendations of the City Manager.

ANALYSIS

Personnel Costs

As a service organization, the great majority of the City's costs pay for the employees who provide those services. Over the last several years, the City has experienced a significant increase in those costs. It is projected that increases in personnel costs will continue. From Fiscal Year 2002-2003 Adopted Budget to Fiscal Year 2012-2013 Base Budget, the average cost per employee is projected to increase by 62.27% from \$85,897 in the Fiscal Year 2002-2003 Adopted Budget to \$139,381 in the Fiscal Year 2012-2013 Base Budget. During that same timeframe, the City's workforce has been reduced from 7,418 to 5,409⁶. The chart below shows the difference in budgeted costs of base payroll, retirement benefits, healthcare benefits and other benefits from Fiscal Year 2002-2003 to the projected Fiscal Year 2012-2013 Base Budget costs.

Citywide Salary & Benefits^{7 8}			
	2002-2003 Adopted Budget	2012-2013 Base Budget	Difference
BASE PAYROLL	\$516,923,469	\$443,570,199	-14.19%
RETIREMENT BENEFITS	\$73,488,586	\$243,665,030	231.57%
Federated Retirement/Other ⁹	\$46,105,680	\$122,529,771	165.76%
Police/Fire Retirement	\$27,382,906	\$121,135,259	342.38%
HEALTH/DENTAL BENEFITS	\$37,418,540	\$58,078,566	55.21%
OTHER BENEFITS (Unemployment and Other Miscellaneous Benefits)	\$9,329,611	\$8,599,055	-7.83%
TOTAL (ALL BENEFITS)	\$120,236,737	\$310,342,651	158.11%
GRAND TOTAL	\$637,160,206	\$753,912,850	18.32%
Average Total Cost Per FTE	\$85,897	\$139,381	62.27%
TOTAL FTE	7,418	5,409	-27.08%

As noted in the chart above, it is projected that there will be a 342.38% increase in costs for Police and Fire retirement benefits compared to a 165.76% increase in the Federated plan

⁶ **Source:** City of San Jose Salary and Fringe Benefit Costs by Bargaining Unit & Fund for 2002-2003 through 2012-2013 Base Budget.

⁷ **Source:** City of San Jose Salary and Fringe Benefit Costs by Bargaining Unit & Fund for 2002-2003 through 2012-2013 Base Budget.

⁸ **Note:** Does not include worker's compensation cost or overtime. The figures above are budgeted costs and include the cost of providing paid time off, such as vacation, holidays, personal/executive leave, and sick leave, to the extent that paid leave is taken during the fiscal year. The actual salary and benefit costs of individual employees vary.

⁹ Other Retirement benefits include retirement costs associated with part-time employees and the Mayor and City Council.

covering other City employees. Furthermore, the most recent projections from the Retirement Plans' actuary, the City's contribution rates will continue to increase significantly in both retirement plans, but more significantly for the Police and Fire retirement plan.

2012-2013 Cost Savings Strategies which are Subject to Meet and Confer With the City's Bargaining Units

There has been various cost savings strategies identified in recent years, which will continue to be evaluated for the upcoming negotiations in further pursuit of the elimination of the structural deficit which was identified by the City Council in 2007 as one of its top priorities.

Sick Leave Payment Modifications Upon Retirement

Prior to 2012, all employees who retired from City service were eligible to receive payment for their unused accrued sick leave in accordance with the terms negotiated for their bargaining unit. Employees represented by CEO, IBEW, MEF and OE#3, ceased to receive any sick leave payout benefit effective January 1, 2012. Employees represented by all other bargaining units are currently engaged in negotiations/mediation regarding the sick leave payout benefit.

Outsourcing and Civilianization

It is imperative that the City fully maximize its current resources and look for outsourcing opportunities. This may allow for the preservation of high quality services at a lower cost.

It is also important that the City fully maximize its current sworn public safety employees in areas requiring their training and expertise and not allocate those resources to work that can be performed by civilian employees or outsourced at a lower cost. This includes allocating sworn public safety employees currently performing civilian activities to functions requiring sworn public safety employees.

Retirement Reform

Negotiations have been completed with all the bargaining groups on the issue of retirement reform as well as a related ballot measure scheduled for the June 2012 election. In addition, the City has issued Last, Best and Final offers to the nine non-sworn bargaining units regarding Tier 2 pension benefits for new hires, Medicare Part A and B enrollment and the introduction of a fourth option in healthcare plans for active employees to select coverage. Establishment of Tier 2 retirement benefits for employees represented by POA and IAFF Local 230 is pending.

Labor Negotiations Background

The City negotiates in accordance with various laws, regulations and City policies, as explained below.

Guiding Principles for Labor Negotiations

In June of 2007, the City Council approved guiding principles for labor negotiations, which aligned the approach to bargaining with the priorities established by both the Council and the community. The Guiding Principles for Labor Negotiations are attached.

Council Policy- Labor Negotiation Guidelines

In March of 2008, the City Council approved a Council Policy on Labor Negotiation Guidelines, which applies to the Mayor, members of the City Council and Mayor and Council Staff. The purpose of the policy is to set guidelines for the City Council and Council staff to ensure labor negotiations are conducted in good faith and to avoid actions that would circumvent the City's designated bargaining team. The Council Policy- Labor Negotiation Guidelines are attached.

Meyers-Milius-Brown Act (MMBA)

The MMBA governs the labor-management relations in California local government, including cities, counties, and most special districts. The MMBA provides the right to organize, sets guidelines for such things as the scope of representation and the requirement to meet and confer in good faith.

The MMBA states that the governing body of a public agency shall meet and confer in good faith regarding wages, hours and other terms and conditions of employment with representatives of recognized employee organizations (i.e. unions/bargaining units).

Although it is commonly referred to as an obligation to "negotiate", the MMBA refers to the obligation to "meet and confer" in good faith. The MMBA defines meeting and conferring in good faith as having the mutual obligation to personally meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals and to endeavor to reach agreement on matters within the scope of representation.

The MMBA defines the scope of representation as all matters related to employment conditions and employer-employee relations, including, but not limited to, wages, hours and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

City of San Jose Employer-Employee Relations Resolution (#39367)

In addition to the MMBA, the City of San Jose has local rules that govern collective bargaining between the City and the recognized bargaining units that represent City employees.

Section 21 of Resolution #39367 designates the City Manager as the Municipal Employee Relations Officer. As such, the City Manager is the City's principal representative in all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment. Resolution #39367 also authorizes the City Manager to delegate these duties and responsibilities to an Employee Relations Officer or other members of his/her staff.

Negotiation/"Meet and Confer" Process

As mentioned above, under the Meyers-Milias-Brown Act (MMBA), the City has an obligation to "meet and confer" in good faith with the City's bargaining units regarding wages, hours and other terms and conditions of employment. The City Manager has delegated the authority to meet and confer to the Office of Employee Relations. The negotiations for a new agreement typically commence prior to the expiration of an existing Memorandum of Agreement (MOA). The City and the Union each establish a negotiating team. Resolution #39367 provides for paid release time for up to three bargaining unit team members for time spent during the negotiation meetings that coincide with the employees' normal work hours.

During the negotiations, the City team meets with the union team to discuss various issues and interests for the new contract. The City's negotiating team is provided negotiation authorization by the City Council through the City Manager. Proposals are exchanged related to the issues presented during the negotiations. Tentative agreements are often reached on individual issues as part of the negotiation process and ultimately, a tentative agreement is reached on the entire contract. All tentative agreements are contingent upon ratification of the union membership and approval of the City Council in open session.

If negotiations do not result in a tentative agreement on a new contract, Resolution #39367 states that impasse procedures may be invoked by either party and provides for mediation as the impasse procedure. If mediation assists the parties in reaching an agreement, it is still contingent upon ratification of the union membership and approval of the City Council in open session.

Assembly Bill 646 Regarding Impasse Procedures for Local Public Employee Organizations

As a result of the passage of Assembly Bill 646 (AB646), effective January 1, 2012, local government agencies, like the City of San Jose, are required to include fact finding in their impasse procedures for any bargaining unit requesting to do so that is not subject to binding interest arbitration. Previously, if the parties reached an impasse and have exhausted any applicable impasse procedures, a public agency had the option to unilaterally implement its last, best, and final offer. AB646 provides that the employee organization, if the mediator is unable to affect settlement of the controversy within 30 days of his or her appointment, may request that the matter be submitted to a fact finding panel; it should be noted that the ability to request to submit the matter to a fact finding panel appears to rest solely with the employee organization. The fact finding panel consists of one member selected by each party as well as a chairperson selected by the Public Employment Relations Board (PERB) or by mutual agreement of the

parties. The fact finding panel is authorized to make investigations and hold hearings, as well as issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. The additional costs associated with fact finding, generally, are to be divided amongst the parties. If the dispute is not settled within 30 days, the fact finding panel may make findings of fact and recommend terms of settlement, for advisory purposes only. These findings and recommendations are first issued to the parties, but are required to be publicly available within 10 days after their receipt. The addition of fact finding to the MMBA prohibits a public agency from implementing its last, best, and final offer until (1) at least 10 days after the fact finders' written findings of fact and recommended terms of settlement have been submitted to the parties, **and** (2) the agency has held a public hearing regarding the impasse. Revisions to Resolution #39367, discussed above, will be necessary in order to incorporate fact finding into the existing impasse procedures. These revisions will be brought to the City Council for discussion in the near future.

It is the goal of both parties to reach a negotiated agreement. However, the MMBA states that a public agency may, after impasse procedures have been exhausted, including fact finding if invoked, implement its last, best, and final offer. In addition, after impasse procedures have been concluded and an agreement has not been reached on a new contract, the bargaining unit has the right to strike and/or engage in other protected concerted activity, except for police officers and fire fighters who do not have the right to strike.

For the San Jose Police Officers' Association (POA) and the San Jose Fire Fighters (IAFF, Local 230), if the parties fail to reach agreement after participating in mediation, City Charter Section 1111, provides for an Arbitration Board, comprised of a City representative, Union representative, and a neutral arbitrator to decide each issue by majority vote. The results of arbitration are binding. The voters of San Jose passed a Measure in the November 2010 election that amends City Charter Section 1111. By passage of this Measure, the City Charter has been amended to limit outside arbitrators from: basing awards to employees primarily on the City's ability to pay; creating any unfunded liability for the City; increasing police and firefighter compensation more than the rate of increase in General Fund revenues; granting retroactive benefits; and depriving or interfering with the discretion of the Police or Fire Chief to make managerial, operational, or staffing decisions.

2012 Labor Negotiations

In April 2012, the City will be negotiating with the Association of Legal Professionals of San Jose (ALP) for a successor agreement. ALP represents approximately 32 Full Time Equivalents (FTEs), including the classifications of Deputy City Attorney and Senior Deputy City Attorney. ALP contract expires June 30, 2012, and negotiations with ALP are expected to begin in May 2012.

In addition, the following bargaining units currently have expired agreements:

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International Brotherhood of Electrical Workers (IBEW)

IBEW represents approximately 74 Full Time Equivalents (FTEs), including classifications of Electrician and Senior Electrician. IBEW's contract expired June 30, 2011. In May 2011, the City Council imposed terms and conditions for IBEW.

Operating Engineers, Local No. 3 (OE#3)

OE#3 represents approximately 692 Full Time Equivalents (FTEs), including the classifications of Maintenance Assistant, Park Ranger and Parking and Traffic Control Officer. OE#3's contract expired June 30, 2011. In May 2011, the City Council imposed terms and conditions for OE#3.

Municipal Employees' Federation/AFSCME Local 101 (MEF)

MEF represents approximately 1,785 Full Time Equivalents (FTEs), including the classifications of Librarian, Code Enforcement Inspectors and Recreation Leaders. MEF's contract expired June 30, 2011. In May 2011, the City Council imposed terms and conditions for MEF.

Confidential Employees' Organization/AFSCME Local 101 (CEO)

CEO represents approximately 178 Full Time Equivalents (FTEs), including the classifications of Analyst and Administrative Assistant. CEO's contract expired September 18, 2011. In May 2011, the City Council imposed terms and conditions for CEO.

Transparency/Sunshine Reform

These annual reports are to provide the public with information related to labor negotiations, prior to that authorization being given and the negotiation process being completed in order to provide an opportunity for the public to give input to the City Council.

Also as part of the Sunshine Reform, the City is providing the public with much more information on the City's internet than it has in the past. This includes information related to ongoing negotiations, costs of benefits and other payroll costs. The link to this website is: <http://www.sanjoseca.gov/employeeRelations/labor.asp>.

CONCLUSION

There is no question that in emerging from ten years of budget shortfalls in the General Fund and the fiscal challenges facing some other City funds, the City Council will continue to be faced with very difficult decisions. A major consideration this year will be continuing the efforts to date to control or reduce personnel costs in accordance with the Fiscal Reform Plan in order to halt the decline in services and eventually create capacity to begin the restoration of services.

The increased volume and complexity of labor-related issues as well as the expansion of impasse procedures under AB646, make it essential that appropriate resources are allocated to the City's labor relations to ensure the best possible outcome for the City, its residents and employees.

EVALUATION AND FOLLOW-UP

When Tentative Agreements are reached with the bargaining units during negotiations for a new collective bargaining agreement, they will be brought to Council in open session for approval.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- Criterion 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)**
- Criterion 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 is being provided in accordance with the Sunshine Ordinance and is requesting acceptance by Council on a report on upcoming Labor Negotiations. In order to provide the public with information about the City's labor negotiations, this report will be posted on the internet and will be sent out in Early Distribution. Bargaining unit representatives will be notified of this agenda item in advance. A copy will be sent to them as soon as the memo has been distributed.

COORDINATION

This memo has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

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CEQA

Not a project, File No. PP10-069 (a), Annual Report



Debra Figone
City Manager

For questions please contact Alex Gurza, Deputy City Manager, at 535-8155.

Attachments



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Les White

SUBJECT: See Below

DATE: May 31, 2007

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

SUBJECT: GUIDING PRINCIPLES FOR LABOR NEGOTIATIONS

RECOMMENDATION

Approve the guiding principles for labor negotiations.

OUTCOME

Adoption of the guiding principles for labor negotiations.

BACKGROUND

In accordance with the Mayor's March Budget Message, the proposed budget for Fiscal Year 2007-2008, responds to the priorities of both the community and the City Council, while addressing the sixth consecutive year of a multi-million dollar General Fund shortfall. However, projected growth in personal service costs continues to out-pace revenue growth through Fiscal Year 2011-2012.

Personal service costs account for two-thirds of the total General Fund uses. The increase of approximately 45% in the average budgeted position cost from 2000 to present can be attributed to three main cost components: salary, health care benefits and pension benefits. Along with the budget shortfalls already predicted for the next five fiscal years and the continued increases in cost for current employee salaries and benefits, liability for post-employment health care benefits for retirees has been estimated to be as high as \$1.4 billion.

Salaries and benefits are determined through the negotiation process with the City's bargaining units. In order to address the significant issues identified above, the City should be guided by principles in labor negotiations in order to remain mindful of the service needs of the City and the continued fiscal challenges.

ANALYSIS

One of the primary functions of the City is to provide services to the community. Accordingly, 2/3 of the General Fund is allocated to personal services. However, personal services costs have risen significantly during a time of serious fiscal challenges. Fiscal Year 2007-2008 marks the sixth consecutive year of budget shortfalls, with projected shortfalls in the next four years.

As the City continues to explore innovative methods to bridge the gap between revenue and expenses, it is important to partner with our bargaining units in addressing these ongoing costs. Although it is very important to work together with our employees and bargaining unit representatives on collaborative efforts on an on-going basis, the cost of salaries and benefits of bargaining unit employees are determined through the contract negotiation process. These negotiations occur prior the expiration of the eleven agreements with the bargaining units. These agreements expire at different times and in different years.

The following guiding principles are being presented for consideration related to present and future labor negotiations:

- *Focus on the cost of total compensation¹ while considering the City's fiscal condition, revenue growth, and changes in the Consumer Price Index*
- *Use short-term and long-term strategies to address increasing benefit costs such as wellness programs, cost containment initiatives, etc.*
- *Maintain a consistent approach to bargaining through clear, ongoing communication of policy direction among City Council and City staff*
- *Remain mindful of increasing costs, including the retiree healthcare liability*
- *To the extent possible, preserve the City's market competitiveness as an employer*
- *Efficiently and effectively provide services that align with both the priorities of the community and the City Council*

These guiding principles will align the approach to bargaining with the priorities established by both the Council and the community.

PUBLIC OUTREACH/INTEREST

The purpose of this section is to describe discussions that have occurred with the public, stakeholders, community groups and/or other governmental agencies. Staff will be asked to use the following checklist to determine if items are to be considered items of "Significant Public Interest", thus requiring additional notification per the matrix below. Please note the outreach that was done.

¹ Total Compensation includes the total costs of a position including salary, pension, and all other benefits.

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Subject: Guiding Principles

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- 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)**

Public Outreach does not apply to the item; however, this memorandum will be placed on the City website for the June 12, 2007 Council Agenda.

COORDINATION

This memorandum has been coordinated with the City Manager's Budget Office and Office of Employee Relations. A meeting is scheduled with the City Labor Alliance (CLA) to review these principles and receive comments.

CEQA

Not a project.


LES WHITE
City Manager

For questions please contact me at 535-8111.

City of San José, California

COUNCIL POLICY

TITLE Council Labor Negotiation and Transparency Guidelines	PAGE 1 of 3	POLICY NUMBER 0-39
EFFECTIVE DATE March 4, 2008	REVISED DATE January 25, 2011	
APPROVED BY COUNCIL ACTION 3/4/2008, Item 3.6, Res. No. 74265; 1/25/11, Item 3.2, Res. No. 75705		

BACKGROUND

Collective bargaining is governed by the Meyers-Milias-Brown Act (MMBA), the City of San José Employer-Employee Relations Resolution (#39367) and the City Charter. The City Charter designates the City Manager as the chief administrative officer of the City. Accordingly, Resolution #39367 delegates the authority to negotiate labor contracts on behalf of the City to the City Manager or the City Manager's designee.

Pursuant to the Meyers-Milias-Brown Act, the City has a right to insist that contract negotiations take place at the bargaining table between the designated representatives of the City and the designated representatives of the various bargaining unit employees. Members of the City Council shall not negotiate with employee representatives. Both the City and the bargaining units have an obligation under applicable laws to negotiate in good faith and not to bypass the negotiation teams.

As used in this policy, "negotiate" means to meet and confer with another to endeavor to reach agreement on matters within the scope of representation.

Unless agreed to by the City and the bargaining unit, negotiation sessions are confidential, but there is great public interest in having information about the negotiations available for public review.

PURPOSE

This policy applies only to the Mayor, members of the City Council, Mayor and Council staff, and Council Appointees.

References in this policy to members of the City Council or Council staff include the Mayor and Mayor's staff.

The purpose of this policy is to set guidelines for the City Council and Council staff to ensure labor negotiations are conducted in good faith, to avoid actions that would circumvent the City's designated bargaining team, and to provide timely and accurate information about the negotiations to the City Council and the public.

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POLICY

It is the policy of the City Council that all of its members and staff and Council Appointees shall abide by the following guidelines when the City Manager or the City Manager's designee is in negotiations with any bargaining unit:

1. Pursuant to San Jose Resolution #39367, negotiations are conducted by the City Manager through his/her designee. Accordingly, negotiations regarding potential proposals and possible settlement shall occur between the City's designated negotiator(s) and the union's designated negotiator(s).
2. Pursuant to Section 411 of the City Charter, while the Council may express its views to the City Manager, the Council shall not interfere with the execution by the City Manager of his or her authority and duty to negotiate on behalf of the City.
3. Members of the City Council or Council staff or other Council Appointees shall not negotiate with the bargaining unit representatives or persons acting on their behalf.
4. In order to avoid misunderstandings and potential unfair labor practices, unless requested by the City Manager, members of the City Council or Council staff or other Council Appointees should not discuss with any bargaining unit representative or persons acting on their behalf any matter that is a subject of the negotiations while the City and the bargaining units are engaged in the negotiation process. The negotiating process shall be defined as the time period starting with the first negotiation session until a resolution has been achieved. This provision does not apply when the City Attorney is handling litigation on matters that are subject to negotiations, interest arbitration, or when the City Attorney is contacted by a bargaining unit's designated legal counsel to discuss legal issues. The City Attorney shall notify the City Manager of any such communications to ensure coordination with the legal issues and Council direction to the City Manager for labor negotiations.
5. Nothing in this policy shall prohibit members of the City Council, Council staff or Council Appointees from listening to bargaining unit representatives or persons acting on their behalf. Members of the City Council shall not knowingly respond to or discuss any proposals or any other confidential closed session discussion.
6. Nothing in this policy shall preclude the City Manager from requesting the assistance of the City Attorney or other Council Appointees in carrying out the responsibilities as the Municipal Employee Relations Officer.
7. Members of the City Council and City Council staff shall disclose to the City Manager and to the entire City Council material facts regarding issues related to ongoing negotiations. (See Council Policy 0-32 regarding disclosure of material facts).
8. Authorization and direction to the City Manager is provided in closed or open session. If done in closed session, in order to maintain the integrity of the negotiation process, closed session discussions must remain confidential.
9. Written proposals made or received shall be posted for public review on the City's web site after the proposals have been submitted to the designated negotiators.

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10. The City Manager will provide periodic updates on labor negotiations to the City Council in open session except for elements that are required to be held confidential. These updates shall include a summary of proposals exchanged since the last update.
11. Bargaining unit representatives or persons acting on their behalf may comment on the City Manager's open session labor negotiations update. This shall be done during open session to ensure all of the Council receives the same information. The City Council may listen to these statements made in the public forum and may ask questions for clarification purposes, but shall not respond to the comments, or engage in dialogue or any other form of bargaining with the representatives.
12. Nothing in this policy shall limit, restrict, or modify any of the powers provided to Council Appointees under the City Charter.