



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Norberto L. Dueñas

**SUBJECT:** ANNUAL SUMMARY OF LABOR  
NEGOTIATIONS

**DATE:** January 30, 2015

---

## **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 Equivalent (FTEs<sup>1</sup>) for the 2014-2015 Adopted 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 259 FTEs in the unrepresented employee groups known as Units 99, 81 and 82.

---

<sup>1</sup> Full Time Equivalent (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.

Bargaining Unit/Union		Approximate FTEs <sup>2</sup>	Contract Expiration
Association of Building, Mechanical and Electrical Inspectors	(ABMEI)	78	06/30/15
Association of Engineers and Architects, IFPTE Local 21 Unit 41/42 and Unit 43	(AEA)	248	06/30/15
Association of Legal Professionals of San Jose	(ALP)	36	06/30/15
Association of Maintenance Supervisory Personnel, IFPTE Local 21	(AMSP)	102	06/30/15
City Association of Management Personnel, IFPTE Local 21	(CAMP)	365	06/30/15
Confidential Employees' Organization, AFSCME Local 101	(CEO)	224	06/30/15
San Jose Fire Fighters, IAFF, Local 230	(IAFF)	671	06/30/14
International Brotherhood of Electrical Workers, Local 332	(IBEW)	75	06/30/15
Municipal Employees' Federation, AFSCME Local 101	(MEF)	1915	06/30/15
International Union of Operating Engineers, Local #3	(OE#3)	680	06/30/15
San Jose Police Officers' Association	(POA)	1107	12/31/15
<b>TOTAL</b>		<b>5501</b>	

Recently, the City had endured ten consecutive years of General Fund budget shortfalls totaling \$700 million and eliminated over 2,000 positions (all funds).<sup>3</sup> These shortfalls were caused by different factors, including the ever increasing costs associated with personnel and retirement. In order to balance the budget during this time period, the City, its workforce, and its employees had to endure very difficult decisions, including reductions in total compensation, resources, and services. Even with the sacrifices made by employees, including foregoing scheduled wage increases as well as a significant reduction in total compensation, the City and its workforce were not spared from reducing the workforce between peak staffing in 2002-2003 and 2014-2015 by approximately 23%. Due to some fiscal improvements, we were able to start slowly restoring pay and services in the last two years. This includes pay increases for most City employees and the addition of approximately 127 positions as part of the 2014-2015 Adopted Budget.

The City reached agreements with nine (9) out of the ten (10) bargaining units for Fiscal Year 2014-2015 whose agreements expired on June 30, 2014, which included all of the non-sworn bargaining units: ABMEI, AEA, ALP, AMSP, CAMP, CEO, IBEW, OE#3 and MEF. The agreements reached with the non-sworn bargaining units were for one (1) year agreements that contained a 3% wage increase, in addition to other items, and are set to expire on June 30, 2015.

The City and IAFF have commenced negotiations on a successor agreement to the agreement that expired on June 30, 2014, which was a one (1) year rollover agreement without any wage increase. In addition, and pursuant to the City Charter, the City and IAFF engaged in binding interest arbitration in May 2014 over a second tier of retirement benefits for new employees ("Tier 2"). A Tier 2 had already been established for all other City employees. In September 2014, the arbitration board issued an award on Tier 2 for IAFF consistent with the terms

<sup>2</sup> Source: [2014-2015 Adopted Budget](#); does not include approximately 259 unrepresented positions.

<sup>3</sup> Source: [2014-2015 City Manager's Budget Request and Five-Year 2015-2019 Forecast, dated February 28, 2014.](#)

applicable to employees represented by the San Jose Police Officers' Association (POA), and which is applicable to employees hired into sworn classifications represented by IAFF on or after January 2, 2015.

For Fiscal Year 2015-2016, the City and all eleven bargaining units will be engaged in negotiations.

## **ANALYSIS**

### **Personnel Costs**

As a service organization, the great majority of the City's costs pay for the employees who provide those services. In previous years, the City has experienced a significant increase in those costs, although many of the changes made have mitigated these increased costs. The City is appreciative of the collaboration of those bargaining units who have agreed to these changes, and recognize the sacrifices made on the part of the City's employees. It is projected that increases in personnel costs will continue. From Fiscal Year 2004-2005 Adopted Budget to Fiscal Year 2014-2015 Adopted Budget, the average cost per employee increased by approximately 51% from \$99,351 in the Fiscal Year 2004-2005 Adopted Budget to \$149,698 in the Fiscal Year 2014-2015 Adopted Budget, despite achieving an ongoing 10% total compensation reduction effective Fiscal Year 2011-2012; total compensation is calculated using budgeted salary and fringe benefit costs. During that same timeframe, the City's workforce has been reduced by approximately 15%, from approximately 6,787 to 5,759.<sup>4</sup>

The following chart shows the difference in budgeted costs of base payroll, retirement benefits, healthcare benefits and other benefits from Fiscal Year 2004-2005 to Fiscal Year 2014-2015 Adopted Budget costs.

---

<sup>4</sup> **Source:** City of San Jose Salary and Fringe Benefit Costs by Bargaining Unit & Fund for 2004-2005 through 2014-2015 Adopted Budget.

<b>Citywide Salary &amp; Benefits (All Funds) <sup>5 6</sup></b>			
	<b>2004-2005 Adopted Budget</b>	<b>2014-2015 Adopted Budget</b>	<b>Difference</b>
<b>BASE PAYROLL</b>	\$515,860,416	\$484,060,311	-6.16%
<b>RETIREMENT BENEFITS</b>	<b>\$100,088,309</b>	<b>\$303,359,628</b>	<b>203.09%</b>
Federated Retirement/Other <sup>7</sup>	\$49,960,896	\$155,918,351	212.08%
Police/Fire Retirement	\$50,127,413	\$147,441,277	194.13%
<b>HEALTH/DENTAL BENEFITS</b>	\$46,739,425	\$65,778,776	40.74%
<b>OTHER BENEFITS</b> (Unemployment and Other Miscellaneous Benefits)	\$11,583,990	\$8,966,780	-22.59%
<b>TOTAL (ALL BENEFITS)</b>	<b>\$158,411,724</b>	<b>\$378,105,184</b>	<b>138.69%</b>
<b>GRAND TOTAL</b>	<b>\$674,272,140</b>	<b>\$862,165,495</b>	<b>27.87%</b>
<b>Average Total Cost Per FTE</b>	<b>\$99,351</b>	<b>\$149,698</b>	<b>50.68%</b>
<b>TOTAL FTE</b>	<b>6,786.74</b>	<b>5,759.36</b>	<b>-15.14%</b>

As noted in the chart above, there was an approximate 194% increase in costs for Police and Fire retirement benefits compared to an approximate 212% increase in the Federated plan covering other City employees.

Additionally, it is worth noting that if for example the City were to provide a 1% base pay increase for all City employees, the cost would be as follows:<sup>8</sup>

	<b>1% Base Pay Increase</b>	
	<b>General Fund</b>	<b>All Funds</b>
IAFF Local 230	\$1.4 million	\$1.4 million
POA	\$2.2 million	\$2.2 million
Non-Sworn Employees	\$2.6 million	\$4.7 million
<b>Total</b>	<b>\$6.2 million</b>	<b>\$8.3 million</b>

<sup>5</sup> **Source:** City of San Jose Salary and Fringe Benefit Costs by Bargaining Unit & Fund for 2004-2005 through 2014-2015 Adopted Budget.

<sup>6</sup> **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.

<sup>7</sup> Other Retirement benefits include retirement costs associated with part-time employees, Tier 3 retirement contributions, and the Mayor and City Council.

<sup>8</sup> **Source:** 2015-2016 Base Budget as of January 27, 2015. These 1% numbers are subject to change based on future decisions of the two Retirement Boards affecting 2015-2016 City contributions for pension and OPEB costs, changes in the number of Federated Tier 2 Pension Plan employees, updates to healthcare and other benefit plan enrollments, and other potential changes to personal services costs. The costs reflect increases to salary and associated fringe benefits (eg. retirement); however, excludes overtime and non-associated costs (eg. health, dental, etc.).

## **2015-2016 Cost Savings Strategies which are Subject to Meet and Confer With the City's Bargaining Units**

As noted above, in approaching the upcoming labor negotiations, the City is cognizant of the cumulative effect of the difficult sacrifices that have been made by the City's employees, and the community they serve. While the City must continue its pursuit of balancing the long-term need of eliminating the General Fund structural deficit, bringing revenues and expenditures into alignment, with the immediate service delivery needs of the community, the City will also be mindful of the needs of the workforce for stability and clarity regarding the paths the City will take.

The workforce capacity for additional significant changes will be a consideration when recommendations are made to the City Council on any cost savings strategies subject to the meet and confer process for upcoming negotiations. Such items may include, but not be limited to, maximizing the City's resources by exploring further appropriate outsourcing and civilianization opportunities, reviewing the City's compensation structure, and continued examination of the City's existing layoff and bumping process. It should be noted that these are items for consideration for negotiations in Fiscal Year 2015-2016, but that this does not necessarily mean that recommendations for direction will be sought on these items. In addition, there are items that have been achieved with some bargaining units and not others. For example, we have eliminated sick leave payout for all new employees and froze the hourly rate and number of sick leave hours eligible for payout for current employees, except those represented by the San Jose Fire Fighters, IAFF Local 230.

There are other operational issues that are subject to the meet and confer process that may need to be addressed in the upcoming negotiations. These will continue to be discussed with the affected Departments and will be brought forward to City Council for recommendations, if applicable.

### **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 and which were subsequently revised in [April of 2014](#). 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-Milias-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.

#### *Impasse Procedures – Fact-Finding – 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; it is worth noting that fact finding can be requested solely by the bargaining unit and not the agency. Additionally, Assembly Bill 1606 (AB1606) was passed in 2012 and provided additional requirements regarding fact finding. 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; however, fact finding has added additional layers of time and complexity. The notable changes wrought by fact finding includes the agency holding a public hearing on the impasse; a written, non-binding, findings of fact and recommended terms of settlement issued by the fact finding panel; and the prohibition on a public agency from unilateral implementation of its last, best, and final offer until certain time criteria are met. Fact finding, if invoked by a bargaining unit, will increase the costs as well as increase the use of resources and time associated with the bargaining process. In addition, revisions to Resolution #39367 will be necessary to reflect the addition of fact finding to the process, and such revisions will be presented to City Council for discussion in the 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.

## **2015 Labor Negotiations**

In early 2015, the City anticipates beginning negotiations on successor agreements with those bargaining units whose current agreement expires on June 30, 2015, including:

- *Association of Building, Mechanical and Electrical Inspectors (ABMEI)* represents approximately 78 Full Time Equivalents (FTEs), including the classifications of Building Inspector and Building Inspector, Supervisor.
- *Association of Engineers and Architects, IFPTE Local 21 (AEA)* represents approximately 248 Full Time Equivalents (FTEs), including the classifications of Engineer, Architect, Senior Engineer, and Senior Architect.
- *Association of Legal Professionals (ALP)* is a bargaining unit that was formed in 2009 and represents approximately 36 Full Time Equivalents (FTEs), including the classifications of Deputy City Attorney and Senior Deputy City Attorney.
- *Association of Maintenance Supervisor Personnel, IFPTE Local 21 (AMSP)* represents approximately 102 Full Time Equivalents (FTEs), including the classifications of Building Maintenance Superintendent and Building Services Supervisor.
- *City Association of Management Personnel, IFPTE Local 21 (CAMP)* represents approximately 365 Full Time Equivalents (FTEs), including the classifications of Senior Analysts and Information Systems Analysts.



- *Confidential Employees' Organization/AFSCME Local 101 (CEO)* represents approximately 224 Full Time Equivalents (FTEs), including the classifications of Analyst and Administrative Assistant.
- *International Brotherhood of Electrical Workers (IBEW)* represents approximately 75 Full Time Equivalents (FTEs), including classifications of Electrician and Senior Electrician.
- *Municipal Employees' Federation/AFSCME Local 101 (MEF)* represents approximately 1,915 Full Time Equivalents (FTEs), including the classifications of Librarian, Code Enforcement Inspectors and Recreation Leaders.
- *Operating Engineers, Local No. 3 (OE#3)* represents approximately 680 Full Time Equivalents (FTEs), including the classifications of Maintenance Assistant, Park Ranger and Parking and Traffic Control Officer.

In addition, the City anticipates beginning negotiations on a successor agreement with the bargaining unit whose current agreement expires on December 31, 2015:

- *San Jose Police Officers' Association (POA)* represents approximately 1,107 Full Time Equivalents (FTEs), including the classifications of Police Recruits, Police Officers, Police Sergeants, Police Lieutenants, Police Captains, and Deputy Chiefs of Police.

The following bargaining unit currently has an expired agreement and the City and IAFF are currently engaged in negotiations on a successor agreement:

- *San Jose Fire Fighters, IAFF, Local 230 (IAFF)* represents approximately 671 Full Time Equivalents (FTEs), including the classifications of Fire Fighters, Fire Engineers, Fire Captains, and Battalion Chiefs.

In addition to negotiations on successor agreements, the City and various bargaining units are also involved in other labor issues:

- The City and its non-sworn bargaining units, as well as representatives from its unrepresented executive management group and from the retirees' association, have been engaged in discussions to address Retiree Healthcare. In addition, the City anticipates meeting and conferring on Retiree Healthcare with the POA pursuant to the terms of the current MOA.
- The City and its bargaining units may also engage in potential pension reform discussions related to the pension modification ballot measure passed in 2012 – Measure B. Any changes to the City Charter would have to be brought forward to a vote of the people, which cannot occur until 2016 pursuant to State law.

- There are also other potential discussion items subject to meet and confer, especially with the POA, including but not limited to overtime staffing and body-worn cameras.
- The City is currently engaged conducting a variety of classification reviews and possible compensation changes to address issues that may involve recruitment and/or retention, as well as addressing any updates to existing classifications and classification structures that may be needed.

### **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/index.aspx?nid=186>.

### **CONCLUSION**

As the City emerges from years of budget shortfalls in the General Fund and the fiscal challenges in several other City funds, the City Council will continue to be faced with major challenges. The responsible restoration of City services to its citizens must be balanced with the continuing efforts to control or reduce personnel costs in accordance with the Fiscal Reform Plan, which was put in place in order to halt the decline in services and eventually create capacity to begin the restoration of services. It is hoped that we can achieve this while also keeping in mind the significant sacrifices City employees have previously made, and the City's need to maintain a qualified work force. It is further hoped that the City and its employees can continue to work together to resolve the multiple, and difficult, issues that face both the City and its workforce.

### **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. Specific negotiation direction will be received in closed session.

**PUBLIC OUTREACH**


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 in advance of the City Council meeting. 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.

**CEQA**

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

  
Norberto L. Dueñas  
Interim City Manager

For questions, please contact Jennifer Schembri, Interim Director of Employee Relations, at (408) 535-8154.

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 compensation<sup>1</sup> 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.

---

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

May 31, 2007

**Subject:** Guiding Principles

Page 3 of 3

- 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.



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Edward K. Shikada

**SUBJECT: APPROVAL OF REVISED  
GUIDING PRINCIPLES FOR  
LABOR NEGOTIATIONS  
RELATED TO COMPENSATION**

**DATE:** March 27, 2014

---

## RECOMMENDATION

Approve revised Guiding Principles for Labor Negotiations related to compensation.

## OUTCOME

If approved by the City Council, staff will utilize the Guiding Principles during negotiations with the City's bargaining groups.

## BACKGROUND

On June 12, 2007, the City Council approved the following Guiding Principles for Labor Negotiations:

- *Focus on the total cost of compensation 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.*

At the time these guiding principles were approved, the City had undergone significant budget shortfalls and was facing even more significant budget shortfalls. It was recognized that for represented employees, salaries and benefits are determined through the negotiation process with the City's bargaining units. It was determined that in order to address the significant budget issues, 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.

Subsequently, on March 4, 2008, the City Council adopted *Council Labor Negotiation and Transparency Guidelines*, which were revised on January 25, 2011. These guidelines are attached. These guidelines cover areas beyond compensation and benefits, and set parameters for the City Council when the City Manager or the City Manager's designee is in negotiations with any bargaining unit. These include the roles of Council members and staff relative to the City Manager's execution of the duty to negotiate on behalf of the City, and that 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. Negotiation information can be found at the City's website at <http://www.sanjoseca.gov/index.aspx?NID=505>.

As indicated in the 2014-2015 City Manager's Budget Request and 2015-2019 Five-Year Forecast, the City's budget is in a fairly stable position over the forecast period. The difficult budget balancing actions implemented in recent years played a critical role in bringing revenues and expenditures in close alignment. These actions included a combination of significant service and position reductions, and employee total compensation reductions. These employee compensation reductions included but are not limited to a 10% total compensation reduction, rollback of a general wage increase of 2% two unions received, and benefit cost sharing changes. These were significant concessions made by City employees.

It is important to note that while the City's budget has stabilized, there continues to be a significant deficit in the service levels provided to the residents and businesses in San José. There are major gaps in services across the board that impact our community, from public safety to parks, libraries, and community services. There are also significant unmet deferred infrastructure and maintenance needs that will have a long-term impact on the City.

## ANALYSIS

As noted above, significant changes have been made to employee compensation in that all City employees took an across the board compensation reduction of 10%. This was done in recognition that for Fiscal Year 2011-2012, the City had to address another General Fund shortfall of \$115 million. Yet despite achieving a 10% total compensation reduction for all employees, 140 employees were laid off, including 66 Police Officers.<sup>1</sup> Absent this sacrifice by the workforce, additional significant layoffs and resulting service reductions would have had to occur. This is illustrative of the difficult fiscal situation faced by the City and its employees that,

---

<sup>1</sup> Source: 2011-2012 Adopted Budget.



regardless of the significant sacrifices made by employees, the City could not avoid a reduction in its workforce. This is also significant in that it was across the board, meaning every City employee took the wage reduction.

While the City must continue its pursuit of balancing the long-term need of eliminating the General Fund structural deficit, bringing revenues and expenditures into alignment, with the immediate service delivery needs of the community, the City also recognizes the needs of the workforce in restoring the pay reduction and has committed to doing so over time. For example, most City employees received a 2% general wage increase for Fiscal Year 2013-2014. The City is also cognizant that there might be areas in which pay may need to be restored more quickly due to recruitment and retention issues with certain classifications.

Also as noted in the 2015-2019 Five-Year Forecast, an employee compensation planning reserve and an employee market competitiveness reserve has been included. The employee compensation planning reserve is for planning purposes to restore over time the compensation reductions all employees took. The employee market competitiveness reserve is included to potentially provide salary adjustments to specific job classifications where significant ongoing recruitment and retention issues are being experienced.

The Administration is recommending revisions to the Guiding Principles for Labor Negotiations in recognition of the changes in our budget situation and to provide guiding principles on negotiations related to increases that may need to occur for certain classifications represented by a bargaining unit due to recruitment and retention issues.

The following are the recommended revised Guiding Principles for Labor Negotiations, to accompany the attached *Council Labor Negotiation and Transparency Guidelines, Policy 0-39*:

*Salaries and benefits are determined through negotiations with bargaining units. In negotiations with the unions over salaries and benefits, the City will be guided by the following principles:*

- *The City strives to maintain a compensation structure that provides salaries and benefits that are competitive within the marketplace to attract and retain highly qualified employees.*
- *The City's fiscal circumstances will be considered when negotiating changes to compensation.*
- *The City will consider employee compensation and benefits in the context of providing high quality community services in both the short and long term.*
- *The City will consider Total Compensation (salary, pension, and all other benefits) while recognizing that market competitiveness adjustments may need to emphasize a review of "Total Cash Compensation" of comparable classifications.*

March 27, 2014

**Subject: Revisions to Guiding Principles for Labor Negotiations Related to Compensation**

Page 4

- *Priorities for market-based compensation adjustments will consider recruitment, retention, and the market as these factors affect specific job classifications.*
- *Market competitiveness adjustments will be advanced as funding is identified.*
- *Negotiations regarding compensation should take into consideration both short term and long term strategies to address increasing benefit costs for both the City and employees, such as retiree healthcare.*
- *The City will maintain a consistent approach to bargaining through clear, ongoing communication of policy direction among City Council and City staff, as specified in Council Policy 0-39.*

These revised guiding principles will align the approach to bargaining with the priorities established by both the Council and the community in recognition of our current circumstances.

#### **EVALUATION AND FOLLOW-UP**

Follow-up with the City Council related to this action is anticipated to occur through Closed Session direction and subsequent action in Open Session.

#### **PUBLIC OUTREACH/INTEREST**

- 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 memorandum doesn't meet any of the criteria above, but will be posted on the City's website in advance of the April 8, 2014 meeting.

HONORABLE MAYOR AND CITY COUNCIL

March 27, 2014

**Subject: Revisions to Guiding Principles for Labor Negotiations Related to Compensation**

Page 5

**COORDINATION**

This memorandum was coordinated with the City Attorney's Office.

**CEQA**

Not a Project, File No. PP10-068(b), Municipal Code or Policy change, Title 3 (Personnel).



EDWARD K. SHIKADA  
CITY MANAGER

For questions please contact Alex Gurza, Deputy City Manager, at (408) 535-8155.

Attachment

# City of San José, California

## COUNCIL POLICY

<b>TITLE</b> Council Labor Negotiation and Transparency Guidelines	<b>PAGE</b> 1 of 3	<b>POLICY NUMBER</b> 0-39
<b>EFFECTIVE DATE</b> March 4, 2008	<b>REVISED DATE</b> January 25, 2011	
<b>APPROVED BY COUNCIL ACTION</b> 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.

<b>TITLE</b> Council Labor Negotiation and Transparency Guidelines	<b>PAGE</b> 2 of 3	<b>POLICY NUMBER</b> 0-39
--	-----------------------	------------------------------

**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.

<b>TITLE</b> Council Labor Negotiation and Transparency Guidelines	<b>PAGE</b> 3 of 3	<b>POLICY NUMBER</b> 0-39
---	-----------------------	------------------------------

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.

# City of San José, California

## COUNCIL POLICY

<b>TITLE</b> Council Labor Negotiation and Transparency Guidelines	<b>PAGE</b> 1 of 3	<b>POLICY NUMBER</b> 0-39
<b>EFFECTIVE DATE</b> March 4, 2008	<b>REVISED DATE</b> January 25, 2011	
<b>APPROVED BY COUNCIL ACTION</b>	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.

<b>TITLE</b> Council Labor Negotiation and Transparency Guidelines	<b>PAGE</b> 2 of 3	<b>POLICY NUMBER</b> 0-39
---	-----------------------	------------------------------

## **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.



<b>TITLE</b> Council Labor Negotiation and Transparency Guidelines	<b>PAGE</b> 3 of 3	<b>POLICY NUMBER</b> 0-39
---	-----------------------	------------------------------

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.