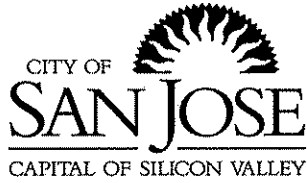


August 3, 2010  
Agenda Item: 3.3 (e)



## Memorandum

TO: City Council

FROM: Councilmember Pierluigi Oliverio

SUBJECT: Pension Reform  
Ballot Language

DATE: August 2, 2010

Approved

Date

8-2-10

### RECOMMENDATION

Direct the Administration to use the following ballot language provided by the City of San Jose City Attorney's office for the Pension Reform ballot initiative:

**"To provide fiscal stability, control costs and maintain City services to residents, shall the Charter be amended to allow the Council, by ordinance and subject to the requirements of applicable law, to exclude any officer or employee hired on or after the ordinance's effective date from any retirement plan or benefit of any plan?"**

### BACKGROUND

The proposed ballot language above addresses the concerns that were raised at the Rules Committee meeting regarding ensuring the ballot language proposed to voters is legally applicable and neutralizes any financial risk for the City of San Jose.

As my memo titled, "Pension Reform Voter Approval" dated July 23, 2010 stated, public pension costs are soaring and forcing our City to reduce essential services to residents. In fiscal year (2009-2010) the cost of pensions was \$138 million. In fiscal year 2010-2011 the amount jumped to \$200 million. (The \$62 million increase is approximately three times the citywide Library budget). In fiscal year 2011-2012 that number will grow to \$240-250 million ( \$240-250 million is 85% of the annual Police budget) and could balloon to \$350 million by 2015-2016 (\$350 million is double the citywide Fire & Library budget or more than all the annual property tax and sales tax revenues combined)

The average private sector employer match is 3% for a 401K in the USA. In comparison, the City of San Jose as an employer matches at an 8 to 3 ratio or 250%. Individuals with retirement plan like a 401k, IRA and SEP IRA bear 100% of the investment risk. However San Jose employees do not have this risk and are guaranteed a net return of approximately 8% which means the gross return must hit 9%. The average combined return on the retirement funds for the last 10 years has only been 4.4% thus the taxpayer makes up the difference; this fiscal year alone it was \$52 million.

Therefore, since the taxpayers are responsible for paying the difference in pensions, I believe that residents should have the right to vote on whether or not they want to continue to pay sums such as \$52 million in a single fiscal year.

It is imperative that the New Pensions for New Employees (2nd Tier Pension) be put on the 2010 ballot for the following reasons:

1). The City should give voters the opportunity to vote on the pension system. To not allow the voters the chance to vote on this issue is undemocratic. Some may say that we should just handle this "in house" and create a committee to look into alternatives and/or have closed meetings with the unions to try and negotiate an agreement. Closed door meetings would not be transparent and we do not know how many years it will take to negotiate or if a consensus of any kind can be reached by a committee or negotiations. Additionally, any recommendation that may come out of negotiations or a recommendation by a committee would need to be voted on in a citywide election anyway. We need to take advantage of the November 2010 election to know whether or not the residents of San Jose support a 2nd Tier retirement system for NEW employees. Delay will result in missing out on the numerous "Baby Boomer" retirements that will take place and be filled by new employees.

2). A 2nd Tier provides flexible options. The 2nd Tier may have a 1 to 1 match instead of 8-3 or it may have a 1 to 2 instead of 8-3 or it may be simply a new system like a 401K with a generous match from taxpayers of some reasonable percentage. Actuarial studies must be completed and presented prior to making a final decision.

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

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