



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jennifer Schembri

**SUBJECT:** SEE BELOW

**DATE:** September 15, 2017

Approved

*D. D. S. y L*

Date

*9/15/17*

**SUBJECT: ORDINANCE MODIFYING THE PROCESS FOR APPOINTING THE RETIREE MEMBER TO THE FEDERATED RETIREMENT BOARD**

## RECOMMENDATION

Adopt an ordinance to amend section of 2.08.1070 of Chapter 2.08 of the San José Municipal Code to modify the process for appointing the retiree member to the Federated City Employees' Retirement System Board of Administration when there is a vacancy on the Board because of the expiration of the former retired member's term of office.

## OUTCOME

Adoption of an ordinance amending San José Municipal Code section of 2.08.1070 will modify the process for appointing the retiree member to the Federated Retirement Board to streamline and clarify the appointment process for the retiree member of the Federated City Employees' Retirement System Board. This modification will bring the process up-to-date with more efficient processes.

## BACKGROUND

Under the current process in Municipal Code section 2.08.1070, subsection D, the election process for the retired member of the Federated City Employees' Retirement System Board requires that the retired members nominate up to three (3) candidates for appointment to a vacant position. This process is completed by retired members voting on the candidates. The process also dictates that, after the election, an interview panel consisting of an AFSCME member, a non-AFSCME member, and a City Manager's Office representative interviews and recommends one candidate to the City Council. The election process that took place in the Fall of 2016 resulted in the interview panel recommending the nominee with the second highest number of votes for appointment to the City Council.

During the January 10, 2017, City Council meeting, the Council directed staff to obtain policy direction from the Rules Committee regarding a possible change to the Municipal Code related to the appointment process for the retiree member of the Federated City Employees' Retirement System Board of Administration.

September 15, 2017

**Subject: Ordinance Modifying the Process for Appointing the Retiree Member to the Federated Retirement Board**

Page 2 of 4

Please see the Memorandum dated March 8, 2017 to the Rules and Open Governance Committee available at [http://sanjose.granicus.com/MetaViewer.php?meta\\_id=621094](http://sanjose.granicus.com/MetaViewer.php?meta_id=621094) for additional background on this issue.

At its March 8, 2017 meeting, the Rules and Open Government Committee recommended to move forward with the Clerk's option 1.a: Retiree Election winner is recommended to the Council, subject to meet and confer with the bargaining units.<sup>1</sup>

### ANALYSIS

City Administration met with the Federated bargaining units on April 19, 2017 and again on June 1, 2017 to discuss the Rules Committee memo. Based on the feedback from the bargaining units and the San Jose Retired Employees' Association ("SJREA"), staff recommended the following changes to the process:

<b>Update to Retiree Appointment Process</b>	
1.	Provide additional information during the application/ballot process
2.	Clarify to retirees that this is a NOMINATION process, <b>not</b> an election
	a. City Council will remain the body that appoints the retiree to the Retirement Board
3.	Clarify to retirees that they are voting on a maximum of 3 retirees to bring forward to the Interview Panel. If there are three or fewer applicants, the nomination process will be eliminated.
4.	Interview Panel to NOMINATE one retiree to City Council. Allow the consideration of the applicant's qualifications beyond the applicant's availability and any potential conflicts of interest during the interview process.
5.	In the accompanying Council Memo, note only the top candidates (up to a maximum of 3) who received the highest number of votes without noting the number of votes received or who was the candidate who received the highest number of votes during the NOMINATION process.

<b>Update to Interview Panel</b>	
1.	Expand current Interview Panel to include:
	a. One (1) retiree appointed by the SJREA, and
	b. One (1) Federated Retirement Board Member

It is important to note that the City Clerk will only need to conduct the nomination process among the retired members of the Federated Retirement Plan if four (4) or more retired members apply to fill the vacancy on the Board. If there are less than four applicants, all applicants will proceed directly to the interview panel.

<sup>1</sup> For additional information, please see: [http://sanjose.granicus.com/MetaViewer.php?meta\\_id=624250](http://sanjose.granicus.com/MetaViewer.php?meta_id=624250)

HONORABLE MAYOR AND CITY COUNCIL

September 15, 2017

**Subject: Ordinance Modifying the Process for Appointing the Retiree Member to the Federated Retirement Board**

Page 3 of 4

A Memorandum regarding the draft ordinance for the updated process to appoint a Retiree to the Federated Retirement Board was presented at the August 18, 2017 Federated Retirement Board ("Board") meeting. The Board provided feedback that included concerns by individual board members about adding a Board member to the Interview Panel and would prefer to not participate in that process. The Board was concerned that one Board member would be asked to speak on behalf of the whole board without including the entire board in the process.

To address this concern, it is being recommended to not have a Retirement Board member on the interview panel and to have two members of the SJREA on the interview panel. SJREA and the bargaining units have been notified of this change, and this change is reflected in the ordinance.

Additionally, the Board felt that the interview panel's instruction to ensure that the candidates "have the requisite qualifications and experience to fulfill the duties of a Board member" is too vague and would like the ordinance to clarify this. In coordination with the bargaining units and the SJREA, the City Administration recommends leaving this as is so that the panel will have discretion to determine what qualifications and experience they believe are relevant. The ordinance contains the language as originally drafted.

The City Administration was also directed to discuss the retired board member appointment process with the San Jose Police Officers' Association, the International Association of Fire Fighters, Local 230, and the Association of Retired Police Officers & Firefighters. Those groups did not have any issues with the process as it stood and no changes were made to the retired member appointment process for the Police and Fire Department Retirement Plan Board.

A new appointment process will have to be held for the current vacant retired Federated board member position due to the change in the Municipal Code.

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

If the Council approves the proposed ordinance for publication, the ordinance will be placed on the Council agenda for final approval on October 3, 2017 and become effective 30 days later.

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

This memorandum will be posted on the City's website in advance of the September 26, 2017 City Council Agenda.

#### **COORDINATION**

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

#### **COMMISSION RECOMMENDATION AND INPUT**

The Federated Board provided recommendation and input on this memorandum, as noted above.

HONORABLE MAYOR AND CITY COUNCIL

September 15, 2017

**Subject: Ordinance Modifying the Process for Appointing the Retiree Member to the Federated Retirement Board**

Page 4 of 4

**COST SUMMARY/IMPLICATIONS**

There are no anticipated costs associated with the adoption of this Ordinance.

**CEQA**

CEQA: Not a Project, File No. PP17-008, General Procedure or Policy Making.



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