

**DRAFT**

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 2.08.1070 OF CHAPTER 2.08 OF TITLE 2 OF THE SAN JOSE MUNICIPAL CODE TO UPDATE THE APPOINTMENT PROCESS AND COMPOSITION OF THE INTERVIEW PANEL FOR NOMINATING RETIRED MEMBERS TO THE BOARD OF ADMINISTRATION FOR THE FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Section 2.08.1070 of Chapter 2.08 of Title 2 of the San José Municipal Code is hereby amended to read as follows:

**2.08.1070 Recommendations for Filling Certain Vacancies**

- A. Whenever a vacancy exists in a seat on the Board held by a City employee, the City employees who are members of the Federated City Employees' Retirement System shall recommend, at an election to be conducted among them by the City Clerk, one of such employees as a successor for such seat; provided, however, upon any vacancy or vacancies in such office during the unexpired regular term, the City Council shall, in accordance with rules prepared by the City Clerk and approved by the City Council, appoint to such vacant seat for the remainder of the unexpired term, a City employee who is also a member of the Federated City Employees' Retirement Systemsaid-system.
- B. The City Council shall appoint all public members of the Board.

- C. One of the public members of the Board shall be appointed by the City Council only after the candidates for such seat have been interviewed by the then existing Board and a recommendation for appointment has been made by the Board to the Council.
1. If a majority of the Board recommends one candidate, only that candidate will be forwarded to the City Council for consideration.
  2. If a majority of the Board does not recommend one candidate, the top two candidates will be forwarded to the City Council for consideration.
  3. The first public member to be appointed pursuant to this Section 2.08.1070.C will not be appointed until the three other public members' seats have been filled by Council and all other seats on the Board have been filled by Council. Thereafter, any vacancy in the seat held by such public member shall always be filled pursuant to this Section 2.08.1070.C.
- D. Whenever there is a vacancy ~~exists~~ in athe seat on the Board held by a retired member of the Federated City Employees' Retirement System ~~system~~ because of the expiration of a retired member's term of office, the following procedures ~~shall~~ apply:
1. Retired members of the Federated City Employees' Retirement System who want to serve on the Board in the retired member seat must file an application with the Office of the City Clerk. All applications must be submitted on a form provided by the City Clerk, and submitted on or before the date and time set by the City Clerk.

2. ~~If four or more candidates apply to serve on the Board in the retired member seat, The~~ retired members of the Federated City Employees' Retirement System shall ~~recommend~~nominate, at an election ~~through a nomination process to be conducted among them established~~ by the City Clerk, three candidates ~~(or less if there are fewer than three candidates)~~ of such retired members ~~to be interviewed by the panel established under Section 2.08.1070, subsection (D)(4) to be considered for appointment as a successor for such seat. However, the nomination process among the retired members of the Federated City Employees' Retirement System shall not occur if less than four candidates apply.~~

23. ~~A~~ The panel shall interview the three candidates ~~(or less if there are fewer than three candidates)~~ retired members nominated through receiving the highest number of votes the nomination process conducted among the retired members of the Federated City Employees' Retirement System. However, the panel shall interview all candidates if less than four candidates applied to serve on the Board in the retired member seat. The purpose of the interview ~~shall be~~is to ensure that the candidates ~~are viable in that they~~ will be able to attend Board meetings ~~of the board and~~, fulfill the time commitment of a Board member ~~of the board,~~ and have the requisite qualifications and experience to fulfill the duties of a Board member.

34. The panel ~~shall~~must consist of:

- a. A representative from the employee organizations affiliated with the American Federation of State, County and Municipal Employees, AFSCME Local 101;

- b. ~~A~~a representative from the employee organizations other than the organizations affiliated with AFSCME, Local 101; ~~and~~
- c. ~~A~~a representative from the City Manager's ~~office~~Office; ~~and~~
- d. two representatives from the City of San José Retired Employees Association.

54. The panel shall ~~recommend select to the City Council~~ one of the candidates it interviewed for the City Council to consider for appointment to the Board. ~~retired members for appointment to the board.~~ The panel's ~~recommendation selection shall is~~ be the candidate who received ~~determined by~~ a majority of affirmative votes on the ~~members of the~~ panel; provided that a dissenting member of the panel may submit a minority report. If there is no majority for the recommendation of a retired member, each member of the panel may submit a written report to the City Council.

- E. Whenever a vacancy occurs in a seat on the Board held by a retired member of the Federated City Employees' Retirement System plan ~~plan~~ prior to the expiration of a retired member's term of office, the following procedures ~~shall~~ apply:
  - 1. The City of San José Retired Employees Association shall recommend to the Board up to three candidates for appointment for the remainder of the unexpired term.

2. The Board shall interview the recommended candidates and recommend one or more of them for appointment by the City Council for the remainder of the unexpired term.
- F. The appointment of employee and retiree members ~~shall be~~ routine business on the Council agenda and may be an item on the consent calendar.
1. Council ~~shall~~ may only reject the employee recommended by a majority of those voting in an election among employees, held in accordance with Section 2.08.1070, subsection (A), upon a finding of cause for rejection.
  2. Council ~~may~~ shall only reject the retiree ~~selected~~ recommended by ~~an~~ the ~~interview~~ panel, in accordance with Section 2.08.1070, subsection (D)(5), upon a finding of cause for rejection.
  3. For the purposes of this Section, cause ~~Cause~~ for rejection may include, but is not limited to, ~~council~~ Council finding that the recommended candidate will not be able to attend meetings of the Board and fulfill the time commitment of a member of the Board, or to act in accordance with fiduciary duties or carry out the requirements of governing legislation, including the requirements of Chapter 3.28 of Title 3 of this Code.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk