



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jennifer Schembri

SUBJECT: SEE BELOW

DATE: October 3, 2018

Approved

Date

10-3-18

SUBJECT: ORDINANCE MODIFYING THE DEFINITION OF COMPENSATION TO EXCLUDE NON-PENSIONABLE PAY INCREASES FOR THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

RECOMMENDATION

Approve an ordinance to amend section 3.36.020.3 of Chapter 3.36 of Title 3 of the San José Municipal Code to modify the definition of “Compensation” to exclude non-pensionable pay increases in the Police and Fire Department Retirement Plan, effective on or after January 3, 2016.

OUTCOME

Approval of the ordinance amending San José Municipal Code Sections 3.36.020.3 will exclude any non-pensionable pay increases from the definition of “Compensation” in the Police and Fire Department Retirement Plan, effective on or after January 3, 2016.

BACKGROUND

On October 1, 2018, the City and the San Jose Fire Fighters, IAFF Local 230 (“Local 230”) reached an agreement on the terms of a successor Memorandum of Agreement (MOA). The terms of the successor MOA include a one percent (1%) non-pensionable wage increase for Fiscal Year 2018-2019, effective July 1, 2018. There will not be any defined benefit retirement (pension and/or retiree healthcare) contributions made on the 1% non-pensionable increase.

Additionally, back on August 25, 2015, the City Council approved a four percent (4%) ongoing non-pensionable retention premium pay for employees represented by the San Jose Police Officers’ Association (“POA”). The 4% retention premium pay became effective January 3, 2016.

October 3, 2018

Subject: Ordinance Modifying the Definition of Compensation to Exclude Non-Pensionable Wage Increases

Page 2 of 3

There have been no defined benefit retirement contributions made on this 4% non-pensionable premium pay.

ANALYSIS

The current Municipal Code Section (3.36.020.3) regarding "Compensation" for the Police and Fire Department Retirement Plan currently does not exclude non-pensionable pay increases from the definition of Compensation. The ordinance addresses this issue by adding Subsection I to Section 3.36.020.3 to clarify that any non-pensionable increases effective on or after January 3, 2016, are not included in the definition of "Compensation." In other words, the non-pensionable increase for Local 230 employees and retention premium pay for POA employees will not be subject to retirement contributions from the City and employees. This change is necessary to ensure that the above negotiated non-pensionable pay increases and any subsequent increases in non-pensionable compensation thereafter will be excluded from the definition of "Compensation." This modification applies to any non-pensionable wage increase that takes effect on or after January 3, 2016.

Pursuant to San Jose Municipal Code Section 3.36.485, the Police and Fire Retirement Department Plan Board reviews proposed amendments to the Plan. Staff was unable to meet the deadline to post the proposed ordinance on the agenda for the October 4, 2018, Police and Fire Department Retirement Plan Board meeting. Under Section 3.36.485(B), in any case where the City Council finds that there is a need to adopt an ordinance amending the system within a time period which would not allow for a sixty-day review period, the City Council may act on the ordinance without first submitting it to the Board. If the City Council approves the ordinance, at the time the City Council passes the ordinance for publication of title, the City Council shall refer the ordinance to the Board for study and consideration. Following its study, the Board may submit to the City Council a recommendation that the City Council take one or more of the following actions: repeal the ordinance; readopt the provisions of the ordinance with such amendments, additions or changes, if any, as the board may wish to recommend; or make such other changes or provisions as the Board may recommend. Upon receipt of the Board's recommendation, the City Council may implement or disapprove the recommendation.

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 23, 2018, and become effective 30 days later. If the Police and Fire Department Plan Board has comments, those will be sent to the Council in a separate communication. If any changes need to be made to the Municipal Code based on the Board's comments, the City will bring those changes back to the City Council for approval.

October 3, 2018

Subject: Ordinance Modifying the Definition of Compensation to Exclude Non-Pensionable Wage Increases

Page 3 of 3

PUBLIC OUTREACH

This memorandum will be posted on the City's website in advance of the October 16, 2018, City Council Agenda.

COORDINATION

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

COMMISSION RECOMMENDATION AND INPUT

The Police and Fire Department Retirement Plan Board will be reviewing the Municipal Code changes, as noted under the procedure above.

COST SUMMARY/IMPLICATIONS

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

CEQA

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



JENNIFER SCHEMBRI

Director of Employee Relations/Acting Director of
Human Resources

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