S400
07/28

COMMITTEE ACTION SHEET

COUNCIL DOCKET OF July 15, 2008

☐ Supplemental ☒ Adoption ☐ Consent ☐ Unanimous Consent Rules Committee Consultant Review

R -

O -

Ballot Proposal on Pension Reform

☒ Reviewed ☐ Initiated By Rules On 6/25/08 Item No. 3a

RECOMMENDATION TO:

To forward the pension reform ballot proposal as presented by Council President Peters and Mayor Sanders to:

- the full City Council for consideration on July 14;
- direct the Mayor to Meet and Confer on this proposal as legally required, and in order to possibly avoid a ballot measure;
- direct the City Attorney to prepare a draft ordinance for amending the Municipal Code in the event that a ballot measure is unnecessary; and
- include the actuarial calculations as requested by Councilmember Frye

VOTED YEA: Madaffer, Peters, Frye, Hueso, Young

VOTED NAY: Young, regarding forwarding this item to Council for consideration as a ballot proposal

NOT PRESENT:

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO.

INDEPENDENT BUDGET ANALYST NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Mayor Sanders' and Council President Peters' General Members chart compromise ballot proposal; City Clerk's June 20, 2008, memorandum; Mayor Sanders' June 20, 2008, memorandum; Mayor Sanders' June 25, 2008, Pension Reform PowerPoint; Council President Scott Peters' June 20, 2008, memorandum; City Attorney's June 19, 2008, memorandum regarding Ballot Measure Questions; Proposed Ordinance dated June 24, 2008 with attached Comparison of Mayor's Ballot Proposal to Current Pension System; League of California Cities' memorandum with Defined Benefits Comparisons chart; S.D. County Taxpayers Association's June 25, 2008, PowerPoint; Joseph Esuchanko's actuarial calculations

COUNCIL COMMITTEE CONSULTANT Elyse Lowe

RULES JUN 2 5 2008 #3a

RECEIVED
CITY CLERK'S OFFICE
08 JUN 20 AM 10: 05
SAN DIEGO, CALIF.

COUNCIL PRESIDENT SCOTT PETERS
FIRST DISTRICT

MEMORANDUM

DATE: June 20, 2008

TO: City Clerk Elizabeth Maland
Honorable Mayor and City Councilmembers
Honorable City Attorney Michael Aguirre

FROM: Council President Scott Peters Elizabeth Kinsly for Scott Peters

SUBJECT: Pension Reform Ballot Proposal

I am pleased to offer the attached Pension Reform measure for consideration on the November 2008 ballot.

I look forward to a discussion of this and other pension measures at the Rules Committee meeting of June 25, 2008.

Thank you.

SHP:bbk

Attachment

cc: Andrea Tevlin, IBA
Jay Goldstone, CFO
Julie Dubick, Policy Director, Office of the Mayor

Pension Reform Ballot Proposal

	Alternative Proposal
Age at Hire for Illustrative Member	35
Defined Benefit Multipier	
Age 65	2.750%
Age 62	2.600%
Age 60	2.500%
Age 55	N/A
Age 50	
Defined Benefit Cap	80%
Years in Final Average Compensation	3
Defined Benefit Member Rate	
Defined Benefit Death and Disability Benefit	Revised
Defined Contribution City Rate	0.00%
Defined Contribution Member Rate	0.00%
DC Voluntary Employer Contribution Rate	0.00%
DC Voluntary Employee Contribution Rate	3.00%
Income Replacement Ratio	
Retire at 65	
Defined Benefit	76.43%
Defined Contribution	10.13%
Total	86.56%
Retire at 62	
Defined Benefit	67.32%
Defined Contribution	8.09%
Total	75.41%
Retire at 60	
Defined Benefit	59.95%
Defined Contribution	6.95%
Total	66.90%
Retire at 55	
Defined Benefit	N/A
Defined Contribution	N/A
Total	N/A
City Contribution Rates	
Defined Benefit	7.94%
Defined Contribution	0.00%
Pre-65 LTD Program	-0.35%
Total	7.59%
Member Contribution Rates	
Defined Benefit	7.94%
Defined Contribution	0.00%
Total	7.94%
Projected Annual Long-Term Savings (millions)	
Defined Benefit City Savings	6.5
Defined Contribution City Savings	10.3
Voluntary DC Annual City Savings	7.9
Pre-65 LTD Program	(1.2)
Total Annual City Savings	23.5

Actuarial calculations provided by Joseph Esuchanko, Actuarial Services Company, PC

RECEIVED
CITY CLERK'S OFFICE
08 JUN 20 AM 10: 05
SAN DIEGO, CALIF.

City Savings Under Pension Reform Ballot Proposal Assuming Members 75% Participation in Saving for Retirement Effective July 1, 2009 (in millions)

Savings

Year		SPSP Annual	SPSP Cumulative	SDCERS Annual	SDCERS Cumulative	Total Annual	Total Cumulative
1	FY 2010	$ 0.6	$ 0.6	$ -	$ -	$ 0.6	$ 0.6
2	FY 2011	$ 1.3	$ 1.9	$ -	$ -	$ 1.3	$ 1.9
3	FY 2012	$ 2.0	$ 3.9	$ 0.3	$ 0.3	$ 2.3	$ 4.2
4	FY 2013	$ 2.8	$ 6.7	$ 0.6	$ 0.9	$ 3.4	$ 7.6
5	FY 2014	$ 3.6	$ 10.3	$ 0.9	$ 1.8	$ 4.5	$ 12.1
6	FY 2015	$ 4.4	$ 14.7	$ 1.2	$ 3.0	$ 5.6	$ 17.7
7	FY 2016	$ 5.3	$ 20.0	$ 1.6	$ 4.6	$ 6.9	$ 24.6
8	FY 2017	$ 6.2	$ 26.2	$ 2.0	$ 6.6	$ 8.2	$ 32.8
9	FY 2018	$ 7.2	$ 33.4	$ 2.4	$ 9.0	$ 9.6	$ 42.4
10	FY 2019	$ 8.3	$ 41.7	$ 2.8	$ 11.8	$ 11.1	$ 53.5

Assumptions

Number of New Hires per Year	264
FY 2009 Average Starting Salary	$ 45,000
Annual Inflation Rate	4.25%
Interest Rate	8.00%
New SPSP Mandatory	0.00%
New SPSP Voluntary	0.00%
SPSP Voluntary Participation	75.00%
SDCERS Normal Cost Rate	7.59%
Old SDCERS Normal Cost Rate	9.87%
Year Zero Merit and Longevity	4.50%
Year One Merit and Longevity	3.50%
Year Two Merit and Longevity	2.50%
Year Three Merit and Longevity	1.50%
Year Four Merit and Longevity	0.50%
Year Five and Later Merit and Longevity	0.50%
Year Zero Turnover	5.63%
Year One Turnover	5.53%
Year Two Turnover	4.33%
Year Three Turnover	4.33%
Year Four Turnover	4.24%
Year Five Turnover	3.06%
Year Six Turnover	1.87%
Year Seven Turnover	1.98%
Year Eight Turnover	2.14%
Year Nine Turnover	2.30%

Rules Committee
June 25, 2008

Mayor Sanders Pension Reform Ballot Proposal

6/25/08 Item 5A

The Need for Pension Reform

- Current plan provides excessive benefits
  - Replacement ratio 119% at age 65 with 30 years service
  - Replacement ratio 67% at age 55 with 20 years service
- Current plan not financially sustainable for the City

The Need for Pension Reform

City of San Diego
Funded Ratio & UAL
1998 - 2007
(in billions)

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Funded Ratio	93.6%	93.2%	97.3%	89.9%	77.3%	67.2%	65.8%	68.2%	79.9%	78.9%
UAL	$0.13	$0.15	$0.07	$0.28	$0.72	$1.16	$1.37	$1.39	$1.00	$1.18*

Source: Cheiron SDCERS 2007 Valuation report

* The UAL for 2007 is calculated using EAN, prior years are calculated using PUC

The Need for Pension Reform

City of San Diego Projected Pension and OPEB ARC as a Percent of General Fund Budget					
	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Pension ARC (1) (in millions)	$161.7	$168.2	$174.9	$181.9	$189.2
General Fund portion of Pension ARC (2) (in millions)	$126.1	$131.2	$136.4	$141.9	$147.5
OPEB contribution/ ARC (3), (4) (in millions)	$102.0	$106.0	$109.8	$113.7	$117.4
General Fund portion of OPEB contribution/ ARC (5) (in millions)	$71.6	$74.4	$77.1	$79.8	$82.4
General Fund Projected Budget (6) (in millions)	$1,189	$1,214	$1,252	$1,300	$1,352
General Fund Pension ARC as percent of General Fund Budget	10.61%	10.80%	10.90%	10.91%	10.91%
General Fund OPEB ARC as percent of General Fund Budget	6.02%	6.13%	6.16%	6.14%	6.10%
Combined ARC payments as a percent of General Fund Budget	16.63%	16.93%	17.05%	17.05%	17.01%

(1) FY 2009 amount based on June 30, 2007, Actuarial Valuation. Assumes Pension ARC grows at 4% annually

(2) General Fund portion estimated to be 78%

(3) OPEB ARC calculation for FY09 is projected to be $102M based on June 30, 2007, OPEB valuation. The FY 2009 projected payment of $50 million is not the the full ARC

(4) Assumes OPEB ARC grows at 3.7%, 3.6%, 3.5%, 3.3% annually

(5) General Fund portion of OPEB ARC estimated to be 70.2%

(6) Revised Outlook April 2008, which is based on a balanced budget for FY 2009

Pension History

Year	Defined Benefit (at age 55)	Social Security / SPSP
July 1980	1.48%	Social Security
January 1982: SPSP created. Mandatory 3.0% ee contribution with city match; voluntary 4.5% ee contribution with city match		
July 1986: SPSP Voluntary reduced to 3.05% with 1.45% mandatory Medicare contribution.		
January 1997	2.0%	SPSP
July 2000	2.25%	SPSP
July 2002	2.5%	SPSP

Objectives

- Eliminate incentive and subsidy for early retirement
- Lower cost to achieve savings for taxpayers
- Provide a fair and reasonable benefit at age 65
- Create more equitable sharing of investment risk between City and members

Comparison of Mayor's Ballot Proposal to Current Pension System

		Current Pension Design	Mayor's Ballot Proposal
Age at Hire for Illustrative Member		35	35
Defined Benefit Multiplier			
Age 65		2.80%	2.30%
Age 62		2.65%	2.00%
Age 60		2.55%	1.64%
Age 55		2.50%	1.03%
Defined Benefit Cap		90%	75%
Years in Final Average Compensation		1	3
Defined Benefit Member Rate		10.07%	6.35%
Defined Contribution City Rate		6.05%	2.00%
Defined Contribution Member Rate		6.05%	2.00%
Income Replacement Ratio			
Retire at 65			
	Defined Benefit	84.0%	65.9%
	Defined Contribution	35.0%	14.8%
	Total	119.0%	80.7%
Retire at 62			
	Defined Benefit	71.6%	51.6%
	Defined Contribution	28.6%	11.7%
	Total	100.2%	63.3%
Retire at 60			
	Defined Benefit	63.8%	39.2%
	Defined Contribution	25.0%	9.9%
	Total	88.8%	49.1%
Retire at 55			
	Defined Benefit	50.0%	19.7%
	Defined Contribution	17.0%	6.5%
	Total	67.0%	26.2%
City Contribution Rates			
	Defined Benefit	9.87%	6.35%
	Defined Contribution	6.05%	2.00%
Total		15.92%	8.35%
Member Contribution Rates			
	Defined Benefit	10.07%	6.35%
	Defined Contribution	6.05%	2.00%
Total		16.12%	8.35%
Projected Annual Long-Term Savings (millions)			
Defined Benefit City Savings		N/A	$12.2
Defined Contribution City Savings		N/A	$14.1
Pre-65 LTD Program		N/A	$(1.2)
Total Annual City Savings		N/A	$25.1

Defined Benefit Elements

- Reduces factors
- More comparable to PERS 2% @ 60 plan
- Actuarially equivalent reductions eliminate the early retirement incentive
- Retirement calculation based on final 3 of 5 high average pay
- Caps Defined Benefit at 75%

Defined Contribution Elements

- Reduces mandatory percent of pay contributed/ matched
- Mandatory contributions ensure savings
- Invests DC funds with SDCERS, providing lower investment costs and higher returns to employee
- Reduced DB and DC contributions increase take home pay by 7.7%
- Employees can participate in City's 401(k) and 457 plans if they desire greater retirement income

Pension Proposal Summary

- Retirement Plans administered and funds invested by SDCERS
  - Traditional DB component
  - DC component
- Competitive with CalPERS 2% @ 60 plan, plus offers DC component
- Targets 80% replacement ratio at age 65
- All contributions mandatory and pre-tax
- Results in more take home pay
- Employees can contribute more to 401k or 457 plans
- Achieves cost reduction and reduces city's exposure to investment risk

Ballot Proposal

- Requires adoption of an Ordinance including the proposition language and ballot language reflecting the proposed plan

Meet & Confer Process

- Pursuant to the Meyers-Milias-Brown Act (MMBA), the City has an obligation to meet and confer with the impacted labor organizations prior to a Council determination to place a retirement-related charter amendment on a ballot. *(Police Officers Association v. Seal Beach (1984) 36 Cal. 3d 591, CPER SRS No. 28)*
- 3 labor organizations impacted: Deputy City Attorney's Association (DCAA), Municipal Employees Association (MEA), American Federation of State, County, Municipal Employees Local 127 (Local 127)
- On May 28, 2008, Office of the Mayor notified MEA, Local 127 and DCAA in writing of it's intent to bring ballot proposal forward to the City Council regarding a new pension system which would apply to non-safety employees hired on and after July 1, 2009. The May 28, 2008 written notice invited each effected employee organization to promptly convene the meet and confer process.

Meet & Confer Process

- Office of the Mayor has met with DCAA on June 10, 17, 24
- Office of the Mayor has met with Local 127 on June 18, 24
- MEA rejected the Mayor's request to meet and confer over the proposed charter amendment. Instead, MEA invited early negotiations on a successor MOU for FY10, which would include discussions on a new pension system.
- Office of the Mayor has yet to receive counter proposal from any labor organization.
- Discussions are ongoing

Recommendation

- Place the Mayor's proposed pension plan on the November 4, 2008 ballot

Sanders / Peters 3 way
6/25/08 3a

City of San Diego
General Members - Applicable to Employees Hired After 7/1/09

	Current Design	Compromise Ballot Proposal
Age at Hire for Illustrative Member	35	35
Defined Benefit Multiplier		
Age 65	2.80%	2.60%
Age 62	2.65%	2.24%
Age 60	2.55%	2.00%
Age 55	2.50%	N/A
Defined Benefit Cap	90%	80%
Years in Final Average Compensation	1	3
Defined Benefit Member Rate	10.07%	7.50%
Defined Benefit Death and Disability Benefits	SDCERS	Revised
Defined Contribution City Rate	6.05%	1.25%
Defined Contribution Member Rate	6.05%	1.25%
Income Replacement Ratio		
Retire at 65		
Defined Benefit	84.0%	74.5%
Defined Contribution	35.0%	9.2%
Total	119.0%	83.7%
Retire at 62		
Defined Benefit	71.6%	57.8%
Defined Contribution	28.6%	7.2%
Total	100.2%	65.0%
Retire at 60		
Defined Benefit	63.8%	47.8%
Defined Contribution	25.0%	6.2%
Total	88.8%	54.0%
Retire at 55		
Defined Benefit	50.0%	N/A
Defined Contribution	17.0%	N/A
Total	67.0%	N/A
City Contribution Rates		
Defined Benefit	9.87%	7.50%
Defined Contribution	6.05%	1.25%
Total	15.92%	8.75%
Member Contribution Rates		
Defined Benefit	10.07%	7.50%
Defined Contribution	6.05%	1.25%
Total	16.12%	8.75%
Projected Annual Long-Term Savings (millions)		
Defined Benefit City Savings	N/A	8.2
Defined Contribution City Savings	N/A	15.4
Pre-65 LTD Program	N/A	(1.1)
Total Annual City Savings	N/A	22.5

RULES JUN 2 5 2008 #3

CITY OF SAN DIEGO
OFFICE OF THE CITY CLERK
MEMORANDUM
(619) 533-4000

DATE:	June 20, 2008
TO:	Elyse Lowe, Rules Committee Consultant
FROM:	Elizabeth Maland, City Clerk
SUBJECT:	Ballot Proposals for Rules Committee Review

Attached are the 9 ballot proposals filed in my office pursuant to Council Policy 000-21 for the submission of ballot proposals to be reviewed by the Rules Committee for possible placement on the ballot.

The Clerk's Office has established a June 20, 2008 deadline for submitting such ballot proposals for the November 2008 ballot, and anticipates that the Rules Committee will review such proposals at its June 25, 2008 meeting. Ballot proposals which are referred to the full City Council after Rules Committee review will be listed under Public Notice and docketed for consideration by Council on July 7, 2008.

Elizabeth Maland

Elizabeth Maland
City Clerk

Attachments

RULES JUN 2 5 2008 #3

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 236-6220

DATE: June 19, 2008

TO: The Honorable Mayor and Members of the City Council

FROM: City Attorney

SUBJECT: Pension Ballot Measure Questions

INTRODUCTION

The City Attorney has been asked to provide a legal opinion on a number of issues, all relating to placing a pension ballot measure to amend the City Charter, before the voters of San Diego.[1]

QUESTIONS PRESENTED

1. Can the City Council propose a ballot measure, apart from the Mayor, to amend the City Charter provisions related to retirement pensions? If so, what, if any are the meet-and-confer requirements under the California Government Code, and how would those be fulfilled?

2. Can the Mayor, on behalf of the City, propose a ballot measure to amend the City Charter provisions related to retirement pensions? If so, what, if any are the meet-and-confer requirements under the California Government Code, and how would those be fulfilled?

3. Can the City Council waive Council Policy 300-6 regarding labor relations impasse procedures for the Mayor's proposal on behalf of the City?

4. Can the Mayor initiate or sponsor a voter petition drive to place a ballot measure to amend the City Charter provisions related to retirement pensions? If so, what, if any are the meet-and-confer requirements under the California Government Code, and how would those be fulfilled?

[1] The City Charter, Article IX: The Retirement of Employees, Sections 141 - 149 states the current pension system for the City of San Diego.

5. Can a citizen residing in the City of San Diego, initiate or sponsor a voter petition drive to place a ballot measure to amend the City Charter provisions related to retirement pensions? If so, what, if any are the meet-and-confer requirements under the California Government Code, and how would those be fulfilled?

SHORT ANSWERS

1. Can the City Council, apart from the Mayor, propose a ballot measure to amend the City Charter provisions related to retirement pensions? If so, what, if any are the meet-and-confer requirements under the California Government Code, and how would those be fulfilled?

Yes, the City Council has an absolute constitutional right under the California Constitution to propose a ballot measure amending the City Charter provisions related to retirement pensions.

The City Council must comply with the "meet-and-confer" requirement in Government Code section 3505, before placing its proposed amendment on the ballot. However, the City Council is not obligated to change the substance or language of its proposal if it is not persuaded to do so by the unions, through the meet-and-confer process. The California Constitution, article XI, section 3, subdivision (b), provides the Council with the power to present its proposal to amend the Charter to the voters, after going through the meet-and-confer process.

The City Council would request the Mayor present its proposal to the labor organizations and return to the Council to report on the conduct of negotiations over the Council's proposal. The Council can also appoint a Council Member to sit as an observer at the negotiations. If agreement is reached with the labor organizations on the Council's proposal, it would be ratified by both parties. If no agreement is reached, the City will declare its final ballot proposal language and hold a hearing on its proposal. At the end of the hearing, the Council will vote whether to approve its ballot proposal and place it on the ballot.

2. Can the Mayor, on behalf of the City, propose a ballot measure to amend the City Charter provisions related to retirement pensions? If so, what, if any are the meet-and-confer requirements under the California Government Code, and how would those be fulfilled?

Yes, the Mayor is empowered to propose, on behalf of the City, a ballot measure to amend the Charter provisions related to retirement pensions. The Mayor is obligated to meet and confer with the labor organizations prior to bringing a final ballot proposal to the City Council. If the parties reach agreement, the Council would be asked to ratify the language to be placed on the ballot. If the Mayor is not able to reach agreement with the unions, the Mayor would present his last, best, and final offer to the Council for its vote. If the Council votes in favor the Mayor's last, best, and final proposal, it goes on the ballot. If the Council does not pass the Mayor's proposal, it does not go on the ballot.

3. Can the City Council waive Council Policy 300-6 regarding labor relations impasse procedures for the Mayor's proposal on behalf of the City?

No. The City Council can not waive Council Policy 300-6 regarding the Mayor's proposal. The Policy was created in part as an impasse procedure for resolving labor disputes.[2] In order to change the impasse procedure the City must meet and confer with the unions, reach agreement and ratify an new impasse procedure, or declare impasse under the current procedure and take a Council vote on whether to impose the City's last, best, and final offer regarding a change in the impasse procedure. Until these steps are concluded, the City can not change (or waive) Council Policy 300-6.

4. Can the Mayor initiate or sponsor a voter petition drive to place a ballot measure to amend the City Charter provisions related to retirement pensions? If so, what, if any are the meet-and-confer requirements under the California Government Code, and how would those be fulfilled?

The Mayor has the same rights as a citizen with respect to elections and propositions. The Mayor does not give up his constitutional rights upon becoming elected. He has the right to initiate or sponsor a voter petition drive. However, such sponsorship would legally be considered as acting with apparent governmental authority because of his position as Mayor, and his right and responsibility under the Strong Mayor Charter provisions to represent the City regarding labor issues and negotiations, including employee pensions. As the Mayor is acting with apparent authority with regard to his sponsorship of a voter petition, the City would have the same meet and confer obligations with its unions as set forth in number two, above.

5. Can a citizen residing in the City of San Diego, initiate or sponsor a voter petition drive to place a ballot measure to amend the City Charter provisions related to retirement pensions? If so, what, if any are the meet-and-confer requirements under the California Government Code, and how would those be fulfilled?

A Charter amendment proposal can be brought by citizens using the initiative process. San Diego City Charter sections 23 and 223; California Constitution Article XI, Section 3. A voter-initiated Charter amendment can not be altered by the City. Since this is voter-initiated, rather than under the imprimatur of the City, Government Code sections 3500 et seq. (Myers-Milias-Brown-Act) is not applicable, and there is no meet-and-confer obligation with the unions.

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[2] See expanded discussion below of question 1 regarding the <u>inapplicability</u> of Council Policy 300-6 to the Council's own ballot proposal.

DISCUSSION

I. A City Council ballot measure to amend the Charter provisions related to retirement pensions.

A. The City Council has an absolute constitutional right under the California Constitution to propose a ballot measure amending the City Charter provisions related to retirement pensions.

The California Constitution, article XI, section 3, states, in part:

> (a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. ....
>
> (b) *The governing body* or charter commission of a county or city *may propose a charter or revision. Amendment or repeal may be proposed* by initiative or *by the governing body.*
>
> (c) An election to determine whether to draft or revise a charter and elect a charter commission may be required by initiative or by the governing body. [Emphasis added.][3]

B. Meet-and-Confer Obligations over the Council's Own Proposal.

The California Supreme Court has held that a city council is required to meet and confer with labor organizations over a proposed charter amendment affecting wages, hours or other terms and conditions of employment, before placing the charter amendment on the ballot. *Seal Beach Police Officers Association v. City of Seal Beach*, 36 Cal.3d 591(1984). The City Council's proposal to amend the Charter pension provisions would be a change in the current City policy on pensions and it must comply with the "meet-and confer" requirement in Government Code, section 3505, before placing its proposed amendment on the ballot.

However, the City Council is not obligated to change its proposal if it is not persuaded to do so through the meet-and-confer process with unions. Although Government Code Section 3505 encourages binding agreements resulting from the parties' bargaining, the City Council is not obligated to change the substance or the language of its proposal, unless it is convinced to do so. The California Constitution, article XI, section 3, subdivision (b), provides the Council with the

[3] The San Diego City Charter references the State Constitution as authority for amending the Charter. The Charter, Article XIV, Section 223 "Amendment of Charter" states: "This Charter may be amended in accordance with the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, or any amendment thereof or provision substituted therefore in the State Constitution."

power to present its proposal to amend the Charter to the voters, after going through the meet-and-confer process.

The Supreme Court in *Seal Beach* emphasized the need to harmonize, whenever possible, the State Constitutional provisions guaranteeing the right of the city council to propose charter amendments to the electorate (article XI, §3, subd. (b)) with the Government Code bargaining requirements (Gov. Code §3505), when the amendment concerns terms and conditions of public employment. *Id. at* 597-602.

The *Seal Beach* Court emphasized that the meet-and-confer requirement did not prevent a city council from proposing its own charter language, only that meet-and-confer with its unions prior to placing it on the ballot was necessary to satisfy the requirements of the Government Code. *Id. at* 600.

The Court made it clear that the City Council was in no way obligated to reach agreement with the union, or change its proposed ballot language, if it found the unions' proposals unacceptable. To the contrary, the City Council could refuse an agreement if the union's terms were unacceptable, make its own decision on the language, and take that to the people, after participating in the meet-and-confer process. *Id. at* 601.

After reviewing cases where there were actual conflicts between a state statute and the city "law", the *Seal Beach* Court returned to the situation before it:

> All these cases involved actual conflicts between state statutes and city "law." No such conflict exists between a city council's power to propose charter amendments and section 3505. Although that section encourages binding agreements resulting from the parties' bargaining the governing body of the agency – here the city council—retains the ultimate power to refuse an agreement and to make its own decision. (See *Glendale City Employees' Assn., Inc. v. City of Glendale* (1985) 15 Cal.3d 328, 334-336.) This power preserves the council's rights under article XI, section 3, subdivision (b) – it may still propose a charter amendment if the meet-and confer process does not persuade it otherwise. *Id. at* 601.

C. <u>Procedures for fulfilling the meet-and-confer obligation related to the Council's own ballot proposal.</u>

Effective January 1, 2006, the City began operating under a Strong Mayor form of government, as reflected in San Diego Charter article XV, which provides that "[a]ll executive authority, power, and responsibilities conferred upon the City Manager in Article V, Article VII, and Article IX [are] transferred to, assumed, and [will be] carried out by the Mayor..." San Diego City Charter §260 (b).

Article XV of the Charter also expressly conferred on the Mayor a number of "additional rights, powers, and duties" to those conferred by Charter section 260(b). These rights include the right "to recommend to the Council such measures and ordinances as he or she may deem necessary or expedient..." San Diego Charter §265 (b)(3). The City Council may not interfere with the Mayor's hiring or administrative powers. San Diego Charter § 270 (g) and (h).

However, Article XV provides the Council with the 'right to determine its own rules and order of business..." San Diego Charter § 270 (d). The Mayor is to "perform ... [the] duties as may be prescribed by [the] Charter or required of him by ordinance or resolution of the Council." San Diego Charter §28.

Generally speaking, the Mayor is the spokesperson for the City in labor relations with the labor unions and has authority to set the City's bargaining position so long as he acts reasonably and in the bests interests of the City.

However, the California Constitution, article XI, section 3 and the San Diego City Charter, Article XIV, Section 223, grant the City Council the absolute and unfettered right to present its own ballot proposal to the voters to amend the City Charter, apart from any proposal the Mayor may wish to present to the Council for its consideration.[4]

In order to harmonize the City Charter provision of Strong Mayor and the California Constitutional provision (and City Charter provision) granting the City Council the absolute right to place its own ballot proposal before the voters, and in the spirit of the Strong Mayor form of government, the Mayor would act as the intermediary and conduit between the City Council and the labor organizations regarding the City Council's meet and confer obligations. Because the City Council, apart from the Mayor, has the right under the California Constitution to present its own ballot proposal to the voters to amend the City Charter, it would control the decisions related to the substance and language of its proposal, and not the Mayor.

Procedurally, it would work as follows: After the City Council approves the language of a proposal for a pension ballot measure, it would request the Mayor present its proposal to the labor organizations, and return to the Council to report on the conduct of negotiations over the Council's proposal. The Council can also appoint a Council Member to sit as an observer at the negotiations. If agreement is reached with the labor organizations on the Council's proposal, it would be ratified by the parties. If no agreement is reached, the City will declare its final ballot proposal language and hold a hearing on its proposal. At the end of the hearing, the Council will vote whether to approve its ballot proposal and place it on the ballot. If there is a majority vote, the Council's proposal will be placed on the ballot.

D. <u>No impasse procedure exists or is required regarding the Council's own ballot proposal.</u>

The Government Code requires the City Council to comply with its meet and confer obligations, prior to voting to present a final ballot measure to the voters. However, the Government Code does not require an impasse procedure should the parties not reach agreement over the Council's own proposal.

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[4] Addressed within is the question of the Mayor's own proposal for a pension ballot measure.

Government Code section 3505, in referring to the meet and confer obligation states, "The process should include adequate time for resolution of impasses *where specific procedures for such resolution are contained in local rule, regulation, or ordinance,* or when such procedures are utilized by mutual consent." [Emphasis added.]

In the absence of an impasse procedure, the process, if the City finds the unions' suggestions unacceptable, the City has met its meet and confer obligation, and can take a final vote on its language, and take that to the people.

Council Policy 300-6 is not applicable to the City Council's own ballot proposal.

Council Policy 300-6 does not contemplate or create impasse procedures when the City Council proposes its own ballot measure, based upon its unfettered Constitutional right to present such a proposal to the voters, irrespective of the Mayor's position on such a measure.

Council Policy 300-6 provides for the Mayor to present and negotiate his proposals on behalf of the City to the labor unions, to change wages, hours, or other terms or conditions of employment. The Policy contains an impasse procedure which allows the Mayor to declare when he is at impasse with the unions over his proposals, and for him to present the Mayor's last, best, and final offer on his proposal to the Council.

The Council has no authority to add new provisions to the Mayor's proposal, change provisions of the Mayor's proposal, mediate between the City and the unions, or integrate union proposals with the Mayor's last, best, and final offer.[5]

Under the Council Policy the role of the Council is limited to either ratifying an agreement reached between the Mayor and a labor organization, or at the request of the Mayor after he declares impasse, voting whether to approve and implement the Mayor's last, best, and final offer to the labor organizations.[6]

Council Policy 300-6 addresses the impasse procedure related to the Mayor's proposals to labor organizations. It does not address to the City Council's own proposals to present to the voters an amendment the City Charter, apart from the Mayor's proposals.

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[5] If the Council majority does not approve the Mayor's last, best, and final offer, as to economic provisions, the last Agreement between the City and union continues in full force and effect until a successor agreement is ratified or the Council imposes a last, best and final offer by the Mayor.

[6] In opinions of the City Attorney since the passage of the Strong Mayor Charter provision, Policy 300-6 has been interpreted to mean that at the Impasse Hearing, the Council is only presented with the Mayor's last, best, and final offer to the labor organizations. The Council votes to implement or reject the Mayor's last, best, and final offer. The Public Employment Relations Board (PERB) has ruled and approved the impasse procedure set forth in Council Policy 300-6, as interpreted by the City Attorney, i.e. Council authority under Council Policy 300-6 is solely to adopt or reject the Mayor's last, best, and final Offer, without alteration. Deputy City Attorney's Association v. City of San Diego, PERB Case No. LA-CE-359-M (June 22, 2007). That Council Policy is not applicable to the Council's unfettered Constitutional right to present its own ballot initiative, irrespective of the Mayor's desires.

Simply stated, the Council has the absolute Constitutional right to have its proposal presented in the meet and confer process, and it is the Council that controls what, if any changes to its proposal it is willing to make. To permit anyone other than the Council to make those decisions would abrogate the Council's unfettered Constitutional right to place ballot measures of their own choosing before the people. Since it is the City Council that must ultimately decide whether to place its proposal on the ballot, there can not be any restriction on the Council changing or altering its proposal, nor any requirement that the Council to vote solely on what the Mayor proposes, rather than the Council.

The City has no impasse procedure, and none is required by law, regarding the Council's duty to meet and confer with the labor organizations prior to voting to present its own ballot measure to the voters. If agreement can not be reached between the Council and labor organizations regarding the Council's charter proposal, the Council holds a hearing and votes whether to place its measure on the ballot. If it passes, the Council's ballot measure goes to the voters.

II. <u>The Mayor's ballot measure, on behalf of the City, to amend the Charter provisions related to retirement pensions.</u>

The Mayor is empowered to propose, on behalf of the City, a ballot measure to amend the Charter provisions related to retirement pensions. The Mayor is obligated to meet-and-confer with the labor organizations prior to bringing a final ballot proposal to the City Council. If the parties reach agreement, the Council would be asked to ratify the language to be placed on the ballot. If the Mayor is not able to reach agreement with the unions, since this is the Mayor's proposal, Council Policy 300-6 would apply. Briefly, the Mayor would present his last, best, and final offer to the Council for their vote. The Council would vote solely on the Mayor's last, best, and final offer regarding the language of the Pension Ballot measure he proposes. If the Council votes in favor the Mayor's proposal, it goes on the ballot. If the Council does not pass the Mayor's proposal, it does not go on the ballot.

III. <u>The City Council can not waive Council Policy 300-6 regarding the Mayor's proposal.</u>

The City Council can not simply waive Council Policy 300-6 regarding the Mayor's proposals. The Policy was created in part pursuant to Government Code section 3507 as the procedure for the Mayor to bring to the City Council to resolve disputes over wages, hours, and other terms and conditions of employment. Council Policy 300-6 has been incorporated into each of the collective bargaining agreements with the City's labor unions.

Hence, where applicable, Council Rule provides the Impasse procedure for the City. As noted earlier Council Policy 300-6 impasse procedures are inapplicable to the Council's own Constitutionally guaranteed right to propose a charter amendment to the people.

In order to change the impasse procedure of Council Policy 300-6, which waiving it would do, requires the City to meet-and-confer with the labor organizations, reach agreement and ratify an new impasse procedure, or declare impasse and take a Council vote on whether to impose the Mayor's last, best, and final offer regarding the change in impasse procedure proposed. Until these steps are concluded, the City can not change (waive) Council Policy 300-6 regarding the Mayor's proposal.

IV. The Mayor initiating or sponsoring a voter petition drive to place a ballot measure to amend the City Charter provisions related to retirement pensions.

The Mayor has the same rights as a citizen with respect to elections and propositions. However, those rights are restricted as noted below. While he does have the right to initiate or sponsor a voter petition drive (see Government Code section 3203), such sponsorship is legally considered as acting with apparent governmental authority, and will require the Mayor to meet-and-confer with the labor organizations over a voter initiative pension ballot measure that he sponsors . In *Inglewood Teachers Association v. Public Employment Relations Board*, 227 Cal.App.3d 767 (1991), the Court approved the Public Employment Relations Board (PERB) decision to apply a case by case approach on the basis of whether agency employees could reasonably believe that an individual had apparent authority to act on behalf of the agency.[7]

The *Inglewood Teachers Association* Court noted that under Civil Code section 2317, ostensible or apparent authority is that which "a principal, intentionally or by want or ordinary care, causes or allows a third person to believe the agent possess."

The City Charter itself under the Strong Mayor provisions, grants the Mayor the authority to represent the City regarding labor issues and labor negotiations, including employee pensions. In addition, as noted above, the Council has confirmed this authority in Council Policy 300-6, providing for the Mayor to present and negotiate his proposals on behalf of the City with the labor unions.[8] Since the Strong Mayor Amendment was added, the City Council has repeatedly acknowledged the Mayor's authority as the City's spokesperson on labor negotiations by enforcing Council Policy 300-6. In some instances, this included his authority to negotiate on behalf of the City over his ballot proposals to amend the charter.[9] The Mayor has ostensible or apparent authority to negotiate with the employee labor organizations over any ballot measure he sponsors or initiates, including a voter-initiative. The City, therefore, would have the same meet-and-confer obligations with its unions over a voter-initiative sponsored by the Mayor as with any City proposal implicating wages, hours, or other terms and conditions of employment.

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[7] The Court approved the PERB decision in *Inglewood Unified School District*, PERB Decision No. 792, (1990).

[8] Council Policy 300-6 specifically provides that its reference to the authority of the "City" under the Policy includes the City Council and any duly authorized city representative. Clearly the Mayor would qualify. (Council Policy 300-6, Section IV. "Definitions" subd. (d).)

[9] The Council has at least ten times affirmed the Mayor's authority in such matters, including: the ballot language for Propositions B and C in March 2006; the POA Impasse in April 2006; the implementing ordinances for Ballot measures B and C in December 2006; the Impasse hearings for Local 145 and DCAA in April 2007, and the Impasse hearings for Local 147, MEA, and DCAA in May 2008.

V. <u>A citizen initiating or sponsoring a voter petition drive to place a ballot measure to amend the City Charter provisions related to retirement pensions.</u>

A Charter amendment proposal can be brought by citizens using the initiative process. San Diego City Charter sections 23 and 223; California Constitution article XI, section 3. A voter-initiated Charter amendment can not be altered by the City. Since this is voter-initiated, rather than under the imprimatur of the City, Government Code sections 3500 et seq. (Myers-Milias-Brown-Act) is not applicable. The obligation to meet-and-confer is only involved when there is a proposal by a public agency or union representing the public employees of the agency, not a private citizen. (Gov't. Code §§ 3501, 3505.)

However, it should be noted, regardless of the method used to propose a Charter amendment, if a Charter amendment is approved by a majority of the voters, the City would still need to meet-and-confer with the labor unions as required under the Meyers-Milias-Brown-Act prior to enacting implementing legislation.

CONCLUSION

The City Council has an absolute right under the California Constitution to propose a ballot measure amending the City Charter provisions related to retirement pensions. The City Council must comply with the meet-and confer requirement in Government Code section 3505, before placing its proposed amendment on the ballot. However, the City Council is not obligated to change the substance or language of its proposal if it is not persuaded to do so by the unions, through the meet-and-confer process, nor is any impasse procedure required.

The Mayor is empowered to propose, on behalf of the City, a ballot measure to amend the Charter provisions related to retirement pensions. The Mayor is obligated to meet-and-confer with the labor organizations prior to bringing a final ballot proposal to the City Council. The Council can not waive Council Policy 300-6 without the Mayor first negotiating with the labor unions over a new procedure.

The Mayor may initiate or sponsor a voter petition to place a pension ballot measure on the ballot. However, in so doing, he is acting with apparent authority on behalf of the City, which would trigger the meet-and-confer obligations with the unions on any such measure.

A qualified citizen's initiative ballot measure can be placed on the ballot without alteration and is not subject to the meet-and-confer requirements of the Meyers-Milias-Brown Act.

By:

Michael J. Aguirre
City Attorney

FOR IMMEDIATE RELEASE   Contact: Fred Sainz   Pam Hardy
June 25, 2008   858-442-8914   619-980-8429

OFFICES OF THE MAYOR & COUNCIL PRESIDENT

SANDERS AND PETERS ANNOUNCE PENSION REFORM COMPROMISE

RULES COMMITTEE ADVANCES REFORM TO FULL CITY COUNCIL

Mayor Jerry Sanders and Council President Scott Peters this morning announced they have reached a compromise pension reform proposal. Following the meet and confer process already on-going with the affected labor organizations, the proposal will advance to the full City Council.

The new plan achieves significant cost savings, $22.5 million when fully implemented, by significantly lowering the multipliers and eliminating the existing SP/SP system. The result is that the taxpayers' contribution to the new plan would be reduced almost by half, from 15.92% of pay to 8.75% in the future. Contributions going forward would be in conformance with the Charter by making them substantially equal. The plan also introduces a defined contribution component thereby lowering the risk to taxpayers.

An important hallmark of the compromise plan is that it reduces the costly benefits that have been a part of the current retirement system:

- Going forward, retirement pay would be based on an average of the last three out of five years of compensation – as opposed to the current highest one year of pay.
- The compromise will also disincent costly early retirements; the compromise proposal eliminates retirement at all ages below 60 years of age;
- and the proposal also lowers the defined benefit cap from 90% to 80%.

Both Mayor Sanders and Council President Peters believe that the plan achieves important and meaningful pension reform. The City Council is expected to consider the plan in July following meet and confer with the affected labor unions.

[A copy of a chart that compares the existing plan to the proposed plan follows this release.]

City of San Diego

General Members - Applicable to Employees Hired After 7/1/09

	Current Design	Compromise Ballot Proposal
Age at Hire for Illustrative Member	35	35
Defined Benefit Multiplier		
Age 65	2.80%	2.60%
Age 62	2.65%	2.24%
Age 60	2.55%	2.00%
Age 55	2.50%	N/A
Defined Benefit Cap	90%	80%
Years in Final Average Compensation	1	3
Defined Benefit Member Rate	10.07%	7.50%
Defined Benefit Death and Disability Benefits	SDCERS	Revised
Defined Contribution City Rate	6.05%	1.25%
Defined Contribution Member Rate	6.05%	1.25%
Income Replacement Ratio		
Retire at 65		
Defined Benefit	84.0%	74.5%
Defined Contribution	35.0%	9.2%
Total	119.0%	83.7%
Retire at 62		
Defined Benefit	71.6%	57.8%
Defined Contribution	28.6%	7.2%
Total	100.2%	65.0%
Retire at 60		
Defined Benefit	63.8%	47.8%
Defined Contribution	25.0%	6.2%
Total	88.8%	54.0%
Retire at 55		
Defined Benefit	50.0%	N/A
Defined Contribution	17.0%	N/A
Total	67.0%	N/A
City Contribution Rates		
Defined Benefit	9.87%	7.50%
Defined Contribution	6.05%	1.25%
Total	15.92%	8.75%
Member Contribution Rates		
Defined Benefit	10.07%	7.50%
Defined Contribution	6.05%	1.25%
Total	16.12%	8.75%
Projected Annual Long-Term Savings (millions)		
Defined Benefit City Savings	N/A	8.2
Defined Contribution City Savings	N/A	15.4
Pre-65 LTD Program	N/A	(1.1)
Total Annual City Savings	N/A	22.5

ACTUARIAL SERVICE COMPANY, P.C.

Date: July 2, 2008 To: Penni Takade, Deputy Director, Independent Budget Analyst

Actuarial Evaluation of the Retirement Plan Compromise Proposal Put Forth by The Mayor and the City Council President

Mayor Jerry Sanders and City Council President Scott Peters have agreed on a compromise proposal setting forth the proposed design of the City's retirement system applicable to all General employees hired after June 30, 2009. The design of that system, along with replacement ratios, contribution rates and ultimate City savings have been put forth, with the actuarial calculations performed by Mercer. I have studied their results and performed parallel calculations so that I can comment on the amounts put forth. Included with this report are the results I have obtained, presented in much the same format as Mercer's, as well as a calculation of replacement ratios and a table showing estimated annual City savings for the first ten years following the effective date.

Retirement Factors

The retirement factors used in my calculations are the same as those used by Mercer. The factors incentivize later retirement, but not as greatly as would be the case if actuarial equivalent factors had been used. The current SDCERS design, for ages 60 through 65 begin at 2.55% and increase in level increments of 0.05% to 2.80% at age 65. Under the proposed design the factors begin at 2.00% and increase in level increments of 0.12% to 2.60% at age 65. Had the goal of the design been to reach a factor of 2.60% at age 65, with actuarially equivalent factors for ages 60 through 64, the early retirement factors would have been as follows:

Age	Factor
60	1.58%
61	1.75%
62	1.93%
63	2.13%
64	2.35%

As with Mercer's design, I have capped benefits at 80% of Final Average Compensation, defined as the average of the three highest consecutive years during the last five years of employment.

Replacement Ratios

At ages 60, 62 and 65, I have agreed with Mercer's calculated replacement ratios developed by the defined benefit plan. However, in all cases my results for the defined contribution plan are 91.3% to 93.5% of those arrived at by Mercer. While I cannot be certain, I believe the difference is attributable in part to the fact that I have assumed future salaries growing at the rates assumed in the SDCERS June 30, 2007 actuarial valuation. This is consistent with the cost calculations performed for the defined benefit plan. When I spoke with Bill Hallmark of Mercer some time ago he told me that Mercer used a salary growth pattern similar to SDCERS.

For the defined contribution plan I have assumed investments will grow at the rate of 8% during the employee's career, as has Mercer. In order to convert the accumulated defined contribution monies to an annual benefit, for the purpose of arriving at a replacement ratio, I have used the Uninsured Pensioner 1994 (UP1994) mortality table, set back 2 years (male and female) with a 3% load. Male spouses were assumed to be 4 years older than female spouses. The male/female rates were blended 50%/50%. Any difference in this assumption could have a significant effect on the calculated replacement ratios.

City Contribution Rates

My calculations have resulted in the same contribution rates determined by Mercer. The annual contribution rate for the defined benefit plan is 7.5% for both the City and the employee. The annual contribution rate for the defined contribution plan is 1.25% for both the City and the employee, on a mandatory basis.

Projected Annual Long-Term Savings

For comparison with Mercer, I have calculated long-term savings under three different payroll assumptions.

1. Annual payroll of $330.8 million. This is the amount shown in the June 30, 2007 actuarial valuation. It does not consider increases between fiscal years 2007 and 2010 when the savings will first be realized. I have computed total annual savings of $22.8 million, compared to Mercer's $22.5 million. The amount allocated to defined benefit is slightly less that Mercer and the amount allocated to defined contribution is slightly more than Mercer.

2. Annual payroll of $374.8 million. This is the amount shown in the June 30, 2007 actuarial valuation, increased by 4.25% annually for three years. It assumes increases between fiscal years 2007 and 2010 at the rate assumed in the June 30, 2007 actuarial valuation. I have computed total annual savings of $25.9 million, compared to Mercer's $22.5 million.

3. Annual payroll of $358.7million. This is the amount shown in the June 30, 2007 actuarial valuation, increased by 4% for fiscal year 2008, 0.0% for fiscal year 2009 and 4.25% for fiscal year 2010. It assumes increases between fiscal years 2007 and 2010 at the actual rate for fiscal year 2008, the proposed rate for fiscal year 2009 and the actuarially assumed rate for fiscal year 2010. I have computed total annual savings of $24.8 million, compared to Mercer's $22.5 million.

Some general comments are in order concerning my calculation of the projected long-term savings.

1. In order to calculate the estimated defined benefit normal cost, I have used the exact formula used by the SDCERS actuary, since he will be performing the actual calculations.

2. I have calculated the normal cost as if it were payable on the first day of the fiscal year.

3. I have used the same rates of retirement as SDCERS.

4. I have assumed that all participants previously participated 100% in the SPSP voluntary plan. I have recently been informed that 88% of employees do contribute the maximum. I do not have statistics on the SPSP contribution rates for the remaining 12%. However, I assume it is not zero, and therefore increases the average rate for the group to something greater than 88%. If a calculation at less than 100%, say 90% or 95% is desired, that can easily be provided.

5. I have not done any calculation relative to the pre-65 LTD program. I have simply used the savings rates presented by Mercer.

6. In calculating the annual savings for the first ten years, I have attempted to employ those data and assumptions used in the June 30, 2007 actuarial valuation, with respect to:

    a. Number of new hires per year

    b. Average new hire starting salary

    c. Annual inflation rate

    d. Merit and longevity salary increases

    e. Employee turnover for reasons other than death disability or retirement

    f. Marital status at retirement

7. Defined benefit savings will not be realized until fiscal year 2012. The June 30, 2010 will be first to include new hires after June 30, 2009. The contribution calculations in that valuation will be applied to fiscal year 2012.

The other assumptions in the actuarial valuation have been ignored, e.g. rates of disability, etc.

Conclusions

1. *Mercer's methods and assumptions differ on slightly from mine.* My calculated projected long-term savings are only 1.33% greater than those of Mercer. There is no significant difference between Mercer and me.

2. *Mercer's projected long-term savings do not recognize salary increases between fiscal year 2007 and fiscal year 2010.* Recognizing those increases, increases the projected long-term savings from $22.8 million to either $25.9 million or $24.8 million, depending of the salary increase assumption used. I would recommend using the $24.8 million amount.

Actuarial Reliance

The information contained in this report was prepared for the internal use of the City of San Diego Independent Budget Analyst in connection with the Mayor's and City Council President's Compromise Proposal. It is neither intended nor necessarily suitable for other purposes. The Independent Budget Analyst may distribute this report to concerned parties, in which case the Independent Budget Analyst will provide this report in its entirety including all attachments.

Actuarial Service Company, P.C.

Joseph Esuchanko

City of San Diego
General Members - Applicable to Employees Hired After 7/1/09

	City's Current Design	Compromise Proposal (1)	Compromise Proposal (2)	Compromise Proposal (3)	Compromise Proposal (4)
Age at Hire for Illustrative Member	35	35	35	35	35
Defined Benefit Multiplier					
Age 65	2.80%	2.60%	2.60%	2.60%	2.60%
Age 62	2.65%	2.24%	2.24%	2.24%	2.24%
Age 60	2.55%	2.00%	2.00%	2.00%	2.00%
Age 55	2.50%	N/A	N/A	N/A	N/A
Defined Benefit Cap	90%	80%	80%	80%	80%
Years in Final Average Compensation	1	3	3	3	3
Defined Benefit Member Rate	10.07%	7.50%	7.50%	7.50%	7.50%
Defined Benefit Death and Disability Benefits	SDCERS	Revised	Revised	Revised	Revised
Mandatory Defined Contribution City Rate	3.00%	1.25%	1.25%	1.25%	1.25%
Mandatory Defined Contribution Member Rate	3.00%	1.25%	1.25%	1.25%	1.25%
Voluntary Defined Contribution City Rate	3.05%	0.00%	0.00%	0.00%	0.00%
Voluntary Defined Contribution Member Rate	3.05%	0.00%	0.00%	0.00%	0.00%
Income Replacement Ratio					
Retire at 65					
Defined Benefit	84.0%	74.5%	74.5%	74.5%	74.5%
Defined Contribution	35.0%	9.2%	8.4%	8.4%	8.4%
Total	119.0%	83.7%	82.9%	82.9%	82.9%
Retire at 62					
Defined Benefit	71.6%	57.8%	57.8%	57.8%	57.8%
Defined Contribution	28.6%	7.2%	6.7%	6.7%	6.7%
Total	100.2%	65.0%	64.5%	64.5%	64.5%
Retire at 60					
Defined Benefit	63.8%	47.8%	47.8%	47.8%	47.8%
Defined Contribution	25.0%	6.2%	5.8%	5.8%	5.8%
Total	88.8%	54.0%	53.6%	53.6%	53.6%
Retire at 55					
Defined Benefit	50.0%	N/A	N/A	N/A	N/A
Defined Contribution	17.0%	N/A	N/A	N/A	N/A
Total	67.0%	N/A	N/A	N/A	N/A
City Contribution Rates					
Defined Benefit	9.87%	7.50%	7.50%	7.50%	7.50%
Defined Contribution	6.05%	1.25%	1.25%	1.25%	1.25%
Total	15.92%	8.75%	8.75%	8.75%	8.75%
Member Contribution Rates					
Defined Benefit	10.07%	7.50%	7.50%	7.50%	7.50%
Defined Contribution	*6.05%*	*1.25%*	1.25%	1.25%	*1.25%*
Total	16.12%	8.75%	8.75%	8.75%	8.75%
Projected Annual Long-Term Savings (millions)					
Defined Benefit City Savings	N/A	8.2	8.0	9.1	8.7
Defined Contribution City Savings	N/A	15.4	15.9	17.9	17.2
Pre-65 LTD Program	N/A	(1.1)	(1.1)	(1.1)	(1.1)
Total Annual City Savings	N/A	22.5	22.8	25.9	24.8

(1) As presented by the Mayor
(2) Assumes annual payroll of $330.8 million (Fiscal Year 2007, as reported in June 30, 2007 actuarial valuation)
(3) Assumes annual payroll of $330.8 million increased by 4.25% per year for three years (Fiscal Year 2010 assumed payroll)
(4) Assumes annual payroll of $330.8 million increased by 4% for FY08, 0% for FY09 and 4.25% FY10 (Fiscal Year 2010 assumed payroll)

Replacement Ratios Dependent on Different Variables

Variables:

Defined Benefit Multiplier:	2.60%
Defined Benefit Cap:	80%
Final Average Compensation Years:	3
SPSP Mandatory Employee Contribution Rate:	1.25%
SPSP Mandatory Employer Contribution Rate:	1.25%
SPSP Voluntary Employee Contribution Rate:	0.00%
SPSP Voluntary Employer Contribution Rate:	0.00%
Investment Return Rate on SPSP:	8.00%
Inflation Factor:	3.00%
Annuity Rate of Return (5%, 6%, 7% or 8%):	6.00%
Age at Hire:	35
Annual Compensation at Hire:	$45,000

Age	Multiplier
55	0.00%
56	0.00%
57	0.00%
58	0.00%
59	0.00%
60	2.00%
61	2.12%
62	2.24%
63	2.36%
64	2.48%
65	2.60%

Results:

Age 65 Replacement: 82.96%

Compensation at Age 60:	150,587.16
Final Average Compensation at Age 60:	143,861.84
Defined Benefit at Age 60:	71,930.92
Defined Benefit Replacement at Age 60:	47.77%
Defined Contribution Replacement at Age 60:	5.79%
Total Replacement at Age 60:	53.56%
Compensation at Age 62:	165,232.71
Final Average Compensation at Age 62:	157,853.31
Defined Benefit at Age 62:	95,469.68
Defined Benefit Replacement at Age 62:	57.78%
Defined Contribution Replacement at Age 62:	6.74%
Total Replacement at Age 62:	64.52%
Compensation at Age 65:	189,914.49
Final Average Compensation at Age 65:	181,432.79
Defined Benefit at Age 65:	141,517.58
Defined Benefit Replacement at Age 65:	74.52%
Defined Contribution Replacement at Age 65:	8.44%
Total Replacement at Age 65:	82.96%

City Savings Under Compromise Ballot Proposal
Assuming Members 100% Participation in Saving for Retirement
Effective July 1, 2009 (in millions)

Savings

Year		SPSP Annual	SPSP Cumulative	SDCERS Annual	SDCERS Cumulative	Total Annual	Total Cumulative
1	FY 2010	$ 0.6	$ 0.6	$ -	$ -	$ 0.6	$ 0.6
2	FY 2011	$ 1.2	$ 1.8	$ -	$ -	$ 1.2	$ 1.8
3	FY 2012	$ 1.8	$ 3.6	$ 0.3	$ 0.3	$ 2.1	$ 3.9
4	FY 2013	$ 2.5	$ 6.1	$ 0.6	$ 0.9	$ 3.1	$ 7.0
5	FY 2014	$ 3.2	$ 9.3	$ 0.9	$ 1.8	$ 4.1	$ 11.1
6	FY 2015	$ 4.0	$ 13.3	$ 1.3	$ 3.1	$ 5.3	$ 16.4
7	FY 2016	$ 4.8	$ 18.1	$ 1.6	$ 4.7	$ 6.4	$ 22.8
8	FY 2017	$ 5.6	$ 23.7	$ 2.0	$ 6.7	$ 7.6	$ 30.4
9	FY 2018	$ 6.5	$ 30.2	$ 2.4	$ 9.1	$ 8.9	$ 39.3
10	FY 2019	$ 7.5	$ 37.7	$ 2.9	$ 12.0	$ 10.4	$ 49.7

Assumptions

Number of New Hires per Year	264
FY 2009 Average Starting Salary	$ 45,000
Annual Inflation Rate	4.25%
Interest Rate	8.00%
New SPSP Mandatory	1.25%
New SPSP Voluntary	0.00%
SPSP Voluntary Participation	100.00%
SDCERS Normal Cost Rate	7.50%
Old SDCERS Normal Cost Rate	9.87%
Year Zero Merit and Longevity	4.50%
Year One Merit and Longevity	3.50%
Year Two Merit and Longevity	2.50%
Year Three Merit and Longevity	1.50%
Year Four Merit and Longevity	0.50%
Year Five and Later Merit and Longevity	0.50%
Year Zero Turnover	5.63%
Year One Turnover	5.53%
Year Two Turnover	4.33%
Year Three Turnover	4.33%
Year Four Turnover	4.24%
Year Five Turnover	3.06%
Year Six Turnover	1.87%
Year Seven Turnover	1.98%
Year Eight Turnover	2.14%
Year Nine Turnover	2.30%

RULES JUN 2 5 2008 #3a

RECEIVED
CITY CLERK'S OFFICE
08 JUN 20 AM 10: 16
SAN DIEGO, CALIF.

JERRY SANDERS
MAYOR

MEMORANDUM

DATE: June 20, 2008

TO: City Clerk Liz Maland

FROM: Mayor Jerry Sanders

SUBJECT: Submission of Ballot Measure for the November 4, 2008 Election

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Please see the attached terms for the ballot measure entitled, "New Pension Plan for Non-Safety Employees Hired On or After July 1, 2009."

COMPARISON OF MAYOR'S BALLOT PROPOSAL TO CURRENT PENSION SYSTEM

RECEIVED
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08 JUN 20 AM 9:43

		Current Pension Design	Mayor's Ballot Proposal
Age at Hire for Illustrative Member		35	35
Defined Benefit Multiplier			
Age 65		2.80%	2.30%
Age 62		2.65%	2.00%
Age 60		2.55%	1.64%
Age 55		2.50%	1.03%
Defined Benefit Cap		90%	75%
Years in Final Average Compensation		1	3
Defined Benefit Member Rate		10.07%	6.35%
Defined Contribution City Rate		6.05%	2.00%
Defined Contribution Member Rate		6.05%	2.00%
Income Replacement Ratio			
Retire at 65			
	Defined Benefit	84.0%	65.9%
	Defined Contribution	35.0%	14.8%
	Total	119.0%	80.7%
Retire at 62			
	Defined Benefit	71.6%	51.6%
	Defined Contribution	28.6%	11.7%
	Total	100.2%	63.3%
Retire at 60			
	Defined Benefit	63.8%	39.2%
	Defined Contribution	25.0%	9.9%
	Total	88.8%	49.1%
Retire at 55			
	Defined Benefit	50.0%	19.7%
	Defined Contribution	17.0%	6.5%
	Total	67.0%	26.2%
City Contribution Rates			
	Defined Benefit	9.87%	6.35%
	Defined Contribution	6.05%	2.00%
Total		15.92%	8.35%
Member Contribution Rates			
	Defined Benefit	10.07%	6.35%
	Defined Contribution	6.05%	2.00%
Total		16.12%	8.35%
Projected Annual Long-Term Savings (millions)			
Defined Benefit City Savings		N/A	$12.2
Defined Contribution City Savings		N/A	$14.1
Pre-65 LTD Program		N/A	$(1.2)
Total Annual City Savings		N/A	$25.1

RULES 6/25/08 #3a

League of California Cities
A Framework for Public Pension Reform[1]

General Pension Reform Principles

The task force assigned to work on this issue for the members of the League of California Cities felt very strongly that any serious discussion of public pension reform must begin with a set of principles/goals. Until goals are defined, the task force believed it would be at least premature and perhaps self-defeating to make any recommendations on the benefit levels needed to achieve a public agency's goals. In keeping with this direction, the task force recommended and the League Board of Directors adopted the following principles to guide any benefit reform recommendations:

- The primary goal of a public pension program should be to provide a full-career employee with pension benefits that maintain the employees' standard of living in retirement.
- The proper level of public pension benefits should be set with the goal of providing a fair and adequate benefit for employees and fiscally sustainable contributions for employers and the taxpayers.
- Public pension benefits should be supported with proper actuarial work to justify pension levels. Policy-makers should reject any and all attempts to establish pension benefits that bear no relation to proper actuarial assumptions and support.
- Pension benefits should be viewed in the context of an overall compensation structure whose goal is the recruitment and retention of employees in public sector jobs. In recognition of competitive market forces, any change in the structure of retirement benefits must be evaluated in concert with other adjustments in compensation necessary to continue to attract and retain an experienced and qualified workforce.
- The reciprocity of pension benefits within the public sector should be maintained to ensure recruitment and retention of skilled public employees - particularly in light of the retirement of the post World War II "Baby Boom" generation which will result in unprecedented demands for new public sector employees.

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[1] This report constitutes the recommendations of the League Pension Reform Task Force that was accepted by the League of California Cities Board of Directors for distribution as a discussion draft.

- Perceived abuses of the current defined benefit retirement programs need to be addressed. Benefit plans which result in retirement benefits which exceed the levels established as appropriate to maintain employees' standard of living should be reformed. It is in the interest of all public employees, employers and taxpayers that retirement programs are fair, economically sustainable and provide for an acceptable level of benefits for all career public employees, *without providing excessive benefits for a select few.*

- The obligation to properly manage public pension systems is a fiduciary responsibility that is shared by PERS, employers and employees. This joint responsibility is necessary to provide quality services while ensuring long-term fiscal stability. These parties need to be held accountable to ensure a high level of protection against mismanagement of public resources that could jeopardize a community's ability to maintain services and provide fair compensation for its workforce.

- Charter cites with independent pension systems should retain the constitutional discretion to manage and fund such pension plans.

<u>Reform Recommendations</u>

Public employee defined benefit programs have been appropriately criticized in a number of areas. The following reform recommendations address short-comings within some defined benefit retirement programs, while preserving the aspects of the program that have served the employees, employers and taxpayers of California well for over 60 years.

Pension Benefit Levels

Principles: Public pension benefit plans should:

➢ Allow career-employees to maintain standard of living post-retirement.

➢ Be designed with consideration of age at retirement, length of service, compensation level and applicability of Social Security.

➢ Be supported with proper actuarial work to support reasonable pension levels. Policy-makers should reject any and all attempts to establish pension benefits that are not supported with proper actuarial assumptions and work.

➢ Promote career public service without creating incentives to work past retirement age, nor disincentive to early retirement. Employees who voluntarily choose to either work beyond retirement age or retire early should not be penalized or rewarded.

Recommendations

- Maintain the defined benefit plan as the central pension plan for public employees in California.

- Rollback/repeal public retirement plans that provide benefits in excess of levels required to maintain a fair, standard of living[2] that are not financially sustainable and are not supported by credible actuarial work. The new and exclusive benefit formulas to achieve these goals should be:

    1. **<u>Safety Employees:</u>** 3% @ 55 formula, offset by 50% of anticipated social security benefit for safety employees with social security coverage. Safety employees retain the current cap on retirement at 90% of final compensation.

    2. **<u>Miscellaneous Employees(Non-safety):</u>** 2% @ 55 formula, offset by 50% of anticipated social security benefit for miscellaneous employees with social security coverage. A cap of 100% of final compensation is placed on newly-hired, miscellaneous(non-safety) employees.

  - The above formulas should incorporate a "Three-Year-Average" for "final compensation" calculation. All "Highest Final Year" compensation calculations should be repealed for newly-hired employees.

  - Provide alternatives to a defined benefit plan for job classifications not intended for career public service employment.

  - Give employers greater flexibility to determine when a part-time employee is entitled to public pension benefits. The current hourly threshold in PERS is too low.

Rate Volatility

Principles

- Responsible fiscal planning suggests the need to "manage" volatility in defined benefit plan contribution rates.

- Rates have historically been relatively constant and comparable to rates currently paid by most public agency employers.

- Recent rate volatility is primarily due to large fluctuations in annual investment returns for the retirement plan investment portfolios, causing significant changes in plan funding status.

- Normal Costs for defined benefit plans have remained relatively constant over time.

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[2] This should be determined in accordance with a Cal PERS 2001 target replacement benefit study and/or the Aon Georgia State Replacement Ration Study (6th update since 1988).

Recommendations

- Public Agency retirement contribution rates, over time, should be constructed to stay within reasonable ranges around the historical "normal cost" of public pension plans in California. Sound actuarial methods should be adopted to limit contribution volatility while maintaining a defensible funding policy.

- Establish "reserve" funding for public pension systems that will help smooth the volatility of pension benefit costs. Plan surpluses are to be retained within plan assets, but should be reserved for amortization of future unfunded liabilities, and should not be used to offset plans' normal cost contribution rates.

Shared Risk

Principles

- Currently, in most local jurisdictions, employers shoulder the burden of rate volatility risk – both positive and negative. This principle should be carefully examined with the intent of better spreading the risk of rate volatility among both employers and employees.

- Negotiated labor agreements containing language whereby employers "pick-up" employees' retirement contributions are assumed to be part and parcel of a "total compensation" package; this implies that agencies with Employer Paid Member Contributions would also typically reflect correspondingly lower base salaries.

Recommendations

- When employer contribution rates exceed the "normal costs" threshold, employees should be expected to take some of the financial responsibility for those excessive increases.

Disability Retirement

Principles

- Retirement-eligible employees who are injured in the workplace should be entitled to full disability retirement benefits; disability retirement benefits should, however, be tied to individual's employability and be structured so as to encourage return to work, where applicable.

- Larger disability reform measures should be considered outside of the scope of general pension reform.

Recommendations

- Full tax-exempt disability retirement should be retained for employees who are injured and cannot work in any capacity

- Reform the disability pension provisions of public retirement systems to restrict benefits when a public employee can continue to work at the same or similar job after sustaining a work-related injury.

- Employees eligible for disability retirement should be first afforded applicable service retirement benefits, and THEN provided disability retirement benefits up to applicable "cap" on total retirement benefits.

Portability of Plan Benefits

Principles

- ➢ Reciprocity of public agency retirement benefits is critical to recruitment of qualified, experienced public sector employees.

- ➢ Limiting portability of retirement plan benefits to non-public sector employment helps in the retention of senior and management level employees.

Recommendation

- Any pension reform package should retain transferability of retirement benefits across public sector employers. No employee currently in a defined benefit plan should be required to involuntarily give up a defined benefit formula before retirement.

Tiered Plans

Principles

- ➢ Agencies should strive to avoid multi-tiered compensation structures where there are large discrepancies in benefits accruing to employees. In addition to having adverse impacts on recruitment and employee morale, multi-tiered approaches can raise issues of comparable worth and equity.

Recommendations

- Any pension reform measures should seek to minimize disparity between current and prospective public agency employees.

- Any reduction(s) or change(s) to current Defined Benefit plans should be considered in context of other compensation issues that will tend, over time, to "equate" compensation plans within and across public agency employers.

Management Oversight

Principles

- ➢ The obligation to properly manage public pension systems is a fiduciary responsibility that is shared by PERS, employers and employees. This joint responsibility is necessary to provide quality services while ensuring long-term fiscal stability. These parties need to be held responsible to ensure a high level of protection against mismanagement of public resources that could jeopardize a community's ability to maintain services and provide fair compensation for its workforce.

Recommendations

- Public agencies that do not make the Annual Required Contribution under GASB 27 should be made subject to appropriate oversight.

- The membership of the Public Employees and Retirement System Board should be changed to achieve both a better balance of employer and employee representatives as well as a better balance of public agency representatives.

Conclusion

Defined benefit retirement plans have been the traditional approach for close to 60 years in California and have produced fair and sustainable retirement benefits that have been central to recruiting and retaining quality public employees. Defined benefit plans should be retained as the central component of public pension systems in California.

Defined Benefit Comparisons
San Diego Area

Jurisidiction	Age 50	Age 55	Age 60	Age 62	Age 65	Retirement System	Benefit Cap**	Vesting	FAC Calculation
San Diego County	2.0	2.5	3.0	3.0	3.0	SDCERA	100%	5 years	highest 26 pay periods
Carlsbad	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Oceanside*	2.0	2.7	2.7	2.7	2.7	CalPERS	none	5 years	1 year
Chula Vista	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Escondido	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
National City	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
La Mesa	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Coronado	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
El Cajon	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
MEAN	2.0	2.52	3.0	3.0	3.0				
MEDIAN	2.0	2.5	3.0	3.0	3.0				
City of San Diego	0	2.5	2.55	2.6	2.8	SDCERS	90%	10 years	1 year
Difference	-2.0	0.0	-0.5	-0.4	-0.2			5 years	

**Oceanside increasing to 2.7% on 7/12/09 (OCEA MOU)*
***IRS 415 (b) - cap set at $185,000*

RULES 6/25/08 #3a

Rules 6/25/08 #3a

(O-2008-xx)

ORDINANCE NUMBER O-________________ (NEW SERIES)

DATE OF FINAL PASSAGE ________________

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE PRIMARY ELECTION TO BE HELD ON NOVEMBER 4, 2008; ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE IX, BY ADDING SECTION 141.1 RELATING TO THE ESTABLISHMENT OF SEPARATE RETIREMENT SYSTEM BENEFITS FOR NON-SAFETY EMPLOYEES HIRED ON OR AFTER JULY 1, 2009.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and San Diego City Charter section 223, the City Council has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O-____________, adopted on ___________, 2008, the Council of the City of San Diego is calling a Municipal Election to be consolidated with the Statewide Primary Election on November 4, 2008, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, the Mayor has recommended and the City Council has agreed to submit to the voters at the Municipal Election one proposition amending the Charter of the City of San Diego to establish separate retirement system benefits for non-safety employees hired on or after July 1, 2009 that will provide for both a defined benefit plan and a defined contribution plan; and

WHEREAS, the City Council's proposal of a charter amendment is governed by California Constitution, article XI, section 3(b), California Elections Code section

6/24/2008
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9255(a)(2), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That one proposition amending the City Charter by amending Article IX, by adding section 141.1, is hereby submitted to the qualified voters at the Municipal Election to be held on November 4, 2008, with the proposition to read as follows:

PROPOSITION

SECTION 141.1. CITY EMPLOYEES' RETIREMENT SYSTEM BENEFITS FOR EMPLOYEES HIRED ON OR AFTER JULY 1, 2009

The Council of the City of San Diego shall establish by ordinance separate retirement system benefits for compensated public officers and employees hired on or after July 1, 2009. Said ordinance shall provide:

(a) For a defined benefit retirement allowance for compensated employees hired on or after July 1, 2009. Such allowance shall be calculated by multiplying the years of creditable service by the following retirement factors for his or her age at retirement: 2.30% at age 65, 2.00% at age 62, 1.64% at age 60, and 1.03% at age 55. The allowance shall be calculated using the highest average 3 years of compensation during the employee's final five years of employment, except that this allowance shall not exceed 75% of said highest average compensation.

(b) That the cost of the normal retirement allowance for each employee shall be calculated using the Entry Age Normal methodology, or a substantially similar methodology approved by the Board of Administration. This cost, represented as a percentage of employee compensation shall be borne equally (50%/50%) between the City and the public officer and employee.

(c) For the establishment of a defined contribution plan for employees hired on or after July 1, 2009 and shall provide for a mandatory 2% of compensation employer contribution and a mandatory 2% of compensation employee contribution.

This section shall not apply to employees hired on or after July 1, 2009 who are police officers, firefighters, and lifeguards eligible to participate as safety members of the City's retirement system.

Other than as contained in this section, all provisions of Article IX shall apply to the extent they do not conflict with the provisions of this section.

END OF PROPOSITION

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

PROPOSITION ____. AMENDS THE CITY CHARTER TO ESTABLISH SEPARATE RETIREMENT SYSTEM BENEFITS FOR NON-SAFETY EMPLOYEES HIRED ON OR AFTER JULY 1, 2009. Shall the Charter be amended to establish separate retirement system benefits for non-safety employees hired on or after July 1, 2009 that will provide for both a defined benefit plan and a defined contribution plan?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the proposition.

Section 5. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Election.

Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By ______________________________
Catherine Bradley
Chief Deputy City Attorney

CMB:als
6/24/08
Or.Dept:Mayor
O-2008-xx

6/24/2008
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Jones 4/03/08

COMPARISON OF MAYOR'S BALLOT PROPOSAL TO CURRENT PENSION SYSTEM

		Current Pension Design	Mayor's Ballot Proposal
Age at Hire for Illustrative Member		35	35
Defined Benefit Multiplier			
Age 65		2.80%	2.30%
Age 62		2.65%	2.00%
Age 60		2.55%	1.64%
Age 55		2.50%	1.03%
Defined Benefit Cap		90%	75%
Years in Final Average Compensation		1	3
Defined Benefit Member Rate		10.07%	6.35%
Defined Contribution City Rate		6.05%	2.00%
Defined Contribution Member Rate		6.05%	2.00%
Income Replacement Ratio			
Retire at 65			
	Defined Benefit	84.0%	65.9%
	Defined Contribution	35.0%	14.8%
	Total	119.0%	80.7%
Retire at 62			
	Defined Benefit	71.6%	51.6%
	Defined Contribution	28.6%	11.7%
	Total	100.2%	63.3%
Retire at 60			
	Defined Benefit	63.8%	39.2%
	Defined Contribution	25.0%	9.9%
	Total	88.8%	49.1%
Retire at 55			
	Defined Benefit	50.0%	19.7%
	Defined Contribution	17.0%	6.5%
	Total	67.0%	26.2%
City Contribution Rates			
	Defined Benefit	9.87%	6.35%
	Defined Contribution	6.05%	2.00%
Total		15.92%	8.35%
Member Contribution Rates			
	Defined Benefit	10.07%	6.35%
	Defined Contribution	6.05%	2.00%
Total		16.12%	8.35%
Projected Annual Long-Term Savings (millions)			
Defined Benefit City Savings		N/A	$12.2
Defined Contribution City Savings		N/A	$14.1
Pre-65 LTD Program		N/A	$(1.2)
Total Annual City Savings		N/A	$25.1

SDTA public comment

Evaluation of Pension Reform Proposals

June 25, 2008
Lani Lutar
San Diego County Taxpayers Association

Pension Reform Committee (PRC) Objectives (2004)

- Provide recommendations to address any unfunded liability problems of the system.
- Examine whether changes should be made to the existing pension system.
- Make any other recommendations as appropriate.

How did underfunding occur?

(PRC 2004) 67.2% funded; UAAL $1.15 Billion

Major Reasons (From 1996-2003)

▪ Investment Performance	6%
▪ Underfunding by City	10%
▪ Use of Plan earnings for contingent benefits	12%
▪ Net Actuarial losses	31%
▪ Benefit improvements	41%
Total	100%

Description of Causes for Underfunded Status (PRC 2004)

1. Investment Performance
The actual investment performance experience in fact has been 8% on average over the long-term.

2. Under-Funding by the City
The City underfunded the Plan through MP I and II. Even if the City had not entered into MP I and II, the deficit would have grown due to the amortization system selected. This was exacerbated by the drain on Plan assets from the payment of contingent benefits and retiree medical benefits.

3. Use of Plan earnings for contingent benefits
The Plan is, in fact, experiencing 8% earnings on its assets. It does not, however, retain those earnings in order to pay future retirement benefits. Instead, a significant portion is siphoned off to pay contingent benefits such as:

- **13th Check**
- **Corbett Settlement**

Description of Causes for Underfunded Status (PRC 2004)

4. Net Actuarial Gains and Losses
Major Drivers:
- Extremely low employee turnover
- Significant service purchase subsidies
- Pay increases above those assumed
- Retirement/DROP elements

5. Benefits Improvements
A variety of retirement benefits have been granted since 1996. The past service element of these benefits has caused a significant portion of the increase to the Plan's UAAL. The long-term impact of these benefit improvements was not fully understood.

PRC Recommendations

- Recommendations 1 – 5 ✓
- Recommendations 6-10 impact new hires only.
- Recommendation #6
  - Increase normal retirement age by 7 years. Early retirement age should be set at five years less than the normal retirement age. Any retirement earlier than normal age will be cost-neutral, actuarially reduced.

	Normal	Early
General/Legislative	62 (from 55)	57

PRC Recommendations

Reduction of Normal Cost

- Recommendation #7
  The annual accrual rate for the percentage of the final base payroll to be used in calculating the pension benefit is reduced by 20%.
  General Members 2.0% (from 2.5%)

PRC Recommendations

- Recommendation #8
  The final base payroll should be based on an average of the employee's highest three years of salary rather than on the highest one year of salary.
- Recommendation #9
  The final base payroll should exclude salary differentials such as second shift differential, bilingual differentials, etc.

PRC Recommendations

- Recommendation #10 ✓
  Eliminate specific programs that permit DROP and purchase of years of service credits, except those that are federally protected.
- Recommendations #12-17
  Retiree Medical Benefits, Governance, Other Issues

Evaluation of Mayor vs. Council President Proposals

Evaluation of Mayor vs. Council President Proposals

Evaluation of Mayor vs. Council President Proposals

<u>Conclusion</u>:

The San Diego County Taxpayers Association recommends support for Mayor Sanders' pension reform proposal.

- Mayor's plan will provide a fair and reasonable retirement benefit at age 65.
- Mayor's plan scales back benefits, achieving cost savings for taxpayers.
- Mayor's plan includes a reasonable allocation of risk between taxpayers and employees. Shared financial risk is critical to effective pension reform.

Evaluation of Mayor vs. Council President Proposals

- Council President's plan places 100% of financial risk on the taxpayers. Not a true hybrid plan.
- Important to evaluate proposals comprehensively, including financial risk, which would be not reflected in calculated total annual city savings.

	City's Current Design	Mayor's Ballot Proposal	Alternative Proposal	SD County Plan	MEA Design
Age at Hire for Illustrative Member	35	35	35	35	35
Defined Benefit Multipier					
Age 65	2.80%	2.30%	2.750%		2.418%
Age 62	2.65%	2.00%	2.600%		2.272%
Age 60	2.55%	1.64%	2.500%	3.000%	2.000%
Age 55	2.50%	1.03%	N/A	2.500%	1.460%
Age 50				2.000%	
Defined Benefit Cap	90%	75%	80%		90%
Years in Final Average Compensation	1	3	3		3
Defined Benefit Member Rate	10.07%	6.35%	7.94%		7.14%
Defined Benefit Death and Disability Benefit	SDCERS	Revised	Revised		Revised
Defined Contribution City Rate	3.05%	2.00%	0.00%	6.2% (SSI)	1.00%
Defined Contribution Member Rate	3.05%	2.00%	0.00%	6.2% (SSI)	0.00%
DC Voluntary Employer Contribution Rate	3.00%	0.00%	0.00%		0.00%
DC Voluntary Employee Contribution Rate	3.00%	0.00%	3.00%		0.00%
Income Replacement Ratio					
Retire at 65					
Defined Benefit	84.00%	65.90%	76.43%		69.30%
Defined Contribution	35.00%	13.50%	10.13%		6.75%
Total	119.00%	79.40%	86.56%		76.05%
Retire at 62					
Defined Benefit	71.60%	51.60%	67.32%		58.60%
Defined Contribution	28.60%	10.80%	8.09%		5.39%
Total	100.20%	62.40%	75.41%		63.99%
Retire at 60					
Defined Benefit	63.80%	39.20%	59.95%		47.77%
Defined Contribution	25.00%	9.30%	6.95%		4.63%
Total	88.80%	48.50%	66.90%		52.40%
Retire at 55					
Defined Benefit	50.00%	19.70%	N/A		27.90%
Defined Contribution	17.00%	6.20%	N/A		3.12%
Total	67.00%	25.90%	N/A		31.02%
City Contribution Rates					
Defined Benefit	9.87%	6.40%	7.94%		7.14%
Defined Contribution	6.05%	2.00%	0.00%		0.00%
Pre-65 LTD Program			-0.35%		
Total	15.92%	8.40%	7.59%		7.14%
Member Contribution Rates					
Defined Benefit	10.07%	6.35%	7.94%		7.14%
Defined Contribution	6.05%	2.00%	0.00%		0.00%
Total	16.12%	8.40%	7.94%		7.14%
Projected Annual Long-Term Savings (millions)					
Defined Benefit City Savings	N/A	11.7	6.5		9.2
Defined Contribution City Savings	N/A	11.3	10.3		6.9
Voluntary DC Annual City Savings	N/A		7.9		7.9
Pre-65 LTD Program	N/A	(1.2)	(1.2)		(1.2)
Total Annual City Savings	N/A	21.8	23.5		24.0

Actuarial calculations provided by Joseph Esuchanko, Actuarial Services Company, PC

ONE STRONG UNION FOR Local 127 SAN DIEGO EMPLOYEES AFSCME AFL-CIO

AFSCME Local 127

Package Counter Proposal

July 15, 2008

AFSCME Local 127 reserves the right to amend, modify or delete this package proposal in part or in its entirety at any time during this meet and confer process. In submitting this proposal, AFSCME Local 127 reserves all rights in conjunction with MOU bargaining.

Preface

Defined benefit retirement plans have been the traditional approach for close to 60 years in California and have produced fair and sustainable retirement benefits that have been central to recruiting and retaining quality public employees.[1] Additionally, the League of California Cities, in their *"A Framework for Public Pension Reform"* reported on the importance of pension benefits within the public sector should be maintained to ensure recruitment and retention of skilled public employees - particularly in light of the retirement of the post World War II "Baby Boom" generation which will result in unprecedented demands for new public sector employees. This fact, plus the fact that under the current City Charter at Article IX, Section 143.1 (Prop B) any increases in the retirement system to the benefits of employees, with the exception of COLA must be approved by a majority of those qualified electors before becoming effective. In so doing, if the City is going to consider any changes to the current defined benefit plan, it should consider how such changes would affect it's ability to compete with local area jurisdictions in recruiting and retaining new employees in the future, because a mistake made by reducing the level of benefits could have long-lasting adverse affect on the City's continuing the level of quality public services going forward.

The Current SDCERS Benefit Levels vs. Local Area Jurisdictions

The current defined benefit formulae has served the City well by providing the City with a competitive retirement benefit to recruit and retain public employees, even though the current level of benefits are marginally substandard to the level of benefits offered by the local area jurisdictions. (See attached Table 1) The current defined benefit level is substandard to the median of benefits offered by local area jurisdictions in the following manner:

1. The current City benefit does not offer a pension benefit at age 50, where all of the local area jurisdictions do offer a 2.0% benefit at age 50.

2. The current City benefit offers a 2.55% benefit at age 60, where all of the local area jurisdictions offer a greater benefit at age 60 and the median of the local area jurisdiction array offers a 3.0% benefit at age 60.

3. The current City benefit offers a 2.60% at age 62, where all of the local area jurisdictions offer a greater benefit at age 62 and the median of the local area jurisdiction array offers a 3.0% at age 62.

4. The current City maximum benefit is 2.80% at age 65, where all but one of the local area jurisdictions offer a greater benefit and the median of the local area jurisdiction array offers a 3.0% at age 65.

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[1] *League of California Cities – A Framework for Public Pension Reform*

5. The current City defined benefit is capped at 90%, where all of the local area jurisdictions' defined benefit caps are much higher and the median of the local area jurisdiction array does not cap defined benefits.

6. The current City benefit offers a 10 vesting requirement, where all of the local area jurisdictions offer a 5 year vesting requirement.

The City's Proposed Benefit Level Changes vs. Local Area Jurisdictions

Section (a)

The City's proposed formulae are not comparable to the area's local jurisdictions (see attached Table 2). The City's proposal is not comparable to the median benefit of the local area jurisdictions the City competes with for labor. The City's proposal is deficient in the following areas:

1. The City's proposal does not provide a benefit at age 55, whereby all of the area local jurisdictions provide a benefit at age 55 and at age 50. The local area jurisdictions provide the same benefit at age 50 as the City is proposing at age 60 under the City's Compromise proposal. Not providing a benefit at age 55 will adversely affect the City's ability to recruit and retain an experienced and qualified workforce in the future.

2. The City's proposed maximum benefit of 2.60% @ 65 is substandard to what the local area jurisdictions offer, where all of the local area jurisdictions are offering a comparable benefit at age 55 and a substantially greater benefit at age 60.

3. The City's proposed reduction of the defined benefit cap from the current 90% to 80% is grossly substandard to the benefit cap offered by the local area jurisdictions. All but one of the local area jurisdictions has no defined benefit cap at all and the County of San Diego has a 100% defined benefit cap.

4. The City's proposed reduction in the final compensation calculation from the highest one-year to the highest three-year average over the last 5 years of employment is substandard to what the local area jurisdictions offer. All of the local area jurisdictions offer the highest one-year of compensation.

However, in an effort to reach an agreement on an overall new hire retirement program and save the taxpayers of the City additional tax dollars, Local 127 will include in this proposal a change from the Union's previous position to require new hires hired on or after July 1, 2009, to calculate new hires final compensation based upon the average of the highest last three years of employment consistent with Recommendation #8 of the Pension Reform Committee's September 15, 2004 Final Report. According to the Pension Reform Committee report dated September 15, 2004 at Recommendation #8 (page 17), this element will save the City 1.06% of payroll. This element change will save the City an additional $3.8M.

Section (b)

The Entry Age Normal methodology is not a proper topic of this meet and confer process as neither party has "plenary authority" to make this decision.

Local 127 is not in agreement with proposed contributions for new hires to be on a 50%/50% basis. According to Section 143 of the Charter, employees contributions are based upon actuarial tables adopted by the Board of Administration and the City shall contribute an amount "substantially equally".

Why would a prospective new employee come to work for the City of San Diego, when it could work for one of the local area jurisdictions?

Response to City's Defined Benefit Proposal:

In response to the City's defined benefit proposal, Local 127 offers the following proposal, if accepted would save the City a total of **$25.8M, which is 4% more than the City has requested in its proposal.** This proposal would not need a ballot initiative to implement and would not jeopardize the recruitment of talented and experienced employees the City needs to attract in the future to continue to provide the level of quality public services San Diegans have enjoyed for decades.

Category	**Current Design**	**Compromise Proposal (4)**	**Local 127 Counter Proposal**[2]
Defined Benefit Multiplier Age 65 Age 62 Age 60 Age 55	 2.80% 2.65% 2.55% 2.50%	 2.60% 2.24% 2.0% N/A	 2.80% 2.65% 2.55% 2.50%
Defined Benefit Cap	90%	80%	90%
Years in Final Avg. Compensation	1	3	**3**
Defined Benefit Member Rate	10.07%	7.50%	10.07%
Defined Benefit Death and Disability Benefits	SDCERS	Revised	SDCERS
Defined Contribution City Rate	6.05%	1.25%	0.00%
Defined Contribution Member Rate	6.05%	1.25%	0.00%
Total Annual Savings ("Mayors Math")(in millions)		24.8	**25.5**

[2] Local 127 Counter Proposal includes those current increments between age 60-65

Response to City's Defined Contribution proposal: (Letter c)

Currently the City has a defined contribution plan called SPSP, which very adequately provides benefits to employees. Local 127 sees no reason to deviate away from such plan, however, it should be noted that the bulk of the City's proposal savings is generated by reducing the current level of matching contributions for new hires. Local 127 is proposing to generate additional savings by utilizing the same concept but to a greater degree. Utilizing the Mayor's math, Local 127's proposal represents an annual savings of $25.8M and without the need for a ballot proposal.

ARTICLE 55[3]

Supplemental Employee Pension Savings Plan [SPSP]

The Supplemental Pension Savings Plans have been established pursuant to the City of San Diego's withdrawal from the Federal Social Security System in 1981 with the purpose of providing eligible employees a convenient method of saving and to provide supplemental pension benefits. The minimum and maximum contributions are determined by the employee's hire date and participation in the City's defined benefit plan. These contribution limits, along with all other plan provisions, are reflected in the separate Plan Documents.

The parties agree that the Supplemental Pension Savings Plans currently offered to all eligible employees will be amended to comply with the provision of the Economic Growth Tax Relief and Reconciliation Act (EGTRRA) that became effective January 1, 2002 and other administrative changes presented during the FY 2003 Meet and Confer process.

Employees hired on or after July 1, 2009, shall not be subject to employee or City mandatory matching contributions under this plan. However, each new employee hired on or after July 1, 2009, shall be entitled to participate voluntarily in SPSP up to the maximum levels allowed by applicable law.

Conclusion

Local 127 is extremely concerned based upon the age and type of work the current Local 127 bargaining unit performs and their proximity to retirement that the City will not be able to recruit talented and experienced employees to replace current incumbents who will be retiring within the next few years, which may adversely affect the service levels of future public services. The City's new hire retirement program proposal is grossly inferior to the current retirement programs

[3] Local 127 reserves all rights to meet and confer over a new MOU

of the local area's jurisdictions. If the City's proposal is implemented, the City will not be able to compete with these local area jurisdictions for talented and experienced employees in the future and the City will not likely be able to reverse this trend for at least a dozen years, resulting in prospective new talented and experienced employees being hired by local area jurisdictions with better retirement programs, instead of working for the City of San Diego.

In summary, Local 127's proposal will :

- Save the City a total of $25.8M, which is 4% more than the City's proposal seeks (using the Mayor's Math)
- Not require a ballot initiative
- Safeguard the level of quality public services for the future
- In light of Prop B (Charter Section 143.1), provide future city councils flexibility to correct any recruitment or retention downtrends
- Will not subject the city to litigation costs associated with its implementation

Local 127's proposal is efficient, prudent, flexible and represents Good Responsible Government.

Table 1

Defined Benefit Comparisons
San Diego Area
(Current SDCERS)

Jurisidiction	Age 50	Age 55	Age 60	Age 62	Age 65	Retirement System	Benefit Cap**	Vesting	FAC Calculation
San Diego County	2.0	2.5	3.0	3.0	3.0	SDCERA	100%	5 years	highest 26 pay periods
Carlsbad	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Oceanside*	2.0	2.7	2.7	2.7	2.7	CalPERS	none	5 years	1 year
Chula Vista	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Escondido	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
National City	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
La Mesa	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Del Mar	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Coronado	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
El Cajon	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
MEAN	2.0	2.52	3.0	3.0	3.0		none	5 years	1 year
MEDIAN	2.0	2.5	3.0	3.0	3.0				
City of San Diego	0	2.5	2.55	2.6	2.8	SDCERS	90%	10 years	1 year
Difference***	-2.0	0.0	-0.5	-0.4	-0.2		-10%	5 years	0

**Oceanside increasing to 2.7% on 7/12/09 (OCEA MOU)*
***IRS 415 (b) - cap set at $185,000*
****Difference between array median and SDCERS benefit levels*

Table 1

Defined Benefit Comparisons
San Diego Area
(Current SDCERS)

Jurisidiction	Age 50	Age 55	Age 60	Age 62	Age 65	Retirement System	Benefit Cap**	Vesting	FAC Calculation
San Diego County	2.0	2.5	3.0	3.0	3.0	SDCERA	100%	5 years	highest 26 pay periods
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Oceanside*	2.0	2.7	2.7	2.7	2.7	CalPERS	none	5 years	1 year
Chula Vista	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Escondido	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
National City	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
La Mesa	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Del Mar	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Coronado	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
El Cajon	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
MEAN	2.0	2.52	3.0	3.0	3.0		none	5 years	1 year
MEDIAN	2.0	2.5	3.0	3.0	3.0				
City of San Diego	0	2.5	2.55	2.6	2.8	SDCERS	90%	10 years	1 year
Difference*	-2.0	0.0	-0.5	-0.4	-0.2		-10%	5 years	0

**Oceanside increasing to 2.7% on 7/12/09 (OCEA MOU)*
***IRS 415 (b) - cap set at $185,000*
****Difference between array median and SDCERS benefit levels*

Table 2

Defined Benefit Comparisons
San Diego Area
(City's Compromise Proposal)

Jurisidiction	Age 50	Age 55	Age 60	Age 62	Age 65	Retirement System	Benefit Cap**	Vesting	FAC Calculation
San Diego County	2.0	2.5	3.0	3.0	3.0	SDCERA	100%	5 years	highest 26 pay periods
Carlsbad	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Oceanside*	2.0	2.7	2.7	2.7	2.7	CalPERS	none	5 years	1 year
Chula Vista	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Escondido	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
National City	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
La Mesa	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Del Mar	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
Coronado	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
El Cajon	2.0	2.5	3.0	3.0	3.0	CalPERS	none	5 years	1 year
MEAN	2.0	2.52	3.0	3.0	3.0		none	5 years	1 year
MEDIAN	2.0	2.5	3.0	3.0	3.0				
Compromise Proposal	0	0	2	2.24	2.6	SDCERS	80%	10 years	3 year
Difference**	-2.0	-2.5	-1.0	-0.8	-0.4		-20%	5 years	2 years

**Oceanside increasing to 2.7% on 7/12/09 (OCEA MOU)*

***IRS 415 (b) - cap set at $185,000*

****Difference between median of array and Compromise Proposal*

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONL' S400 07/28

TO:	2. FROM (ORIGINATING DEPARTMENT):	3. DATE:
CITY ATTORNEY	Council President Pro Tem Madaffer	6/26/2008

4. SUBJECT:
Submitting to the voters a ballot proposition amending the City Charter to create a new Pension Plan for Future Non-Safety City Employees

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)	6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)	7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED
Greg Bych, x66651 MS 51B Scott Chadwick, x66313 MS56L	*Betsy Kinsley, x66611 MS 10A*	☐

8. COMPLETE FOR ACCOUNTING PURPOSES

					9. ADDITIONAL INFORMATION / ESTIMATED COST:
FUND					
DEPT.					
ORGANIZATION					
OBJECT ACCOUNT					
JOB ORDER					
C.I.P. NUMBER					
AMOUNT					

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	[signature]	7/2/08	8	DEPUTY CHIEF		
2				9	COO		
3				10	CITY ATTORNEY		
4	LIAISON OFFICE			11	ORIGINATING DEPARTMENT		
5				✓	DOCKET COORD: ______ COUNCIL LIAISON: ______		
6					COUNCIL PRESIDENT ☐ SPOB ☐ CONSENT ☒ ADOPTION		
7					[initials] ☐ REFER TO: ______ COUNCIL DATE: 7/15/08		

11. PREPARATION OF: ☐ RESOLUTION(S) ☒ ORDINANCE(S) ☐ AGREEMENT(S) ☐ DEED(S)

1. Submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide Election to be held on November 4, 2008, one proposition amending the City Charter by amending Article IX, section 141, by adding section 141.1, related to a new pension plan for future non-safety employees. 2. Directing the City Attorney to prepare a ballot title and summary. 3. Directing the City Attorney to prepare an impartial analysis. 4. Directing the Mayor's Office to prepare a fiscal analysis. 5. Assigning authorship of the ballot argument.

11A. STAFF RECOMMENDATIONS:

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): N/A

COMMUNITY AREA(S): N/A

ENVIRONMENTAL IMPACT: This activity is not a "project" and therefore exempt from CEQA pursuant to State CEQA guidelines Sect. 15060 (C)(3).

HOUSING IMPACT:

OTHER ISSUES:

(O-2009-7)

ORDINANCE NUMBER O-_________________ (NEW SERIES)

DATE OF FINAL PASSAGE _________________

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 4, 2008, ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE IX, BY AMENDING SECTION 141, AND BY ADDING SECTION 141.1 RELATING TO THE ESTABLISHMENT OF SEPARATE RETIREMENT SYSTEM BENEFITS FOR NON-SAFETY EMPLOYEES THAT BEGIN SERVICE ON OR AFTER JULY 1, 2009.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and San Diego City Charter section 223, the City Council has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O-19770, adopted on July 15, 2008, the Council of the City of San Diego is calling a Municipal Election to be consolidated with the Statewide General Election on November 4, 2008, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, the Mayor has recommended and the City Council has agreed to submit to the voters at the Municipal Election one proposition amending the Charter of the City of San Diego to establish separate retirement system benefits for non-safety employees that begin service on or after July 1, 2009, that will increase the minimum retirement age from 55 years to 60 years and provide for both a defined benefit plan and a defined contribution plan; and

WHEREAS, the City Council's proposal of a charter amendment is governed by California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That one proposition amending the City Charter by amending Article IX, by amending section 141, and by adding section 141.1, is hereby submitted to the qualified voters at the Municipal Election to be held on November 4, 2008, with the proposition to read as follows:

PROPOSITION

Section 141: City Employees' Retirement System

The Council of the City is hereby authorized and empowered by ordinance to establish a retirement system and to provide for death benefits for compensated public officers and employees, other than those police officers and firefighters ~~policemen and firemen~~ who were members of a pension system on June 30, 1946. No employee shall be retired before reaching the age of sixty-two years and before completing ten years of service for which payment has been made, except:

(a) For employees that begin service before July 1, 2009, such employees may be given the option to retire at the age of fifty-five years, after twenty years of service for which payment has been made with a proportionately reduced allowance, and

(b) For employees that begin service on or after July 1, 2009, such employees may be given the option to retire at the age of sixty years after twenty years of service for which payment has been made with a proportionately reduced allowance.

Police officers, firefighters ~~Policemen, firemen~~ and full time lifeguards, however, who have had ten years of service for which payment has been made may be retired at the age of fifty-five years, except such police officers, firefighters ~~policemen, firemen~~ and full time lifeguards may be given the option to retire at the age of fifty years after twenty years of service for which payment has been made with a proportionately reduced allowance.

The Council may also in said ordinance provide:

(a) For the retirement with benefits of an employee who has become physically or mentally disabled by reason of bodily injuries received in or by reason of sickness caused by the discharge of duty or as a result thereof to such an extent as to render necessary retirement from active service.

(b) Death benefits for dependents of employees who are killed in the line of duty or who die as a result of injuries suffered in the performance of duty.

(c) Retirement with benefits of an employee who, after ten years of service for which payment has been made, has become disabled to the extent of not being capable of performing assigned duties, or who is separated from City service without fault or delinquency.

(d) For health insurance benefits for retired employees.

Section 141.1. City Employees' Retirement System Benefits for Employees that Begin Service on or after July 1, 2009

The Council of the City of San Diego shall establish by ordinance separate retirement system benefits for compensated public officers and employees that begin service on or after July 1, 2009. For these officers and employees, said ordinance shall provide:

(a) For a defined benefit retirement allowance calculated by multiplying the years of creditable service by the following retirement factors for his or her age at retirement:

2.00 at age 60;

2.12 at age 61;

2.24 at age 62;

2.36 at age 63;

2.46 at age 64; and

2.60% at age 65. The allowance shall be calculated using the highest average three years of base compensation paid during the employee's final five years of employment, except that this allowance shall not exceed 80% of said highest average base compensation. The cost of the normal retirement allowance for each employee shall be calculated using the Entry Age Normal methodology, or a methodology approved by the Board of

Administration. This cost, represented as a percentage of employee base compensation shall be borne equally (50%/50%) between the City and the public officer and employee.

(b) For the establishment of a defined contribution plan that requires a mandatory City contribution equal to 1.25% of employee base compensation and a mandatory employee contribution equal to 1.25% of employee base compensation.

This section shall not apply to police officers, firefighters, and lifeguards eligible to participate as safety members of the City's retirement system.

Other than as contained in this section, all provisions of Article IX shall apply to the extent they do not conflict with the provisions of this section.

END OF PROPOSITION

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

<table>
<tr><td rowspan="2">PROPOSITION ____. AMENDS THE CITY CHARTER TO ESTABLISH SEPARATE RETIREMENT SYSTEM BENEFITS FOR NON-SAFETY EMPLOYEES THAT BEGIN SERVICE ON OR AFTER JULY 1, 2009.
Shall the Charter be amended to establish separate retirement system benefits for non-safety employees that begin service on or after July 1, 2009 that will increase the minimum retirement age from 55 years to 60 years, and provide for both a defined benefit plan and a defined contribution plan?</td><td>YES</td><td></td></tr>
<tr><td>NO</td><td></td></tr>
</table>

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the proposition.

Section 5. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Election.

Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By ______________________________
Catherine Bradley
Chief Deputy City Attorney

7/18/2008
1:02:52 PM

CMB:als
7/18/08
Or.Dept:Mayor
O-2009-7

7/18/2008
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