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### **REPORT TO COUNCIL**

#### **SUBJECT**

Adopt a Resolution Approving an Exception to the CalPERS 180-Day Waiting Period and Interim Appointment of David Jensen to the Director of Information Technology Position

#### **REPORT IN BRIEF**

Director of Information Technology, David Jensen, will retire effective July 17, 2016. The Director of Information Technology position is an executive management position responsible for critical oversight of day-to-day and strategic operations of the Information Technology Department (ITD). Staff has hired an executive recruiter to assist in filling this important vacancy, but anticipates that it may take between six months to one year to hire a qualified permanent employee. Due to the significance of this position for our organization, staff believes it is critical to hire an interim employee for the limited term of the recruitment. David Jensen, the current Director of Information Technology, has agreed to continue in the capacity of the Director of Information Technology on an interim basis after the effective date of his retirement until a replacement can be hired. This interim appointment is anticipated to be necessary for one year or less.

CalPERS rules generally prohibit hiring retired annuitants to permanent or regular staff positions without reinstatement from retirement. However, section 21221(h) of the Government Code provides a limited exception to allow a retiree to serve without reinstatement from retirement for a single interim appointment to a vacant managerial, executive or other unique position.

#### **EXISTING POLICY**

CalPERS rules (Government Code Sections 21221(h), 21224 and 7522.56) require the City Council to approve and make specific findings before the City may hire a retiree on an interim basis to fill a vacant position.

**Council Policy 7.3.1 Legislative Management - Goals and Policies, Goal 7.3D** also provides that the City will strive to maintain a quality work force, consistent with state and federal laws, City Charter, and adopted policies in order to assure that City services are provided in an effective, efficient, and high quality manner. Approving the limited duration appointment Mr. Jensen will allow the City to comply with state law and further its internal goal of providing effective, high quality service to the community.

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (b) (4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment and section 15378 (b) (5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the

environment.

## **BACKGROUND**

CalPERS rules generally prohibit hiring retired annuitants to permanent or regular staff positions without reinstatement from retirement. However, section 21221(h) of the Government Code provides a limited exception to allow a retiree to serve without reinstatement from retirement for a single interim appointment to a vacant managerial, executive or other unique position. Additionally, section 7522.56 of the Government Code provides that a CalPERS retiree is eligible for post-retirement employment no earlier than 180 days following his/her retirement date. However, the 180-day waiting period can be waived by a public agency by certifying the nature of the employment and that the appointment is necessary to fill a critically needed position before the 180 days has passed.

Director of Information Technology, David Jensen, will retire effective July 17, 2016. He has agreed to continue in the capacity of the Director of Information Technology on an interim basis after the effective date of his retirement until a replacement can be hired. This interim appointment is anticipated to be necessary for one year or less.

## **DISCUSSION**

The City is required to comply with CalPERS rules pertaining to rehiring CalPERS retirees. CalPERS retirees cannot be hired into vacant permanent or regular staff positions sooner than 180 days following the retirement date unless the Council approves a limited duration interim appointment to a position that requires the unique expertise of a retiree to efficiently and effectively perform specialized work, such as high-level managerial vacancies.

The position of Director of Information Technology is a key management level position in the City that requires significant, specialized experience. The City hired an executive recruiter to assist in filling this specialized vacancy with a working title of Chief Information Officer (CIO) and is currently recruiting qualified applicants for the position. The City anticipates that this may be a difficult recruitment in hiring a CIO in the Silicon Valley and competing with the private sector where compensation and benefits can be much higher. Based on initial conversations with our executive search firm, it is anticipated that we will be required to review the salary for this position to be competitive in the market. Our goal is to attract and select the most qualified candidate, which may require a recommendation to the City Council for adjusting the salary range for this position.

In addition, the Fiscal Year 2016/17 Recommended Budget includes significant investments in the City's enterprise technology systems. Assuming Council approval of technology investments, staff intends to develop more detailed workplans for the implementation of these key systems. Based on that assessment, staff may bring forward a recommendation to City Council to add an Assistant Director classification to ensure that our upcoming investment in IT is staffed properly.

This interim appointment is necessary to ensure continuity of operations. The Director of Information Technology is responsible for overseeing day-to-day and strategic departmental operations and is currently playing a key role in the Request for Proposal (RFP) process for a new financial system and/or Enterprise Resource Planning (ERP).

Mr. Jensen's interim appointment to the Director of Information Technology position that will become vacant on July 17, 2016 meets the CalPERS requirements (Government Code section 21221(h)) for hiring a retired annuitant for the following reasons:

- The Director of Information Technology is a key management-level position that requires specialized skills and experience in day-to-day and strategic departmental and Citywide operations.
- The Director of Information Technology position will be vacant effective July 17, 2016.
- An interim Director of Information Technology is necessary to ensure continuity of operations.
- There is an open recruitment to permanently fill the vacancy being conducted by an executive recruiter because there is a limited pool of experienced candidates.
- Mr. Jensen has extensive experience working in the capacity of a Director of Information Technology (resume included as Attachment 3).
- Mr. Jensen will be a CalPERS retiree with less than 180 days between his retirement effective date and the effective date of his interim appointment of August 1, 2016. The resolution regarding his appointment includes approval of an exception to the 180-day waiting period due to the critical nature of the Director of Information Technology vacancy and Mr. Jensen's unique qualifications to fill that role.
- This will be a single interim appointment only for the duration of the recruitment to fill the permanent position, and will not continue beyond July 17, 2017.
- Mr. Jensen will work up to 40 hours per week in the classification of Casual Executive 2, not to exceed 960 hours per fiscal year.
- Mr. Jensen will be paid \$96.6913 per hour (Casual Executive 2, Step 3), which is within the published pay range for the Director of Information Technology position.
- Mr. Jensen will not receive any other form of compensation, benefits, or incentives.

### **FISCAL IMPACT**

There is no fiscal impact as the interim appointment will be compensated through the salary savings created by the vacant position. Further, the interim appointment will be compensated at a rate that is within the existing budgeted and published pay range of the vacant position.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **ALTERNATIVES**

1. Adopt a resolution approving the exception to the CalPERS 180-day wait period and interim appointment of David Jensen to the Director of Information Technology position. (Government Code Sections 21221(h), 21224 and 7522.56).
2. Do not adopt a resolution approving the exception to the CalPERS 180-day wait period and interim appointment of David Jensen to the Director of Information Technology position.

### **STAFF RECOMMENDATION**

Alternative 1: Adopt a resolution approving the exception to the CalPERS 180-day waiting period and interim appointment of David Jensen to the Director of Information Technology position (Government Code Sections 21221(h), 21224 and 7522.56).

Prepared by: Vienne Choi, Interim Human Resources Manager

Reviewed by: Teri Silva, Director, Department of Human Resources  
Reviewed by: Kent Steffens, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Resolution Approving Exception to 180-Day Waiting Period and Interim Appointment of David Jensen to the Director of Information Technology Position
2. David Jensen - Interim Information Technology Department Director Offer Letter
3. David Jensen Resume