



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### **REPORT TO COUNCIL**

#### **SUBJECT**

Adopt a Resolution Amending the City's Salary Resolution and Schedule of Pay to Replace the Control Point with a Salary Range for the City Attorney Classification; and Authorize the Mayor to Execute an Amendment to the Employment Agreement between the City of Sunnyvale and City Attorney John A. Nagel to Increase the Salary by Five Percent.

#### **BACKGROUND**

The City Council Ad Hoc Committee on City Attorney Compensation met on June 26, 2020 to discuss the City Attorney's Employment Agreement (the "Agreement"). Section 5 of the Agreement provides for an annual evaluation of his compensation, which includes consideration of merit based and "across the board" compensation increases provided to department directors and non-represented management employees and consideration of a competitive market compensation for City Attorney. Section 8 of the City Attorney's Employment Agreement provides for a formal review and evaluation of the City Attorney's performance by December 31st of each year. The City may choose to adjust the compensation to provide reasonable and market-competitive compensation. The last annual salary increase for the City Attorney was July 28, 2019. This report presents the opportunity for the City Council to facilitate a public discussion regarding an adjustment to the City Attorney's compensation.

#### **EXISTING POLICY**

Council Policy 7.3.1 Legislative Management - Goals and Policies, Goal 7.3D: 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.

#### **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)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

#### **DISCUSSION**

The City Attorney's Employment Agreement provides for increases in the annual salary by written agreement of the parties or by inclusion of the agreed salary amount in any duly adopted ordinance or resolution of the City setting the City Attorney's salary or employee salaries generally.

The current control point and salary for the City Attorney is \$264,690 per year effective July 28, 2019. As the salary schedule is approved by the City Council, there is an opportunity for the City Council to adjust the control point for the City Attorney and to determine the salary placement. If the Council desires to increase the City Attorney's compensation beyond the existing control point, the salary

schedule must be amended because CalPERS requirements provide that employee compensation must be consistent with rates in a published salary schedule.

The City Council Ad Hoc Committee on City Attorney Compensation has two recommendations:

- (1) Increasing the City Attorney's salary by 5% from \$264,690 to \$277,925, effective July 26, 2020. This change requires amending the City Attorney's employment agreement to reflect the increase (Attachment 3).
- (2) Creating a salary range of \$236,000 - \$292,000, rather than a fixed control point. The salary schedule must be amended before the City can increase the City Attorney's current salary. Creating a salary range, as presented in Attachment 2, will satisfy that requirement as well as provide flexibility to Council to make future adjustments without amending the salary table and consistency with the established compensation structure for the City Manager and Director level classifications, which all have minimum and maximum salary ranges.

### **FISCAL IMPACT**

The Fiscal Year 2020/21 Budget for the City Attorney Salary was set at the current control point. The increase can be absorbed and will be adjusted for both the new amount and increased range for FY 2021/22.

### **PUBLIC CONTACT**

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

### **ALTERNATIVES**

1. Adopt a Resolution Amending the City's Salary Resolution and Schedule of Pay to Adopt a Salary Range for the City Attorney Classification and Authorize the Mayor to Execute an Amendment to the Employment Agreement between the City of Sunnyvale and City Attorney John A. Nagel to Increase the Salary by Five Percent in substantially the same form as Attachment 3.
2. Do Not Adopt a Resolution Amending the City's Salary Resolution and Schedule of Pay and Do Not Authorize the Amendment the Employment Agreement between the City of Sunnyvale and City Attorney John A. Nagel.
3. Provide other direction to staff regarding compensation for the City Attorney.

### **STAFF RECOMMENDATION**

Staff makes no recommendation. This report is developed to facilitate a conversation for the public hearing and action by the City Council.

Prepared by: Winta Berhane, Principal Human Resources Analyst

Reviewed by: Tina Murphy, Director, Human Resources

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. 2020 City Attorney Compensation Survey
2. Amendment to Salary Resolution and Schedule of Pay to Replace the Control Point with a

- Salary Range for the City Attorney Position
3. Fifth Amendment to Agreement for Services between the City of Sunnyvale and John A. Nagel, City Attorney for the City of Sunnyvale