



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Provide Direction Regarding Amending the Employment Agreement Between the City of Sunnyvale and City Attorney John A. Nagel to Increase the City Attorney Salary and Allow Additional Paid Time Off Cashout

BACKGROUND

The City Council Ad Hoc Committee on City Attorney Compensation met in closed session on June 15, 2021 to discuss the City Attorney's Employment Agreement. Section 5 of the City Attorney's Employment 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 a reasonable and market-competitive compensation. The last annual salary increase for the City Attorney was effective July 26, 2020 (RTC No. 20-0641). The City Attorney's compensation must be determined in a public meeting, and this report presents the opportunity for the City Council to facilitate a public discussion.

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)(4) in that 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.

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 City Council adopted a salary range for the City Attorney of \$236,000 - \$292,000 effective July 26, 2020. At the same time, Council approved the current City Attorney salary at \$277,925 per year.

The City Council Ad Hoc Committee on City Attorney Compensation makes two recommendations:
(1) Increase the City Attorney's salary by 4.5% to \$290,432, effective July 11, 2021; and

- (2) Allow the City Attorney to cash out 100 hours of Paid Time Off (PTO) from the existing PTO balance on a one-time basis, in addition to any hours already designated for PTO cashout in calendar year 2021.

If the Council desires to increase the City Attorney's compensation beyond the top of the existing salary range (\$292,000), the salary schedule must be amended to reflect any change to comply with the CalPERS requirement that employee compensation is within rates on a publicly available salary schedule.

FISCAL IMPACT

The FY 2021/22 Adopted Budget has budgeted an increase in total compensation for the City Attorney Classification. The proposed increase is within budget. Therefore, there is no budgetary impact from taking this action.

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. In addition, the agenda and report are available at Office of the City Clerk, and on the City's website.

ALTERNATIVES

1. Authorize the Mayor to Execute an Amendment to the Employment Agreement between the City of Sunnyvale and City Attorney John A. Nagel in substantially the same form attached to Increase City Attorney Compensation by 4.5% and Allow a one-time Additional Cash Out of 100 Hours from the Existing Paid Time Off Balance, effective July 11, 2021.
2. Provide other direction to staff in the compensation for the City Attorney.

STAFF RECOMMENDATION

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

Prepared by: Tina Murphy, Director, Human Resources
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. 2021 City Attorney Compensation Survey
2. Draft Sixth Amendment to Agreement for Services between the City of Sunnyvale and John A. Nagel, City Attorney for the City of Sunnyvale