CITY OF OAKLAND
Public Ethics Commission

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TO: Public Ethics Commission
FROM: Daniel Purnell
DATE: April 7, 2010

RE: A Report And Action To Be Taken Regarding Required Review And Adjustment Of City Council Salaries

In March, 2004, Oakland voters adopted ballot Measure P. Among other things, Measure P amended the Commission's authority for adjusting City Council salaries. This memorandum analyzes the Commission's mandatory and discretionary authority under the City Charter and presents the Commission with its options for determining City Council salaries for Fiscal Year (FY) 2010-2011.

I. BACKGROUND AND HISTORY OF SALARY ADJUSTMENTS

When Oakland voters created the Public Ethics Commission in 1996, they authorized the Commission to establish a base salary for City Councilmembers and to adjust it in every odd-numbered year in an amount not to exceed ten percent. The Commission established a base level City Council salary in November, 1997, in the annual amount of $60,000. The previous annual salary amount was $36,900.

In November, 1998, Oakland voters adopted Measure X, which amended the Commission's salary-setting authority by providing that any future salary increase must be approved by a public vote. The Commission did not make a salary adjustment in 1999.

In July, 2001, the Commission took action to increase City Council salaries by ten percent. The Commission forwarded its resolution to the City Council with a request that the City Council place it before the voters for approval in the March, 2002, election. The City Council voted unanimously to place the question before the voters. The measure lost by a vote margin of 61 to 39 percent.

In July, 2003, the Commission again adopted a resolution to increase City Council salaries by 10 percent and requested the City Council to place the matter before the voters in the March 2004, election. The City Council took no action on the Commission's request but instead forwarded to Oakland voters a series of amendments to the City Charter ("Measure P"), one of which addressed the subject of City Council salaries.

In March, 2004, Oakland voters adopted Measure P by a vote margin of 70 to 30 percent. Oakland City Charter Section 202(c) now authorizes the Public Ethics Commission to annually adjust City Council salaries "by the increase in the consumer price index over the preceding year." The Commission may also adjust salaries beyond the increase in the consumer price index (CPI) up to an aggregate total of five percent. Any annual increase beyond five percent must be approved by the voters. [See full text of amended Section 202(c) in paragraph II.C., below.]

The following is a summary of Commission-approved salary increases since 2004:

June, 2004	5 percent
June, 2005	2.1 percent (CPI)
June, 2006	4 percent
June, 2007	5 percent
June, 2008	2.9 percent (CPI)
June, 2009	0.8 percent (CPI)

II. ANALYSIS

A. Current Salary

Members of the Oakland City Council are currently authorized to receive a salary of $6,072 per month or $72,859 per year (inclusive of the Commission's June, 2009, salary adjustment.) This amount is funded in approximately equal shares from the general fund and redevelopment agency. (The City's Budget Office also reports that a number of City Councilmembers have voluntarily agreed to reduce their annual salary by ten percent from this figure.)

According to a survey updated recently by Commission staff, the current salary received by Oakland City Councilmembers is slightly less than the average salaries provided to councilmembers of the eight largest cities in California (excluding Oakland). The chart shown on ***Attachment 1*** compares city council salaries and benefits of the reviewed jurisdictions. As Attachment 1 indicates, the mean (average) salary for councilmembers of these eight cities totals $6,240 per month. Oakland councilmembers currently receive $6,072 per month, or $168 less than the average monthly salary of the surveyed cities. However when compared to the average salary of the twelve largest cities in California (excluding Oakland), Oakland councilmembers receive $1,045 per month more than the $5,027 average salary. While some of the other cities classify their council positions as "fulltime," only one jurisdiction, the City of Los Angeles, expressly excludes its councilmembers from receiving outside income.

B. Other Benefits

Although the Commission only has authority to set City Council salaries, questions frequently arise over the total compensation package which Oakland City Councilmembers receive. City Councilmembers essentially receive the same benefit package as other permanent management employees. The benefit package includes City-paid contributions to the Public Employees' Retirement System (PERS), health, dental and vision coverage, and life and disability insurance. According to the City Budget Office, this benefit package totals an additional $41,734 per City Councilmember per year. The final element of compensation is an available car allowance in the amount of $550 per month.

C. Adjusting City Council Salaries Under Charter Section 202(c)

City Charter Section 202(c) provides:

> "Beginning with Fiscal Year 2003-2004, the Public Ethics Commission shall annually adjust the salary for the office of Councilmember by the increase in the consumer price index over the preceding year. The Commission may adjust salaries beyond the increase in the consumer price index up to a total of five percent. Any portion of an increase in compensation for the office of Councilmember that would result in an overall increase for that year in excess of five percent must be approved by the voters."

The above language presents the Commission with the following required actions and options:

1. Mandatory CPI Adjustment

Section 202(c) requires the Commission to make annual CPI adjustments in City Council salaries "over the preceding year."[1] According to the Office of Personnel, most payroll adjustments in the City of Oakland are made annually and take effect on the first payroll period after the beginning of the new fiscal year, which will begin on July 1, 2010.

The federal Bureau of Labor Statistics publishes a CPI for the San Francisco-Oakland-San Jose region. The Bureau of Labor Statistics calculates this index every other month. Based on its most recent CPI calculation through and including February, 2010, the CPI has increased 1.0 percent (rounded to the nearest tenth) since April, 2009. (The next

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[1] *Commissioner Paul last year raised a question regarding the phrase "over the preceding year." When Measure P was adopted in March 2004, the Commission had a short period of time to comply with the new Charter amendment for the 2003-2004 fiscal year, which was about to end on June 30, 2004. Since the federal government publishes CPI changes every other month, the most recent and readily available data point for CPI adjustments was from April 2003 to April 2004. The Commission has been using that period of time (April to April) as the "preceding year" ever since. Commissioner Paul questioned whether the term "preceding year" should have required the Commission to use the preceding FISCAL year (i.e., July 2002 to July 2003) or the preceding CALENDAR year (January 2003 to January 2004) as the basis of the Commission's initial and all subsequent adjustments. Commission staff believes that a preceding 12-month period (i.e., April to April) reasonably constitutes a "preceding year" for purposes of the City Charter amendment and that to re-calculate and re-adjust past salary determinations on either a fiscal year or calendar year basis would be a complex exercise for which the end result would not likely produce an amount significantly different from current levels. The City Attorney's Office reports that it concurs with this assessment.*

scheduled CPI calculation through and including April, 2010, will be published in May, 2010.) Thus Section 202(c) requires the Commission to adjust City Council salaries by at least 1.0 percent by the end of the current fiscal year, ***subject to the May, 2010, revise.*** A 1.0 percent increase would raise existing City Council salaries by an amount of $729.00 annually to a new annual total of $73,588.00.

2. Discretionary Authority To Adjust Salaries Up To Five Percent

Section 202(c) states that the Commission ***may*** adjust salaries beyond the increase in the CPI up to a total of 5 percent. If the CPI increased 1.0 percent since April, 2009, the Commission has the discretion to further increase City Council salaries an additional 4.0 percent (subject to the May, 2010 revise) without voter approval.

The following table shows the total dollar cost for every one percent increase in City Council salaries up to a total of five percent:

%age Increase To Existing Base Salary	Annual Salary Increase Per Councilmember	Annual Cost To Fund City Council Salary Increases
1 percent	$ 729	$5,832.00
2 percent	$1457	$11,656.00
3 percent	$2186	$17,488.00
4 percent	$2914	$23,312.00
5 percent	$3643	$29,144.00

3. Public Ratification For Salary Increases Beyond Five Percent

Section 202(c) states that any annual adjustment of greater than five percent must be approved by Oakland voters. The City Attorney's Office has previously advised the Commission that only the City Council may place items directly before the voters. Thus if the Commission were to make a salary adjustment of greater than five percent, it must request the City Council to place that portion of the increase exceeding five percent before the voters for approval. The City Council has the discretion whether to place any matter before the voters.

The following table shows the total dollar cost for every one percent increase in City Council salaries beyond five percent:

%age Increase To Existing Base Salary	Annual Salary Increase Per Councilmember	Annual Cost To Fund City Council Salary Increases
6 percent	$4372	$34,976.00
7 percent	$5100	$40,800.00
8 percent	$5829	$46,632.00
9 percent	$6557	$52,456.00
10 percent	$7286	$58,288.00

III. STAFF COMMENT AND RECOMMENDATION

There are several factors that the Commission may wish to consider in deciding the amount by which to increase City Council salaries. One is the current salary amount relative to other California cities. As ***Attachment 1*** demonstrates, Oakland City Council salaries are less that the mean salaries of the eight largest cities in California but greater than the mean salaries of the twelve largest cities. The other factor is whether the Commission, as a matter of policy, should increase salaries above the mandatory CPI adjustment to make progress towards restoring City Council salaries to a level comparable to the $60,000 level established in 1997. The CPI has increased approximately 39 percent since November, 1997. Had City Council salaries kept pace with adjustments in the CPI since 1997, annual City Council salaries currently would total approximately $83,400.00 compared with the $72,859.00 they are currently authorized to receive.

Commission staff recommends that the Commission receive this report and take public comment. Since the mandatory CPI adjustment will likely be based on the May, 2010, revise, there is sufficient time for the Commission to raise and consider any additional questions in time for the May meeting. At the May meeting, Commission staff will seek direction from the Commission to prepare the necessary resolutions for final consideration at the June 7, 2010, regular meeting.

Respectfully submitted,

Daniel D. Purnell
Executive Director