



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Alex Gurza

**SUBJECT:** Discussion and Direction to Staff  
Regarding Retirement Board Governance  
And Possible Ballot Measure for the  
November 2014 Election

**DATE:** June 11, 2014

Approved

Date

6/11/14

## RECOMMENDATION

Discussion and direction to staff regarding retirement board governance and possible ballot measure for the November 2014 election.

## OUTCOME

The outcome of this item will be receiving comments and input on the proposed retirement board governance changes from the City Council and stakeholders.

## BACKGROUND

### Cortex Phase I

In 2009, the City engaged Cortex Applied Research, Inc., to review the Retirement Boards' governance structure and a report was issued. A January 26, 2010, Council memo entitled, "Retirement Board Governance," outlined the recommended changes to Board structure and explained two different policy alternatives for City Council to amend the ways in which Board members were appointed. In 2010, the Council approved the "3-3-1" structure for the Federated City Employees' Retirement System Board and the "4-4-1" structure for the Police and Fire Department Retirement Plan Board based on the February 4, 2010 supplemental memo. These changes were considered Phase I in that they did not address all of the recommendations made by Cortex in their initial report.

### Cortex Phase II

The Retirement Boards separately engaged Cortex in 2012 to provide an update on the consultant's initial report. Cortex conducted an analysis of the Board's governance models which included reviewing other public plans and interviewing Board members, staff, City Council and labor representatives. The resulting report provides 15 recommendations, based on the following categories:

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- Authority of the Federated and Police and Fire Boards
- Safeguards for stakeholders
- Transparency and disclosure
- Risk oversight
- Scale and efficiency

In 2012, the Federated City Employees' Retirement System and the Police and Fire Department Retirement Board contracted with Cortex Applied Research to evaluate the boards' governance models and to provide recommendations for improvement. Cortex presented their fifteen (15) recommendations to the City Council on November 19, 2013. The Council directed the City Administration to develop a workplan on the implementation of the Cortex recommendations in time for a June or November election. At the January 22, 2014, Rules and Open Government Committee meeting, the City Administration brought forward a strategic workplan that included timelines for each election. The City Administration was directed to bring forward policy alternatives for the implementation of Cortex's recommendation. In February 2014, Cortex released an addendum to their original report that described the implication of the Measure B decision on the recommendations.

At the March 4, 2014, City Council meeting, the City Administration recommended to the Council that policy alternatives should be explored that would not require a ballot measure. At that meeting, the Council directed the City Administration to go back to the Rules Committee with a workplan for the critical dates and timelines necessary to complete a retirement board governance ballot measure. The City Administration's workplan was taken to the March 19, 2014 meeting of the Rules Committee. Subsequent to the Rules Committee meeting, Mayor Reed and Councilmember Constant brought forward a memo to the April 8, 2014, Council meeting that recommended that a City Charter amendment and ordinances be prepared to grant the retirement boards autonomy using the Council appointee model and to engage the stakeholders on the proposed retirement board governance changes. This direction was approved by the Council on April 8<sup>th</sup>.

### *Stakeholder Outreach*

As part of the Council direction from the April 8th meeting, the City Administration engaged the stakeholders through public stakeholder meetings and discussions with the bargaining units. The two public stakeholder meetings were held that included a presentation on the current structure of the retirement boards, Cortex's recommendations, and the proposed retirement board governance changes as directed by Council.

The comments made by the stakeholders at these meetings were summarized in an Information Memorandum dated June 2, 2014. The vast majority of the speakers were City employees, retirees and union representatives. The majority of the speakers opposed any change to the retirement board structure and governance and felt that the current system was not "broken" and therefore, no change was needed. There was very little opposition to the proposed change to the

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reporting structure where the CEO and CIO would report directly to the Boards and they could hire, fire, and compensate them, other than concerns about the impact to the retirement plans' funds and the salaries of other staff if compensation for the CEO and CIO were at high amounts. Additionally, there were several requests for clarification regarding the recommendations provided in the Cortex report to the Boards and the subsequent City Council Direction.

The City Administration also engaged in discussions with the all bargaining units on the proposed retirement board governance changes and separately with MEF, CEO and CAMP to discuss potential impacts to the employees they represent in the Department of Retirement Services. In these meetings, the bargaining units expressed concerns with the proposed changes to the composition of the Boards, the ninth appointed member for the Police and Fire Board and the seventh appointed member for the Federated Board, the unclassified status of employees in the Department of Retirement Services not in investment officer positions, and the constricted timeline of the project.

### **ANALYSIS**

The Council direction on April 8th included specific proposed changes to retirement board governance for changes to the City Charter or the Municipal Code. As these changes are significant in relation to the operations of the Department of Retirement Services and the governance structure of the Boards, this memo has been brought forward to provide stakeholders with another opportunity to comment on the proposed changes and to give further input.

In recognition of the feedback received from the stakeholders, on June 11, 2014, a revised draft ballot measure was provided to the bargaining units that contained the items that were not subject to meet and confer with the bargaining units including, but not limited to: Retirement Boards will have the authority to hire, fire, evaluate and discipline the CEO and CIO, the CEO will have the authority to hire, fire, evaluate, and discipline Department of Retirement Services staff, neither the City Council nor City Manager will have the authority to hire or terminate staff, and Retirement Investment Officers or equivalent classification (Unit 99) will become unclassified.

Additionally, the revised draft ballot measure also provides that the City Council will have the authority to appoint the majority of the Boards, the Boards will be able to appoint legal counsel and the Council Salary Setting Commission will determine the monthly stipend for independent Board members. In the revised draft ballot measure, the City Council will approve the Boards' adopted budgets and require that the Boards comply with all open and public meeting requirements.

There proposed changes that are not included in the revised draft ballot measure, such as the specifics of an administrative expense limit, increasing the Federated Board size, the Board composition changes, and the elimination of the non-voting Board member will continue to be discussed with the stakeholders. The City will not be moving forward at this time with changing

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the classified and retirement benefit status for new employees in positions other than the Director, Assistant Director and Investment Officer.

### **EVALUATION AND FOLLOW-UP**

The City Administration will continue to engage with stakeholders on the proposed retirement board governance changes. In addition, a memo will be brought before Council regarding the final language for the November ballot measure on August 5, 2014.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1,000,000 or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This does not meet any of the above criteria but will be posted on the June 17, 2014 City Council Agenda.

### **COORDINATION**

This memo has been coordinated with the City Attorney's Office.

### **CEQA**

Not a Project, File No. PP10-069 (a), a. Staff Reports / Assessments / Annual Reports / Informational Memos that involve no approvals of any City Actions



Alex Gurza  
Deputy City Manager

For questions, please contact Alex Gurza, at (408) 535-8155.