

CITY OF OAKLAND
Public Ethics Commission

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TO: Public Ethics Commission
FROM: Daniel Purnell
DATE: June 7, 2004

RE: Preliminary Issues And Timetable For Presenting A Proposal For A "Fulltime" City Council

At its May 3, 2004, meeting, the Commission directed staff to prepare a memorandum outlining potential issues the Commission would have to consider in order to develop a proposal for a "fulltime" City Council. The Commission also requested staff to develop a timetable for the Commission's work on this subject.

I. BACKGROUND

In 1996, Oakland voters authorized the Commission to establish and periodically review the salaries for Oakland City Councilmembers. Currently, City Councilmembers receive an annual salary of \$60,000 plus a benefit package that includes City-paid contributions to the Public Employees' Retirement System (PERS), health, dental and vision coverage, and life and disability insurance.

During the past year, various Commissioners have expressed a desire for the Commission to develop a proposal for a "fulltime" City Council and a salary structure commensurate with such a position. While the City's Office of Personnel currently classifies City Councilmembers as "parttime" positions, there is evidence that most, if not all, councilmembers devote a considerable amount of time to their current duties. The question of whether the Oakland City Council should be formally classified and compensated as a "fulltime" legislative body raises a number of potential issues which are identified below.

II. POTENTIAL ISSUES

A. Identifying Policy Arguments Supporting And Opposing A Fulltime City Council

The Commission will need to consider the policy arguments that both support and oppose establishing a fulltime legislative body. Such arguments include, but are not limited to, whether a fulltime City Council:

- will require all City Councilmembers to devote at least 40 hours per week on City business
- will attract more people (and potentially more qualified people) to seek public office or merely encourage incumbency
- will avoid potential conflicts from outside sources of income by reducing or eliminating the ability to earn additional outside income
- is even necessary given the current size and complexity of Oakland government
- is justified in light of other budget priorities

B. Recognizing The Duties Of A City Councilmember

The job of councilmember for a large municipality can be highly varied and complex. Besides attending public meetings, there are potentially many hours of time that can be devoted to such tasks as staff meetings, individual study of agenda materials and other related documents and reports, dealing with constituents, serving on multi-regional boards and commissions, attending community events, and other similar activities. The Commission will need to thoroughly understand and appreciate the full scope of duties required and expected of a fulltime elected representative.

C. Restricting Or Excluding Outside Income

A concept closely related to establishing a fulltime city council is whether to limit or prohibit outside income. Most California cities which profess to have a fulltime city council do not limit outside income, or restrict such outside income to sources that are not incompatible with public duties. Oakland City Charter Section 1201 already prohibits City officials from engaging in incompatible employment, although this Charter Section has never been implemented Citywide with the level of administrative notice and detail which California case law appears to require. Of all the cities initially surveyed, only the City of Los Angeles expressly prohibits so-called "earned" outside income. If such a prohibition is contemplated, the Commission should consider whether to permit certain forms of "passive" income such as bequests and/or investment income.

C. Setting The Salary Amount

Another important issue is how to determine an appropriate salary level for a fulltime city council. Some cities use a formula approach. For example, the City of Los Angeles ties its council salaries to the level set for local judges. Other cities tie the salary to a statistical average or range of comparable jurisdictions. Other cities, such as San Francisco and San Jose, use the data from other jurisdictions as a factor in the discretionary determination of salary levels. Another related question is whether to propose a specific salary level as part of the proposal. All salary-setting methods should also contemplate a process for a periodic review and adjustment of salaries once they are initially established.

D. Effective Date

Another consideration will be how and when to effect such a proposal. Should the new proposal take effect immediately upon adoption, or should it be "phased in" so that people who are currently in office have an opportunity to opt in or out of the new system? The fact that Oakland City Council elections are staggered may complicate a "phased in" approach.

E. Legal Process Governing Adoption Of A Fulltime City Council

Oakland City Charter Section 202(c) provides the authority by which City Council salaries are established and adjusted. Any effort to change this process would likely require an amendment to the City Charter. Amendments to the City Charter can be presented to voters by City Council action or by gathering enough signatures to place the item directly on the ballot. Commission staff will have to perform additional research to determine whether the change in employment status, as well as any proposed limitation on outside income, can be implemented by ordinance or by Charter amendment.

III. COMMISSION TIMETABLE

As the above outline demonstrates, there are a number of issues which clearly need to be explored and discussed thoroughly before developing a specific proposal. Given pending Commission business, Commission staff can probably compile the research and information required for Commission review of these issues during the summer interim with a target date of late August or early September for a comprehensive staff report. The Commission may wish to review this information as a whole, or create a subcommittee to assist in the development of a proposal. Assuming the Commission will want to hold at least one or two public hearings on the subject, a proposal can probably be developed and presented to the City Council sometime by October, 2004.

Respectfully submitted,

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Executive Director