



City of San Leandro

Meeting Date: November 21, 2016

Staff Report

File Number: 16-614 **Agenda Section:** CONSENT CALENDAR

Agenda Number: 8.G.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Jeff Kay
Assistant City Manager

FINANCE REVIEW: David Baum
Finance Director

TITLE: Staff Report for a Resolution Reaffirming the City's Delegation of Authority to the City Manager to Make Determinations for Industrial Disability Retirement Applications for Local Safety Members with the California Public Employment Retirement System (CalPERS)

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council approve a resolution to reaffirm the City Manager's authority to make determinations for industrial disability retirement applications for Local Safety Members. This reaffirmation is required by the California Public Employment Retirement System (CalPERS).

BACKGROUND

The City of San Leandro, as a contract member of CalPERS, may make determinations relating to Local Safety Members' industrial disability retirement applications. When CalPERS receives an application for industrial disability retirement filed by, or on behalf of an employee, the City is required to determine whether the employee is incapacitated or "disabled" from performing his/her job duties and, if so, whether their disability is an "industrial" disability.

In accordance with Government Code sections 21173 and 21156, the governing body of a contracting agency may delegate authority to make the determination of disability. On February 4, 1974, the City Council adopted Motion No. 1072 delegating authority to the City Manager to make these determinations under the California Public Employee's Retirement Law.

Recently, CalPERS began reviewing paper records and determined that Motion No. 1072 does not comply with the currently established resolution format and does not have the proper signature required by CalPERS.

Analysis

CalPERS has informed the City that Motion No. 1072 from 1974, which was signed by the City Clerk and not a formal resolution, is now unacceptable. CalPERS is requiring a new resolution in a specific format signed by the Mayor as the “highest authority” of the governing body.

Staff recommends that a resolution be approved by the City Council to reaffirm the previously delegated authority to the City Manager to determinations on industrial disability retirement applications, which will comply with CalPERS formatting and signature requirements.

Fiscal Impacts

There is no fiscal impact to adopting the resolution.

ATTACHMENTS

- Motion No. 1072 approving the Civil Service Board’s recommendation to delegate to the City Manager the authority to make industrial disability retirement determinations

PREPARED BY: Emily Hung, Human Resources Manager, City Manager’s Office

San Leandro, California, February 4, 1974

The City Council of the City of San Leandro met in regular session in its Chambers in the City Hall on the above date at 8:00 P.M. The meeting was opened with a pledge of allegiance to the flag of our country, Mayor Maltester presiding.

PRESENT: Councilmen Coppa, Gill, Nahm, Polvorosa, Suerstedt, Temple;
Mayor Maltester

ABSENT: None

MINUTES:

The minutes of the meeting of January 21, 1974 were approved as submitted.
The minutes of the meeting of January 28, 1974 were approved as submitted.

CORRESPONDENCE:

Letter from Southern Alameda County Economic Opportunity Agency regarding clarification of status and future directions was noted. Mayor Maltester explained that the letter was for information only and it was ordered filed. (1847)

Letter from Washington Homeowners Association regarding several problems in the Washington Manor area was noted. Mayor Maltester explained that these problems were in the hands of staff and that a report would be due soon. (1061)

Letter from Raymond Luciano regarding past agricultural products in the City of San Leandro was noted with interest and ordered filed. (2056)

Letter from First United Methodist Church regarding tax implications of the use of church building by the San Leandro Recreation Department was noted. The Chief Assistant City Attorney reported that he had contacted the Assessor's Office and had been told that the church would lose their tax exemption with the continuance of the Kiddie Kollege program. Mayor Maltester stated that Senior Citizens programs in the various churches in the City should be checked and the matter was referred to the City Attorney to investigate and report. (1128)

COMMUNICATIONS FROM BOARDS AND COMMISSION:

Letter from Civil Service Board regarding new procedure for disability retirement of sworn Police Officers and Firemen was noted. On motion of Councilman Suerstedt, seconded by Councilman Coppa and carried unanimously, the recommendation of the Civil Service Board was approved. (1072)

8:15 P.M. PUBLIC HEARINGS:

This being the time and the place for the public hearing on A-73-31, Planning Commission Resolution of Intention to consider an amendment of the zoning ordinance relating to height of fences or walls for a property line adjacent to a freeway in an R (Residential) District, the hearing was opened and explained by the Community Development Director who reported that the Planning Commission recommended approval of an 8 foot fence or wall along freeways. Upon questioning by Councilman Coppa, the Community Development Director explained that industrial and commercial zoned areas already permit 8 foot fences along freeways. There being no further discussion the hearing was closed on motion of Councilman Nahm, seconded by Councilman Coppa and carried unanimously. On motion of Councilman Coppa, seconded by Councilman Nahm and carried unanimously, the recommendation of the Planning Commission was upheld, A-73-31 approved, and staff directed to prepare the necessary ordinance. (1099)

This being the time and the place for the public hearing on A-73-32, Planning Commission Resolution of Intention to consider amendment of the zoning ordinance relating to the provision for payments in lieu of providing required parking, the matter was explained by the Community Development Director who reported that the Planning Commission recommended approval of broadened use of such funds. After discussion the hearing was closed on motion of Councilman Coppa, seconded by Councilman Nahm and carried unanimously. On motion of Councilman Suerstedt, seconded by Councilman Nahm and carried unanimously, the (1099)

8:15 P.M. PUBLIC HEARINGS - cont'd:

recommendation of the Planning Commission was upheld, A-73-32 approved, and staff directed to prepare the necessary ordinance. Councilman Gill questioned the Chief Assistant City Attorney regarding the method of payment. Mayor Maltester stated that staff should check the matter of in lieu payments by apartment house developers.

RESOLUTIONS:

RESOLUTION NO. 74 - 50

(1140-B)

RESOLUTION APPROVING JOINT EXERCISE OF POWERS AGREEMENT (East Bay Dischargers Authority)

Introduced by Councilman Nahm who moved its adoption, seconded by Councilman Suerstedt and carried by the following called vote:

- AYES: Councilmen Coppa, Gill, Nahm, Polvorosa, Suerstedt, Temple; Mayor Maltester (7)
NOES: None (0)
ABSENT: None (0)

RESOLUTION NO. 74 - 51

(1140-B)

RESOLUTION APPOINTING MEMBER TO EAST BAY DISCHARGERS COMMISSION (Jack D. Maltester)

Introduced by Councilman Nahm who moved its adoption, seconded by Councilman Polvorosa and carried by the following called vote:

- AYES: Councilmen Coppa, Gill, Nahm, Polvorosa, Suerstedt, Temple; (6)
NOES: None (0)
PASS: Mayor Maltester (1)
ABSENT: None (0)

RESOLUTION NO. 74 - 52

(1140-B)

RESOLUTION APPOINTING ALTERNATE MEMBER TO EAST BAY DISCHARGERS COMMISSION (William F. Suerstedt)

Introduced by Councilman Polvorosa who moved its adoption, seconded by Councilman Coppa and carried by the following called vote:

- AYES: Councilman Coppa, Gill, Nahm, Polvorosa, Temple; Mayor Maltester (6)
NOES: None (0)
PASS: Councilman Suerstedt (1)
ABSENT: None (0)

RESOLUTION NO. 74 - 53

(1941)

RESOLUTION ACCEPTING THE WORK FOR SAN LEANDRO MARINA, SOUTH DIKE BERTHING FACILITIES, PHASE II, Project No. 72-751-1

Introduced by Councilman Polvorosa who moved its adoption, seconded by Councilman Suerstedt and carried by the following called vote:

RESOLUTIONS - cont'd:

AYES: Councilmen Coppa, Gill, Nahm, Polvorosa, Suerstedt, Temple;
 Mayor Maltester (7)
 NOES: None (0)
 ABSENT: None (0)

RESOLUTION NO. 74 - 54 (2055)

RESOLUTION APPROVING PLANS AND SPECIFICATIONS,
 CONSTRUCTION OF CALLAN AVENUE SIDEWALK,
 Project No. 74-690

Introduced by Councilman Suerstedt who moved its adoption, seconded by
 Councilman Coppa and carried by the following called vote:

AYES: Councilmen Coppa, Gill, Nahm, Polvorosa, Suerstedt, Temple;
 Mayor Maltester (7)
 NOES: None (0)
 ABSENT: None (0)

RESOLUTION NO. 74 - 55 (1135)

RESOLUTION CALLING A PUBLIC HEARING ON THE
 ASSESSMENT OF COSTS OF BUILDING ABATEMENT
 (1690 Grand Avenue)

Introduced by Councilman Gill who moved its adoption, seconded by Councilman
 Polvorosa and carried by the following called vote:

AYES: Councilmen Coppa, Gill, Nahm, Polvorosa, Suerstedt, Temple;
 Mayor Maltester (7)
 NOES: None (0)
 ABSENT: None (0)

ORDINANCES:

ORDINANCE NO. 74 - 11 (1035)

AN ORDINANCE RECLASSIFYING CERTAIN
 PROPERTY: RELATING TO FIRE ZONES
 (506 Joaquin Avenue)

Introduced by Councilman Suerstedt who moved it be passed to print, seconded
 by Councilman Nahm and carried by the following called vote:

AYES: Councilmen Coppa, Gill, Nahm, Polvorosa, Suerstedt, Temple;
 Mayor Maltester (7)
 NOES: None (0)
 ABSENT: None (0)

ORDINANCE NO. 74 - 12 (1310)

AN ORDINANCE ADDING CHAPTER 9.1 TO TITLE I
 OF THE CODE: RELATING TO ADMINISTRATION
 (Preservation of Historical and Cultural
 Monuments)

Introduced by Councilman Suerstedt who moved it be passed to print, seconded
 by Councilman Polvorosa and carried by the following called vote:

AYES: Councilmen Coppa, Gill, Nahm, Polvorosa, Suerstedt, Temple;
 Mayor Maltester (7)
 NOES: None (0)
 ABSENT: None (0)

MISCELLANEOUS:

The matter of parking control changes in the vicinity of East 14th Street and Callan Avenue was explained by the Public Works Director. Mr. Mel Barnett, owner of Roger's Mens Store at East 14th Street and Callan Avenue, spoke in opposition to the removal of any parking meters in the area. After discussion, Councilman Gill moved that the first three meters from Callan Avenue south be left installed and the matter reevaluated when the parking structure and the mall were completed. The motion was seconded by Councilman Coppa and carried unanimously. (1115)

The matter of legislation regarding recycling of cans and bottles was noted. Mayor Maltester explained that this matter had been discussed at this evening's work session. On motion of Councilman Coppa, seconded by Councilman Gill and carried unanimously, the City Council approved Assemblyman Julian C. Dixon's legislation in principle and hoped that a more workable law could be adopted. (1374)

The matter of heavy trucks on upper Estudillo Avenue and Lake Chabot Road was noted. The staff report was read and discussed by the City Manager. Councilman Temple stated that residents of the area have been told for twenty years that nothing could be done regarding truck traffic and that now that an alternative route was possible, the residents should be protected. After listening to residents of the area and the attorney representing the quarry, Councilman Temple moved to repeal the four sections of the Code which would ban trucks on upper Estudillo Avenue, West Estudillo Avenue and Lake Chabot Road. The motion was seconded by Councilman Suerstedt and carried unanimously and staff was directed to prepare the necessary ordinance.

Mayor Maltester reported in the matter of the survey regarding odors emanating from the Hohener Meat Company. He stated that the mail report was not adequate and suggested that a committee consisting of members of the Manufacturers Association, Chamber of Commerce and Mulford Gardens Improvement Association be formed to discuss the matter and make a personal survey. There being no objections the Mayor was directed to form such a committee.

Mr. Angelo Luengo, Chairman of the Estudillo Homeowners Association, stated that the H. Salt, Esq. Fish and Chips Company was still operating. Mayor Maltester explained that the City was taking the necessary legal steps to close this operation at this time.

Mr. John Ely, President of Marina Citizens for Community Improvement, spoke regarding the five-alarm fire in Oakland recently. He stated that the walls had collapsed on this pre-fabricated building and had endangered firemen. He stated further that he objected to such dangers to firemen and requested that the matter of this type of construction be checked. The matter was referred to the Public Works Director.

Mrs. Audrey Albers, 2037 Marina Court, spoke in the matter of the 1990 General Plan and questioned the density shown in Mulford Gardens. The Community Development Director reported that colors in the brochure were wrong and that the matter would be corrected. Mayor Maltester urged that these corrections be made at once before any individual or developer purchases property in reliance on the densities shown.

Councilman Temple reported that the general public usually classified members of a City Council into one of four categories. He stated that he was proud to be a member of a City Council which listened to the problems of homeowners and took some action in their favor.

The City Manager reported in the matter of the Bay Delta Resources Recovery Project and recommended that the City support this project through July 1, 1974 in the amount of \$ 1,750. On motion of Councilman Nahm, seconded by Councilman Suerstedt and carried unanimously, the recommendation was approved.

There being no further business the City Council recessed to Executive Session and upon reconvening, presented the following resolution.

RESOLUTION NO. 74 - 56

(1156)

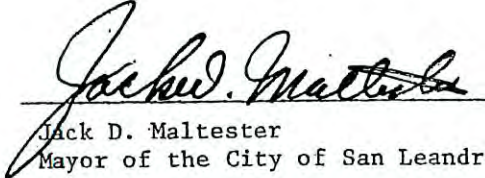
RESOLUTION APPOINTING ASSISTANT CITY ATTORNEY
(Lyle L. Lopus)


Introduced by Councilman Polvorosa who moved its adoption, seconded by Councilman Nahm and carried by the following called vote:

AYES:	Councilmen Coppa, Gill, Nahm, Polvorosa, Suerstedt, Temple;	
	Mayor Maltester	(7)
NOES:	None	(0)
ABSENT:	None	(0)

There being no further business the meeting was adjourned to 7:00 P.M. February 11, 1974.

Approved:


Jack D. Maltester
Mayor of the City of San Leandro

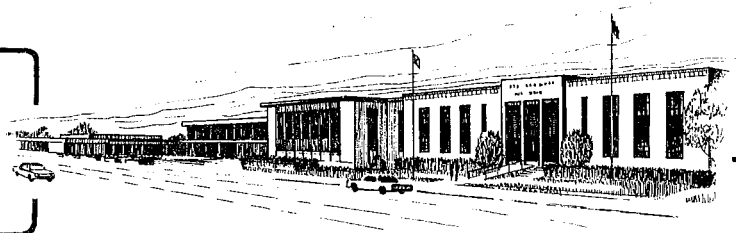
Attest: 
Richard H. West, City Clerk

I hereby certify that this is a true and correct copy of the Minutes of February 4, 1974, approved by the City Council of the City of San Leandro.


Marian Handa, City Clerk of the City of San Leandro

1072 ✓

City of San Leandro
Civic Center, 835 E. 14th Street
San Leandro, California 94577



415-638-4100

RECEIVED
CITY OF SAN LEANDRO

January 30, 1974

JAN 31 1974

The Honorable City Council
City of San Leandro
Civic Center
San Leandro, California 94577

RICHARD H. WEST
CITY CLERK

Gentlemen:

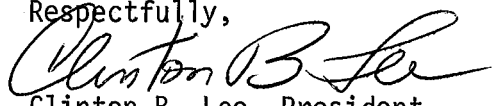
The Civil Service Board has reviewed new State legislation which provides for a new procedure for disability retirement of sworn police officers and firemen. This State legislation provides the following:

1. the employer, rather than the Public Employees' Retirement System, now determines whether such employee is disabled, within the meaning of the law and based on medical evidence
2. the employer, rather than PERS, now determines if the disability is the result of a job-incurred injury
3. the employer, rather than PERS, now determines the effective date of disability retirement
4. the employing agency must designate the appropriate official who will make the determinations.

Since, in the City of San Leandro, the City Manager makes employee appointments and terminations, it seems appropriate that the City Manager be designated as the official to make the necessary determinations.

It is the recommendation of the Civil Service Board that an inhouse appeal procedure be created. In this way, the employee would have available to him an avenue of administrative appeal before going to the courts or the Workmen's Compensation Appeals Board. The appellate body in such a case could be the Civil Service Board.

With City Council approval, the Civil Service Board will amend its Rules as shown on the attached to permit implementation of the program in accordance with State law.

Respectfully,

Clinton B. Lee, President
Civil Service Board

CBL:s

Attach.

Jack D. Maltester, Mayor
City Council: Alvin W. Kant, Vice Mayor; Joseph J. Coppa;
Valance Gill ; Albert J. Nahm; Mario Polvorosa;
William F. Suerstedt. Wesley McClure, City Manager



Civil Service Rule Section

C.S. Rule XIV; Section 5

Section 5. Local Safety Member Industrial Disability Retirement: The Public Employees' Retirement Law requires that a contracting agency determine whether a local safety member employee is disabled for purposes of the Public Employees' Retirement Law, whether such disability is "industrial" within the meaning of the law, and, if disabled, the effective date of disability retirement. The City Manager is hereby delegated the authority and responsibility to make such determinations on behalf of the City of San Leandro. The City Manager is further authorized to apply for disability retirement of local safety member employees and to initiate requests for reinstatement of such employees who are retired for disability.

The employee shall be notified in writing of the determination of the City Manager. Such notice shall be sent to the last known address of the employee, and shall inform the employee of the provisions relating to appeal contained in the nextsucceeding paragraph hereof.

If the employee disagrees with the City Manager's determination, the employee may appeal such determination to the Civil Service Board in accordance with the provisions of Rule XV. Such appeal shall be filed in writing within five (5) calendar days from receipt of official notification of the City Manager's determination. In the absence of such appeal, the determination of the City Manager shall be final.



City of San Leandro

Meeting Date: November 21, 2016

Resolution - Council

File Number: 16-617 **Agenda Section:** CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Jeff Kay
Assistant City Manager

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION Reaffirming the City of San Leandro's Delegation of Authority to the City Manager to Make Determinations for Industrial Disability Retirement Applications for Local Safety Members with the California Public Employment Retirement System (CalPERS)

WHEREAS, the City of San Leandro is a contracting agency of the California Public Employees' Retirement System ("PERS"); and

WHEREAS, the Public Employees' Retirement Law requires that the contracting agency determine whether an employee of such agency in employment in which he/she is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such Law; and

WHEREAS the City Council of the City of San Leandro has determined upon legal advice that it may delegate authority under Government Code Section 21173 to make such determinations; and

WHEREAS, pursuant to City Council Motion No.1072 approved on February 4, 1974, the City Council delegated this authority to the City Manager;

WHEREAS, CalPERS has informed the City that Motion No. 1072 no longer complies with the required format.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Leandro delegate and it does hereby delegate applications on behalf of the City of San Leandro under Government Code Section 21156(c) for disability retirement of all employees and to initiate requests for reinstatement of such employees who are retired for disability;

BE IT FURTHER RESOLVED that the City Council of the City of San Leandro delegate and it does hereby reaffirms its delegation to the incumbent in the position of City Manager authority to make determinations of disability on behalf of the City of San Leandro and whether such disability is industrial and to certify such determinations and all other necessary information to the California Public Employees' Retirement System.