

City of Santa Clara

City Council

Elected Officials Salary Setting

March 20, 2018



City Manager & Attorney Roles

- Over the past year, Chief Sellers has made multiple verbal requests for a cost of living compensation increase. City Manager and Attorney researched and this resulted in various discoveries that are itemized in the public City Council report.
- Role of City Manager and City Attorney:
 - City Manager transmits and processes action made by an independent body or City Council with respect to compensation adjustments for elected official.
 - Inappropriate to have the City Manager determine compensation increases for any elected official.
 - Inappropriate for the City Manager's staff to process any compensation increase without complying with the law.
 - City Attorney advises on the legal requirements.



Background

- Unit 9A MOA approved in Closed Session – March 21, 2017;
- City Attorney was requested to “report out” an approval of an increase in the compensation of the elected Chief of Police as the result of this vote in Closed Session;
- City Attorney refused because such an approval was not permitted under the Brown Act;
- The Chief of Police began to receive an increase shortly after this time.
- City Attorney was unaware that an increase had happened.

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> From: Brian Doyle
> Sent: Saturday, June 03, 2017 5:13 PM
> To: Liz Brown
> Subject: Re: Police Chief Salary
>
> Hi Liz,
>
> I agree that the Council ultimately sets the compensation for the elected officials. My point was that the vote must occur at an open regular meeting. Government Code 54956 b prohibits setting executive salaries at special meetings. The fact that electeds are not appointed officials or employees means that they are not evaluated and they are not subjects of labor negotiations, so there is no grounds for discussion in closed session either at a regular or spectral meeting.
>
> My conclusion is that the increases need to be during a noticed agenda item at an open regular council meeting. If counties do this differently, I am open to looking how they do it.
>
> Let me know if you would like to discuss on Monday.
>
> Thanks,
>
> Brian
>
> Sent from my iPad

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Council Discretion

- In its discretion, Council may increase the compensation for the Police Chief position
- Council is not bound by past practice and can change its policy
- Council may consider past practice of tracking to increases to Unit 9A compensation
- Council's action sets the compensation for the Elected Office, not the individual holding the Office. (Whatever compensation the City Council sets will be the compensation for the next elected Chief of Police.)

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Step Increases?

- Council may consider compaction issues resulting from past step increases to Assistant Chief position
- Council should not adjust compensation based on performance of the current office holder
- Merit increases should not be awarded by the Council or anyone else

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Conflict of Interest

- Chief of Police compensation should not be automatically increased as a result of a decision in which he participates.
- If Council sets forth an automatic increase as a percentage over the actual compensation paid to the Assistant Chief, then the Chief should not participate in the decision to award a step or merit increase to the Assistant Chief.
- The Council could set forth a percentage differential over the top of the range or interim step of the range for the Assistant Chief.

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Background

Many past practices and procedures for setting the compensation were at variance with state laws. These past non-conforming actions include:

- City Council action to delegate authority to the City Manager to administer merit increases to elected officials;
- Providing "merit" increases to elected officers, in general;
- Providing automatic cost-of-living increases linked to Unit 9A and Unit 9 MOU negotiations without proper (legally required) public Council action.

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Policy Options

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Council Consideration

1. Compensation request of the current elected Police Chief for cost of living.
2. Policy options on how to proceed with salary setting for both the elected positions of Police Chief and City Clerk.

Note: *If more information is needed, the City Council may continue the item and direct staff to return with additional information to make an informed decision.*

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Salary Setting Process

- **Option 1:** Charter Amendment to delegate salary setting to commission
- **Option 2:** Ordinance to delegate salary setting to commission

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Granting the Elected Chief of Police a Salary Increase

- **Option 1:** Police Chief – 8% Cost-of-Living Adjustments, including POST pay
- **Option 2:** Direct Policy Development on Salary Differential from Elected Chief of Police and Assistant Chief of Police
 - 5% from **ACTUAL** salary
 - 5% from top of **salary RANGE**

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Unit 9A Compared to Chief Sellers' Request

Unit 9A Wage and POST Enhancements if Applied to Chief Sellers	MOU Wage Increase	Monthly Salary	Annual Salary	POST Annual	Annual Salary + POST Annual
Mike Sellers Current Pay + Current POST	N/A	\$ 24,171	\$ 290,052	\$ 2,400	\$ 292,452
2017 Unit 9A MOU Wage Increase & 5% POST Applied	5%	\$ 25,380	\$ 304,560	\$ 15,228	\$ 319,788
2018 Unit 9A MOU Wage Increase & 5% POST Applied	3%	\$ 26,141	\$ 313,692	\$ 15,685	\$ 329,377
Chief Seller's Salary Request	MOU Wage Increase	Monthly Salary	Annual Salary	POST Annual	Annual Salary + POST Annual
Mike Sellers Current Pay + Current POST	N/A	\$ 24,171	\$ 290,052	\$ 2,400	\$ 292,452
If 2017 Unit 9A MOU Wage Increase & 5% POST Applied	5%	\$ 25,380	\$ 304,560	\$ 15,228	\$ 319,788
If 2018 Unit 9A MOU Wage Increase & 5% POST Applied	3%	\$ 26,141	\$ 313,692	\$ 15,685	\$ 329,377

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Retroactivity

Chief Sellers Request - Broken Down by Cost

1. Chief Sellers is requesting the same as the Unit 9A wage and POST enhancements in MOU years 2017 and 2018.	
2. The additional item that Chief Seller's is requesting is a merit increase for the 2017 and 2018 calendar years (not included in the table above). * Not available per staff memo. The Current Unit 9A MOU has a section that guarantees a 2% up to 5% Merit in 2017 and 2018.	
3. Chief Sellers has already received partial payment for the 2017 MOU year 5% wage and 5% POST enhancements from December 18, 2016 through July 15, 2017 paycheck. This amount totals Wage and POST enhancements: And Benefits:	\$14,443 \$ 522
4. The retroactive pay for the 2017 Unit 9A 5% wage and 5% POST pay enhancements from July 2, 2017 through December 16, 2017 (12 pay periods) totals approximately:	\$12,617
5. The retroactive pay for the 2017 (5%) & 2018 (3%) Unit 9A wage enhancements from December 17, 2017 to March 24, 2018 (7 pay periods) totals approximately:	\$ 9,941
6. Grand total of ADDITIONAL retroactive pay:	\$22,558

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Chief of Police Increases

Year	Compensation Increase	%
12/18/2012	Elected to Chief of Police	5.0
5/25/2014	Merit Increase	5.0
11/09/2014	Merit Increase	5.0
3/15/2015	Wage Adjustment tied to Police Mgmt. Unit 9A	3.1
11/08/2015	Merit Increase	5.0
12/20/2015	Wage Adjustment tied to Police Mgmt. Unit 9A	6.0
12/18/2016	Unit 9A Wage Adjustment of 5.0%	
12/17/2017	Unit 9A Wage Adjustment of 3.0%	

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Elected City Clerk Salary

- Given that this position is vacant, Council may want to consider where to set the Salary of the City Clerk prior to the nomination period opening.
- Council may want to discuss setting the salary at the March 29, 2018 City Clerk Study Session, with the professional panel, and take action after.

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City Clerk Increases

Year	Compensation Increase	%
12/08/2004	Elected to City Clerk	
07/17/2005	City Council Wage Adjustment	15.00
12/16/2007	Wage Adjustment tied to Unit 9 Misc. Mgmt.	2.30
11/30/2008	Merit Increase	10.00
07/12/2009	Merit Increase	7.57
12/27/2009	Wage Adjustment tied to Unit 9 Misc. Mgmt.	5.35
5/25/2014	Merit Increase	4.37
01/04/2015	Merit Increase	4.39
06/07/2015	Merit Increase	4.42
12/20/2015	Wage Adjustment tied to Unit 9 Misc. Mgmt.	4.50
12/15/2016	Wage Adjustment tied to Unit 9 Misc. Mgmt.	4.00

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Possible Council Action

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Rec 3: Repeal/Discontinue

City Manager recommends the City Council approve changes to the current salary setting process, as follows:

1. Repeal the previous City Council action to delegate authority to the City Manager to administer merit increases to elected officials;
2. Discontinue the practice of granting “merit” increases to elected officers;
3. Discontinue the practice of granting any increases, including automatic cost-of-living increases linked to Unit 9A and Unit 9 MOU negotiations, without proper public disclosures at noticed regular meetings of the City Council

Rec 1: Salary Setting

Provide direction to staff based on policy options for the salary setting process. The City Manager has no recommendation.

Rec 2: Chief Salary

1. Council action on a cost-of-living adjustment, POST premium pay adjustment and other benefits equal to 9A, and an additional cost of living increase of 3% effective December 17, 2017. These actions would be commensurate with the Unit 9A adjustments for 2016 and 2017.
2. The Council could continue the item if more information is needed.

Note: *The City Manager has no recommendation.*



