

# Mayor and Council Communication

DATE: 10/19/21

M&C FILE NUMBER: M&C 21-0808

LOG NAME: 14COUNCILAIDES

## **SUBJECT**

(ALL) Adopt Attached Ordinances Regarding the Transition of Council Aide (District Director) Positions to Pensionable Employment Positions by Amending Chapter 2.5 "Retirement" and Section 2-180, "Coverage of the System," of the City Code and by Reallocating Appropriations in the General Fund by \$167,000.00 for City Retirement Fund Contribution Costs (Continued from a Previous Meeting)

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## **RECOMMENDATION:**

It is recommended that the City Council:

1. Adopt the attached ordinance revising the "Retirement" chapter of the City Code by amending section 2.5-2 to address council aide positions becoming members of the retirement plan and to provide a one-time election allowing those currently serving in such positions not to become members of the plan;
  2. Adopt the attached ordinance amending Section 2-180 of the Human Resources Article of Chapter 2 of the City Code to provide that City Council Aides/District Directors do not have rights to administrative appeal from adverse employment actions and to make non-substantive changes to enhance clarity; and
  3. Adopt the attached ordinance reallocating appropriations in the General Fund for the purpose of funding costs of city contributions for the City Council Aides (District Directors) who become participating members of the Retirement Fund: decrease the General Operating and Maintenance category of Non-Departmental by \$167,000.00 and increase the Salaries and Benefits category in City Manager's Office by the same amount, with the amount of appropriation subject to reduction to conform to the final figures calculated after all individuals have made their elections.
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## **DISCUSSION:**

The purpose of this Mayor and Council Communication (M&C) is to take actions associated with the position of Council Aide/District Director becoming a pension-eligible regular full-time employment position.

Historically, individuals serving in the position of City Council Aide (District Director) have been hired, disciplined, and fired directly by the Councilmember and have not been considered regular full-time employees and as a result have not been eligible to participate in the Employees Retirement Fund (the Fund). The aides/directors have instead participated in the City's FICA-alternative program, which consists of employee contributions to a third party administrator into a 401(a) plan, from which participants will receive payment in retirement. Because all regular full-time employees are members of the Fund, the City has not been a general participant in Social Security since 1945.

The City Council recently requested the City Manager evaluate the transition of the aide/director position to a pension-eligible position with the accompanying benefits afforded to regular, full-time general City employees. Some individuals who have been serving in the aide/director for a number of years have expressed concerns with being required to join the Fund at a late date and wish to instead continue participating in the City's 401(a) FICA-Alternative Plan.

Adoption of the first attached ordinance would revise the Retirement Fund Chapter of the City Code by amending section 2.5-2 to address Council Aide positions becoming members of the retirement plan. The ordinance would provide a one-time election allowing those currently serving in such positions not to become members of the plan. This election would have to be made before October 23, 2021, which is the date the change in status will otherwise take effect. The election is irrevocable, and any individual who opts not to become a participating member of the Fund would be required to continue participating in the FICA-alternative program.

In accordance with state law, any individual who is hired as an aide/director on or after October 23, 2021, would automatically become a participating member of the Fund on the date of the person's employment with the City.

Because of the unique nature a council aide/district director serves as an assistant and envoy for his or her employing Councilmember, they would continue to be hired, disciplined, and fired at the discretion of their individual Councilmember as has historically been the case. To memorialize this understanding, it is recommended the City Council adopt the second attached ordinance, which amends section 2-180 of the Human Resources article of the City Code to provide that City Council Aides (District Directors) do not have rights to administrative appeal from adverse employment actions. In reviewing Section 2-180 to make this clarification, the City Attorney's Office noted that this provision would benefit from non-substantive restructuring to enhance clarity and recommends making revisions as noted in the attached.

When this change goes into effect on October 23, 2021, the AP count reflected in the adopted budget will be increased by nine. The per-employee cost is higher for someone who is participating in the Fund than for an individual in the FICA-Alternative Program. The third attached ordinance would reallocate receipts and appropriations in the General Fund by reducing Non-Departmental by \$167,000.00 and increasing City Manager's Office by that same amount. This amount represents the maximum additional cost that would occur if all nine existing aides become participating members in the Fund. Because it is anticipated that some individuals may opt to remain outside the Fund, the actual amount that is needed may

be lower. Therefore, the attached appropriation ordinance includes language that would reduce the appropriation amount to the actual cost, which will be calculated after all of the impacted individuals have made their election.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

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**FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that upon approval of the recommendations and adoption of the attached appropriation ordinance, funds will be available in the current operating budget, as appropriated, in the General Fund. Prior to an expenditure being incurred, the participating department has the responsibility to validate the availability of funds.

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Expedited