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From: Mike Robbins [mailto:mikerobbins2@yahoo.com]
Sent: Monday, October 03, 2011 11:07 PM
To: ALL CITY COUNCIL and CITY CLERKS; *ALL CITY COUNCIL; Busch, Eric (Mayor); Fisher, Bill; Jacobson, Carl (Council Member); Fuentes, Suzanne (Council Member); Brann, Don (Council Member); Mortesen, Cindy; Domann, Cathy; Shilling, Mona; Willmore, Doug
Cc: MikeRobbins2@yahoo.com
Subject: El Segundo City Employee Contracts on Oct 4 City Council Agenda

October 3, 2011

Re: City employee union contracts on the agenda for the October 4, 2011 7:00 PM El Segundo City Council Regular Meeting

Honorable Mayor and Members of the City Council:

I strongly urge you to vote against any motion to approve any City employee union or group contracts at the October 4 City Council meeting. Please pull all of the contracts off of the Consent Agenda before voting on the Consent Agenda.

And please do not make or second a motion to approve these contracts, and please vote against any such motion. Instead, state that you support providing sufficient time -- at least 30 to 60 days -- for the public and the City Council to review, analyze, discuss, and fix any problems with these contracts.

Thank you for your consideration in this important matter that has a significant impact on the City's future.

Here are some concerns I and other residents have regarding the new El Segundo City employee union contracts.

I plan to send more complete comments early Tuesday, as the limited amount of time permits. In any case, you now have this information and cannot later claim you were unaware of these facts.

You may also wonder why City staff did not bring many of these important facts to your attention.

That is why it is important that every City Council member be open to, and pay attention to, the concerns and issues raised by the residents and taxpayers.

One of the first rules of being a good representative of the people is to not become a rubber stamp for City staff.

After an initial review of some of the contracts, it appears that the employee union negotiators have paid more attention than the City Council and its negotiators to what I have said in City Council meetings, and to what I have written in letters to the editor of local newspapers and at the Public Safety Project Web site (PublicSafetyProject.org).

It appears that the union contracts have features opposite those that I recommended to protect the City and its residents, and they are mostly one-sided in favor of the unions and adverse to the City.

THE CITIZENS NEED 30 TO 60 DAYS TO REVIEW THE CONTRACTS

The excessive and unsustainable City employee compensation, pensions, and contracts have been at the center of controversy for more than a year (since June, 2010), voters have
overwhelmingly turned down new taxes and fees to pay for the excessive employee compensation and pensions, and these contracts have been negotiated behind closed doors for months now.

Yet an attempt was made to ram them through the City Council for final official approval at a special meeting on September 28 with less than 24 hours for the public and City Council members to even see these contracts. October 4, with four days notice to those who are closely following this matter, is not much better.

The citizens who will be forced to pay for these contracts must be given 60 days, or 30 days minimum, to review, analyze, discuss, and debate these contracts.

Any savings from rushing approval to realize employee concessions sooner should be more than offset by public participation and additional savings that should result by shining some sunlight as a disinfectant onto these contracts.

Democracy was intentionally designed to slow down the wheels of government when making decisions, laws, budgets, and contracts, to allow and increase public awareness and participation.

Public participation ultimately improves government efficiency, and is necessary because government does not benefit from competition and an inability to force people to give it money as in the private sector.

I believe the new City employee contracts put the City at RISK OF BANKRUPTCY if financial conditions worsen. These contracts require further public and City Council review, analysis, discussion, and fixing.

Furthermore, the effort to ram these contracts through with no or minimal public participation and oversight looks even more questionable, given the mayor's and city manager's risky plan to create lots of new taxpayer debt by issuing up to $18 million in bonds -- to pay for capital improvement projects that have traditionally been paid for using General Fund revenues.

It creates the perception that large risky new debt will be created as part of a financial shell game to continue paying the City employee unions wildly excessive and unsustainable compensation and pensions, especially the politically active firefighter and police unions. I doubt the voters will approve new bonds and increased taxpayer debt, just as they voted down new taxes and fees.

Also, the new City Manager Doug Willmore has a potential conflict of interest as the City's lead negotiator, because his compensation increases when that of the City employees below him increases, to prevent "salary compaction". This is true for all the management employees in the City. This may help explain the very poor negotiating results.

In any case, the poor negotiating results, as shown by the facts presented below, provides further evidence that the City employee union contract negotiation process is totally broken, with insufficient representation for the residents and taxpayers at the bargaining table.

CONTRACT DURATION SHOULD BE ONE YEAR

First, the contracts should be for only one year. It will be necessary to come back as soon as possible to get more cost savings and to reign in the remaining excessive and unsustainable City employee salaries, benefits, and pensions.

The City Council took substantial pay reductions even though they are paid so little for the time they put in and for their high level of responsibility. City employees must share more of the burden during these difficult and uncertain times.

Their salaries, benefits, and pensions cannot be allowed to ratchet only or mostly in one direction - up - while they have total compensation two to five times that of employees with comparable or greater education, training, skills, and responsibility in the private sector.
It will take multiple contract cycles to rein-in the excessive compensation and pensions. Therefore, shorter contract cycles are necessary.

Also, there is great economic risk and uncertainty. The economy may not recover and may even decline for many years. Longer term contracts increase the City's risk and exposure to a financial catastrophe, especially when the contracts are not open to negotiation.

We will have a new City Council after the April 2012 election, and they will need the ability to continue the process of making the City union contracts reasonable, affordable, and sustainable. The longer contract term ties their hands and puts the City at greater risk.

Furthermore, these contracts, for two years and a third year at each union's option, fail to align the contract expiration dates to facilitate a City-wide job classification/description and compensation study, and realignment with the private sector.

This should be done at least once every 4 or 5 years. When is the last time this was done? Ten years ago? Twenty years ago? I thought several of the City Council members recognized the need to do this.

MISGUIDED GUARANTEE OF NO LAYOFFS CAN BANKRUPT THE CITY

The City MUST NOT give away its inherent management rights and authority to the unions, and its most effective cost-control and bargaining tool -- determination of staffing levels and layoffs. This is the only tool to re-open a closed contract for negotiations when the City is in financial trouble, other than bankruptcy (e.g., Vallejo, California).

The 7.5% threshold for year-to-year revenue declines, as written in the contracts, still allows for a revenue decline of 20% over the life of the contract (e.g., a 3.7% decline every 6 months over three years). The contracts also provide NO PROTECTION against unbudgeted and uncontrolled SPENDING INCREASES (e.g., new unfunded state government mandates, large lawsuit judgements, infrastructure repair costs after a natural or man-made disaster, etc.)

CITY NEEDS SAFETY / BURDEN-SHARING MECHANISM IN EVERY EMPLOYEE UNION CONTRACT

To protect against a financial catastrophe and potential bankruptcy, the City MUST retain its inherent management rights and authority, and include the following safety / burden-sharing mechanism in EVERY employee contract:

A provision that, at the City's option, re-opens the contract for negotiation, and also at the City's option, implements specified automatic contract cost controls (total compensation reductions) whenever unbudgeted City revenue declines plus unbudgeted and uncontrolled City spending increases exceed specified thresholds.

A failure to include such a provision puts the City at risk of bankruptcy, as happened to the city of Vallejo, California as a result of their excessive and unsustainable multi-year firefighter and police union contracts.

SOME FIREFIGHTERS' UNION CONTRACT ISSUES

In the overtime section, the old and new contracts use the number 182 hours instead of 192 hours as the threshold after which the 150% overtime premium pay rate applies for each 24-day work cycle under the regular 48/96-hour work schedule.

However, although the contract language implies there are 182 regularly scheduled work hours, there are actually 192 regularly scheduled work hours in each 24-day work cycle under this work schedule, which include paid sleeping and meal break time.

This amounts to a hidden 2.6% salary increase and pension spike, because 10 out of every regularly scheduled 192 hours are paid at the 150 percent overtime rate. \[ \frac{197}{192} - 1 = 0.026 = 2.6\% \]
Either this was an arithmetic or typographical error, in which case the firefighters' union should not object to correcting it, or it is a concealed pay and pension increase, and one of the many union tricks and traps built into the contract to confuse and deceive the City Council and the public. In either case, the 182 hours should be changed to 192 hours, and all such regularly scheduled hours should be paid at the regular pay rate.

NEED TO CONSIDER CHANGING FIREFIGHTER WORK SCHEDULE TO ONE SIMILAR THAT OF POLICE OFFICERS

The nature of firefighter jobs has changes over the years. Duress to improved fire and building codes, and fire sprinklers and alarm systems, there are few fires and mostly paramedic calls. Typically, there are only zero, one, or two major fires (with more than $100,000 in damage) in El Segundo in any given year.

Even if there were many fires and a high workload in El Segundo, the benefits of the 48/96-hour work schedule may not worth the added costs, and then fatigue rather than boredom would be a bigger issue.

In the future, the City should perform a true cost versus benefits analysis of putting the firefighters on a regular work schedule similar to that of the police officers, where employees are not paid regular and overtime pay and pension spikes for sleeping and meal break time.

Perhaps a contract provision should be added to facilitate such a study. On most jobs, you can get fired for sleeping on the job.

DISTRIBUTION AND TYPE OF FIREFIGHTERS’ UNION CONCESSIONS

As far as I can tell, there are no firefighter salary reductions. Salaries and "special compensation" drive the pension costs.

While it is a step in the right direction to have the firefighters pay 3% of the CalPERS Employer Contribution, in addition to the 9% Employee Contribution they are already paying, this is a TEMPORARY concession, and the City’s total Employer Contribution for safety employees was 26.9% in 2009 (and is likely higher now). I believe most private sector employees pay at least or more than half their total retirement plan costs.

There is another reason for taking more firefighters' union concessions in the form of reduced salary and special compensation. If the firefighter union’s Measure P passes, the firefighters and their salaries, without reduction, will be transferred to the L.A. County Fire Department.

(For example, Fire Chief Kevin Smith will be demoted to a fire captain and run a fire truck o engine, but will retain his very high fire chief’s salary.)

The El Segundo City Council will then have no control over firefighter salaries, and the higher cost undoubtedly will be passed on by the County to the City when the final one-sided contract of adhesion for fire services is "negotiated" under the requirement that the City MUST contract with the County. The County will have no requirement or incentive to bargain in good faith, nor to reward El Segundo for paying its firefighters significantly higher than County and other city's firefighters.

TOTALLY INADEQUATE PENSION REFORMS

Government employee pensions are supposed to provide a decent and secure retirement, not enrich retirees with unsustainable multi-million dollar pensions at early retirement ages that place an enormous burden on taxpayers who are struggling to save for their own much smaller pensions, and that will eventually bankrupt the City.

The pension cost savings and member contributions are totally inadequate. The police retirement age was increased for new-hires from age 50 to 55, the same as existing firefighters, put police and firefighters still retire with up to 90 percent of their single highest (spiked) year pay plus COLAs and medical insurance for life. Plus surviving
spouse and minor children benefits further increase the pension payout period and the pension costs.

It is the percentage in the 3%@50 or 3%@55 pension benefits formula (3% per year of service), and the single highest year as the basis to which that percentage is applied, that is killing us.

In 2009 for El Segundo safety employees, the City’s CalPERS Employer Contribution was 26.9% of the sum of regular earnings plus special compensation (plus the 9% employee contribution paid to CalPERS by the City for police officers and managers). This percentage keeps growing out of control each year.

(The pension cost for miscellaneous employees is also a concern, but not as severe due to the reduced formula percentage.)

New police and firefighter employees should have a 2%@55, 2.3%@55, or 2.5%@55 formula instead of 3%@55, based on the highest average of at least 5 to 10 consecutive years to prevent pension spiking, and so pension benefits more closely relate to what was paid into the system while the employee was working.

Former Police Chief David Cummings, who retired in 2009 and got paid a total of nearly $600,000 in his last year, had his pension spiked to $210,000 per year by a 23% raise about a year before his retirement. I am sure his pension was not adequately funded by what was paid into the pension system during his career, because this last-year pension spike could not have been predicted.

The pension cost savings from ONLY increasing the retirement age for police officers from 50 to 55, and not reducing the percentage and increasing the number of years to which it is applied, will be substantially offset by higher salaries at retirement due to promotional, longevity, and annual raises that outpace inflation, and increased abuse and gaming of disability retirements.

Over the last ten years, about 55 percent of all firefighter and police retirements have been disability retirements, even for common ailments caused by age, genetics, poor health habits and choices, and perhaps outright abuse and gaming of the system.

Given the CalPERS actuarial data, upon retirement, safety employees live at least as long as miscellaneous employees. Upon retirement at age 55, their average life expectancy is 81.4 years if male and 85 years if female, and life expectancies have INCREASED over time due to medical and other advances. (See "Police Pensions and Voodoo Actuarials" by Steven Greenhut, in the November 6, 2009 issue of New Geography magazine, at NewGeography.com.)

If a police officer retires at age 55 instead of 50 with a 16% higher salary, and lives another 26.4 years (not even counting continuing surviving spouse benefits), that will result in an additional 422% of annual salary at age 50 being paid out (over 30 years).

The bottom line is that the pension reforms must also include a reduced percentage based on an average of at least 5 to 10 consecutive years of salary.

Creating a SUBSTANDARD SECOND TIER pension system now will only necessitate a corrected third tier in the coming years.

Furthermore, the excessive salaries and redundant and non-"job-related "special compensation" upon which the pensions are based must also be reduced.

In conclusion, ALL City employee pension formula percentages must be reduced and must be based on an average of 5 to 10 consecutive years, the salaries and "special compensation" upon which they are based must be reduced, AND retirement ages must be increased.

Furthermore, the City should not also be contributing to 401(a) retirement plans in addition to the CalPERS and PARS defined benefit pension plans.

Some City employees (e.g. the Public Works Director) are getting BOTH Social Security and CalPERS pension contributions paid by the City. Is this reasonable?

City employees in BOTH the CalPERS and PARS defined benefit pension plans (e.g., the
Police Support employees should be limited to one plan with a reduced total pension benefit formula percentage.

Eventually, City employees should be transitioned to sustainable defined contribution plans such as 401(a) plans, as with most employees in the private sector who have 401(k) plans, when that is feasible.

MULTIPLE UNJUSTIFIABLE PAY RAISES DURING THE RECESSION

The COLA raises for each year that City revenues increase by $1.5 million are totally unjustified, especially for the greatly over-compensated firefighters (who do mostly paramedic calls and fight few if any major fires in any given year) and police officers (who have less risk than in many other cities).

The fact that there are more than 500 to a thousand job applications for each firefighter job opening in a good economy is proof that we are paying too much. We should pay enough such that we get sufficient applications to hire a qualified employee for each job opening.

Even worse, the COLA raise is IN ADDITION TO multiple other automatic pay raises during the recession, and is on top of three years of large raises during given during recession.

Even in the current recession, the City employees will continue getting automatic seniority-based rather than merit-based annual pay increases, including annual "step" raises for their first five or so years in EACH new job position, and also "longevity" incentive "special compensation" raises.

This should be replaced with merit-based pay and reduced or zero raises during the recession to bring employee compensation back into line with compensation for private sector jobs requiring similar levels of education, training, skills, and responsibility. (I realize this is not feasible for this contract cycle, but it puts the employee compensation into proper perspective.)

REDUCE OR ELIMINATE REDUNDANT AND NON-JOB-RELATED "SPECIAL COMPENSATION"

The firefighters are still getting paid redundant "special compensation" for such things as a paramedic certificate and a driver license to drive the fire engine or the paramedic ambulance, when the paramedic certificate and driver license are already requirements of the job for which they are getting generously paid.

This appears to be a way of confusing City Council members and the public, and concealing how much the firefighters are getting paid and how they are getting paid that much.

If someone looks only at their base salary, although generous for a job that requires only good health/physical condition and a high school education or GED to get hired, it is significantly less than what they are actually getting paid.

Also, there is additional "special compensation" for having both the Class A and Class B driver license endorsements, even though the DMV will only allow a driver license to have one of those two endorsements, because the Class A endorsement includes the Class B endorsement. The firefighters' union contract still explicitly provides educational cost reimbursement and "special compensation" for life (throughout the remaining career, and as a pension spike) for getting a Political Science college degree. Such a degree will undoubtedly be used to run more effective City Council and voter initiative political campaigns to improperly maximize their compensation and pensions. The Political Science degree should be deleted from the contract. It appears to waste taxpayer money while promoting exploitation of the inherent conflict of interest when government employee unions campaign to elect their own bosses who determine their pay increases, and increase their compensation and pensions to greatly excessive and unsustainable levels that can potentially bankrupt the City.

A FEW MORE POINTS
Most of us have a special place in our hearts for firefighters and police officers, and respect for the responsibilities and challenges of their professions, even when we must harshly criticize their abuses and excesses committed while acting as a group as members of their union. But there are myths that have been used to try to justify greatly excessive and unsustainable salaries, benefits, and pensions that threaten to greatly curtail or end all other important and vital City services, and eventually bankrupt the City. The myths are easily debunked.

**MYTH # 1: Firefighters and Police Don't Live Long**

Firefighter and police unions often claim they don't live long, so their higher pay and pensions are justified and their pensions are not paid out for as many years. This myth was already debunked in the Steve Greenhut article referenced above, which used actual CalPERS pension plan actuarial data.

**MYTH # 2: High Pay and Pensions are Reasonable Due to Higher Risk**

Firefighters and police unions often claim they should get paid more because they have risky jobs. There are many other significantly lower-pay jobs that have greater risk of death or injury, including the military, commercial fishermen, professional drivers, convenience store night clerks, and I believe also electricians, roofers, and perhaps window washers. With the exception of the military, many of these higher-risk lower-pay jobs do not have the benefit of specialized training, equipment, and backup support to minimize the risk and its consequences.

One approach is to compensate employees for the actual risk and adverse results they personally experience, rather than for a hypothetical future risk they will probably never experience.

Also, many firefighters and police officers choose their professions because of the perceived and actual risk, and the excitement and adrenaline rush they get from the "action", in addition to the intense comradery they develop with their coworkers in such an environment.

That concludes my initial comments. More details should follow.

Sincerely,

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