

## **2.7 Amendment to Voluntary Employees Beneficiary Association (VEBA) Advisory Committee Quorum and Voting.**

### **Recommendation:**

Approve an ordinance amending Sections 2.08.090 and 2.08.095 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise the quorum and voting requirements relating to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Human Resources)



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jennifer Schembri

**SUBJECT:** See below

**DATE:** September 16, 2024

Approved

Date:

9/25/24

**COUNCIL DISTRICT:** Citywide

**SUBJECT: Amendments to Voluntary Employees Beneficiary Association (VEBA) Advisory Committee Quorum and Voting**

## **RECOMMENDATION**

Approve an ordinance amending Sections 2.08.090 and 2.08.095 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise the quorum and voting requirements relating to the Voluntary Employees Beneficiary Association Advisory Committee.

## **SUMMARY AND OUTCOME**

The recommendation stems from challenges faced by the Voluntary Employees Beneficiary Association Advisory Committee (VAC) in meeting its quorum requirements, which have led to meeting cancellations and delays in conducting important business. Reducing the required quorum from four to three members will align with the majority of other City committees and commissions and allow greater flexibility in attendance to ensure the continuity of committee operations.

## **BACKGROUND**

The VAC was established in 2018 and is responsible for the oversight and administration of the Voluntary Employees Beneficiary Association plans. The VAC meets quarterly and consists of five members with four year terms:

- a) One active member of the San José Firefighters, IAFF Local 230;
- b) One active member of the San José Police Officers' Association;
- c) Two active members of the Federated Unions; and
- d) One active member of unrepresented employees.

In the event of a term expiring or a mid-term vacancy, the Human Resources Department partners with the City Manager's Office of Employee Relations to conduct a process to nominate and recommend a replacement. The nomination and approval process can take approximately 60 to 90 days to complete.

As with many City Council, board, and committee meetings, the VAC meetings have reverted to being held in person, pursuant to the Brown Act, and some VAC members have been unable to attend one or more meetings due to City business or other types of excused absences. There have been multiple occasions when the VAC meetings were canceled entirely or were moved to alternate dates due to a lack of a quorum.

Because it has been challenging to find and retain VAC members, the Human Resources Department discussed the challenges with the VAC members, and in reviewing the required quorum rules, it was found that the VAC is the only committee in the City that requires more than a majority to establish a quorum. Each absence or vacancy has an impact on meetings because the current quorum is four VAC members. Further, to conduct business, four members need to be present in person to act. So, if one member attends virtually, there could be a risk that the in-person quorum is not reached if one other member is unable to attend a meeting. This impacts VAC business, such as committee discussion, approval of budgets, fiduciary insurance, and vendor selection/agreements. While meeting dates can be changed, the challenges remain for any new date selected, and some actions are time sensitive.

## **ANALYSIS**

As stated above, the VAC is the only committee that requires more than a majority to establish a quorum. Reducing the currently required quorum of four members to three members will allow additional flexibility for the committee to continue to conduct business.

In December of 2023, City Manager's Office of Employee Relations reached out to representatives of each City union to inform them of the quorum challenges the VAC has experienced and proposed to alleviate them by aligning the quorum rules to match the City's standard that requires a majority of the total numbers of seats for a quorum; in this case three members. In May 2024, a follow-up e-mail was sent to the representatives with a side letter outlining the proposed changes. As of July 23, 2024, all unions have agreed to the proposed change and executed a side letter agreement to effectuate this change, as provided in the **attachment**.

HONORABLE MAYOR AND CITY COUNCIL

September 16, 2024

**Subject: Amendments to the Voluntary Employees Beneficiary Association Advisory Committee Quorum and Voting**

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### **EVALUATION AND FOLLOW-UP**

If the City Council approves the proposed ordinance for publication, the ordinance will be placed on the City Council agenda for final approval on October 15, 2024, and will become effective 30 days thereafter. Upon final approval, the Human Resources Department will inform the committee of the updated quorum and continue to follow the Rules of Order as they continue normal VAC operations.

### **COORDINATION**

This preparation of this report has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the City Manager's Office of Employee Relations.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the October 8, 2024 City Council meeting.

### **COMMISSION RECOMMENDATION AND INPUT**

The VAC was consulted and verbally agreed to the proposed solution during Item 2 at its September 20, 2023 regular meeting.

### **CEQA**

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

### **PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

  
Jennifer Schembri  
Deputy City Manager

HONORABLE MAYOR AND CITY COUNCIL

September 16, 2024

**Subject: Amendments to the Voluntary Employees Beneficiary Association Advisory Committee  
Quorum and Voting**

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For questions, please contact Amy Morton, Senior Analyst, Human Resources, at [amy.morton@sanjoseca.gov](mailto:amy.morton@sanjoseca.gov) or (408) 975-1425.

**ATTACHMENT** – Side Letter Agreement - VEBA Advisory Committee Quorum

## SIDE LETTER AGREEMENT

BETWEEN

THE CITY OF SAN JOSE  
AND

THE ASSOCIATION OF BUILDING, MECHANICAL AND ELECTRICAL INSPECTORS (ABMEI)  
THE ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21 (AEA)  
THE ASSOCIATION OF LEGAL PROFESSIONALS (ALP)  
THE ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL, IFPTE LOCAL 21 (AMSP)  
THE CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21 (CAMP)  
THE SAN JOSE FIRE FIGHTERS, IAFF LOCAL 230 (IAFF)  
THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL NO. 332 (IBEW)  
THE MUNICIPAL EMPLOYEES' FEDERATION, AFSCME LOCAL NO. 101 (MEF)  
THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 3 (OE#3)  
THE SAN JOSE POLICE DISPATCHERS' ASSOCIATION (SJPDA)  
THE SAN JOSE POLICE OFFICERS' ASSOCIATION (POA)  
PEACE OFFICER PARK RANGER ASSOCIATION (POPRA)

### VEBA Advisory Committee Quorum

The City and the twelve (12) bargaining units agree to the language changes below regarding the Voluntary Employees' Beneficiary Associate (VEBA) Advisory Committee:

#### Meetings

1. The VAC shall meet quarterly, or more frequently if the VAC deems it necessary.
2. With the exception of closed sessions, meetings of the Trustees shall be open to interested persons and follow the City of San Jose's open meeting rules and applicable law. The City will provide the meeting space necessary and will provide any necessary instruments to record the meetings pursuant to the open meeting rules.
3. A quorum of Trustees shall be necessary to conduct VAC business. A quorum shall consist of ~~four~~ three (34) Trustees; but a lesser number may adjourn a meeting or adjourn a meeting to a stated time. In the absence of all the members of the VAC from any meeting, the Secretary of the VAC may adjourn the meeting or adjourn the meeting to a stated time.
4. All VAC action requires an affirmative vote of at least three (3) Trustees, regardless of vacancies and regardless of whether the meeting consists of the full five-person Committee or the minimum ~~four~~ three-person quorum.

#### FOR THE CITY:



Jennifer Schembri  
Director of Employee Relations/  
Director of Human Resources

7/23/2024

Date



Cheryl Parkman  
Assistant to the City Manager

6/28/2024

Date

Side Letter Agreement – VEBA Advisory Committee Quorum

June 20, 2024

Page 2 of 2

FOR THE UNIONS:

John Tucker  
AFSCME Local 101

Date

Jeremy Cabaccang  
OE#3/POPRA

Date

Julie Jennings  
President, CAMP

Date

Terra Chaffee  
President, ALP

Date

Jesse Perez  
President, AMSP

Date

Frank Crusco  
Chief Steward, IBEW

Date

Mary Reed  
President, ABMEI

Date

Florin Lapustea  
President, AEA

Date

  
~~Matt Tuttle~~  
President, IAPF

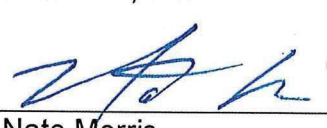
6/27/24  
Date

Steve Slack  
President, POA

Date

Krista De La Torre  
IFPTE Local 21

Date

  
Nate Morris  
IBEW

6/24/24  
Date

Nick Rovetto  
President, MEF

Date

Mary Sunzeri  
President, SJPDA


Date

Side Letter Agreement – VEBA Advisory Committee Quorum

May xx, 2024

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**FOR THE UNIONS:**

_____ John Tucker AFSCME Local 101	_____ Date	_____ Jeremy Cabaccang OE#3/POPRA	_____ Date
_____ Julie Jennings President, CAMP	_____ Date	_____ Terra Chaffee President, ALP	_____ Date
_____ Jesse Perez President, AMSP	_____ Date	 Frank Crusco Chief Steward, IBEW	<u>6-18-2024</u> _____ Date
_____ Mary Reed President, ABMEI	_____ Date	_____ Florin Lapustea President, AEA	_____ Date
_____ Matt Tuttle President, IAFF	_____ Date	_____ Steve Slack President, POA	_____ Date
_____ Krista De La Torre IFPTE Local 21	_____ Date	_____ Nate Morris IBEW	_____ Date
_____ Nick Rovetto President, MEF	_____ Date	_____ Mary Sunzeri President, SJPDA	_____ Date



**Side Letter Agreement – VEBA Advisory Committee Quorum**

June 20, 2024

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**FOR THE UNIONS:**

<hr/> John Tucker AFSCME Local 101	Date	<i>Jeremy Cabaccang</i> Jeremy Cabaccang OE#3/POPRA	6/28/24 Date
<hr/> Julie Jennings President, CAMP	Date	<hr/> Terra Chaffee President, ALP	Date
<hr/> Jesse Perez President, AMSP	Date	<hr/> Frank Crusco Chief Steward, IBEW	Date
<hr/> Mary Reed President, ABMEI	Date	<hr/> Florin Lapustea President, AEA	Date
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<hr/> Nick Rovetto President, MEF	Date	<hr/> Mary Sunzeri President, SJPDA	Date

**Side Letter Agreement – VEBA Advisory Committee Quorum**

June 20, 2024

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**FOR THE UNIONS:**



6/25/24

\_\_\_\_\_  
John Tucker  
AFSCME Local 101

Date

\_\_\_\_\_  
Jeremy Cabaccang  
OE#3/POPRA

Date

\_\_\_\_\_  
Julie Jennings  
President, CAMP

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\_\_\_\_\_  
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President, SJPDA

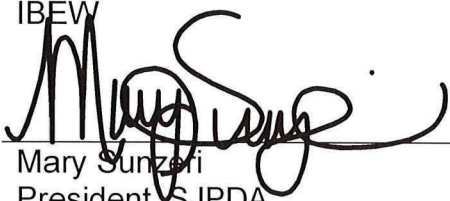
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**Side Letter Agreement – VEBA Advisory Committee Quorum**

June 20, 2024

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**FOR THE UNIONS:**

John Tucker AFSCME Local 101	Date	Jeremy Cabaccang OE#3/POPRA	Date
Julie Jennings President, CAMP	Date	Terra Chaffee President, ALP	Date
Jesse Perez President, AMSP	Date	Frank Crusco Chief Steward, IBEW	Date
Mary Reed President, ABMEI	Date	Florin Lapustea President, AEA	Date
Matt Tuttle President, IAFF	Date	Steve Slack President, POA	Date
Krista De La Torre IFPTE Local 21	Date	Nate Morris IBEW	Date
Nick Rovetto President, MEF	Date	 Mary Sunzeri President, SJPDA	7-22-24 Date

**Side Letter Agreement – VEBA Advisory Committee Quorum**

June 20, 2024

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Matt Tuttle President, IAFF	Date	Steve Slack President, POA	Date
Krista De La Torre IFPTE Local 21	Date	Nate Morris IBEW	Date
<i>N. Rovetto</i> Nick Rovetto President, MEF	June 27, 2024 Date	Mary Sunzeri President, SJPDA	Date

**Side Letter Agreement – VEBA Advisory Committee Quorum**

June 20, 2024

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<i>Mary P Reed</i> Mary Reed President, ABMEI	06/24/2024 Date	Florin Lapustea President, AEA	Date
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Side Letter Agreement – VEBA Advisory Committee Quorum

June 20, 2024

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**FOR THE UNIONS:**

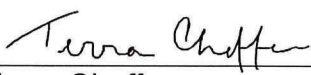
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Side Letter Agreement – VEBA Advisory Committee Quorum

June 20, 2024

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Side Letter Agreement – VEBA Advisory Committee Quorum

June 20, 2024

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FOR THE UNIONS:

John Tucker  
AFSCME Local 101

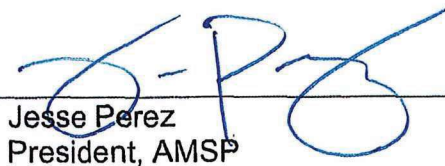
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6/24/2024

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President, CAMP

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 07/01/2024  
Florin Lapustea  
President, AEA

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Matt Tuttle  
President, IAFF

Date



6/27/24

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Nick Rovetto  
President, MEF

Date

Mary Sunzeri  
President, SJPDA

Date



ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE  
AMENDING SECTIONS 2.08.090 AND 2.08.095 OF  
CHAPTER 2.08 OF TITLE 2 OF THE SAN JOSE  
MUNICIPAL CODE TO REVISE THE QUORUM AND  
VOTING REQUIREMENTS RELATING TO THE  
VOLUNTARY EMPLOYEES BENEFICIARY  
ASSOCIATION ADVISORY COMMITTEE**

**WHEREAS**, the Voluntary Employees Beneficiary Association Advisory Committee has a quorum requirement of four (4) of its five (5) members in order to conduct a meeting; and

**WHEREAS**, the affected bargaining groups have signed an agreement to reduce the current quorum requirement of four (4) members to three (3) members of the Voluntary Employees Beneficiary Association Advisory Committee and require an affirmative vote of three (3) members for all decisions of the Committee; and

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), it has been determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance; and

**WHEREAS**, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:**

SECTION 1. Section 2.08.090 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended as follows:

**2.08.090 Quorum**

A. Unless otherwise specifically provided in this Chapter, a majority of the total number of seats, whether filled or vacant, shall be necessary to constitute a quorum for a board or commission to take action, although a lesser number may adjourn from time to time.

~~B. This Section shall not apply to the Voluntary Employees Beneficiary Association Advisory Committee.~~

SECTION 2. Section 2.08.095 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended as follows:

**2.08.095 Voting**

A. Except for the civil service commission, deferred compensation advisory committee, voluntary employees beneficiary association advisory committee, or the retirement boards, or unless otherwise specifically provided by the Charter or other ordinance, no resolution, motion or action shall be passed, adopted, or become effective unless it receives the affirmative vote of at least a majority of those voting, as long as there is a quorum present.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

MATT MAHAN  
Mayor

ATTEST:

---

TONI J. TABER, CMC  
City Clerk