Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at www.oxnard.org.

AGENDA
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE

Council Chambers, 305 West Third Street

June 8, 2021

Regular Meeting - 5:00 to 6:30 PM

(TEMPORARY MEETING TIME CHANGE)

This meeting is held pursuant to the State Emergency Services Act, the Governor's Emergency Declaration, and Governor's Executive Order N-29-20 to allow members of the City Council or staff to participate via teleconference.

As a precautionary measure to help slow the spread of COVID-19, the City Council facilities are temporarily closed to the public. The public is encouraged to view the meeting from home on the City's website at Oxnard.org/city-meetings, Spectrum channel 10, Frontier channel 35, or YouTube at Youtube.com/oxnardnews. Video recordings are typically available online immediately following the meeting. *Please see the link for the Measure M pre-recorded presentation video for each agenda item below.

The public may provide comments to the City Council via email at cityclerk@oxnard.org no later than 2:00 p.m. on the day of the meeting. Please identify the committee name, meeting date, and agenda item in the email Subject line.

A telephone option for public comments is also available at this time. Requests to speak must be submitted no later than 2:00 p.m. on the day of the meeting. Use the form on the city's website to submit your request: Oxnard.org/city-meetings, or call the City Clerk's Office at (805) 385-7803, or email your request to cityclerk@oxnard.org.

*The City has filed pre-election and post-election lawsuits regarding the validity of Measure M. The judge has not yet ruled on the legal sufficiency of Measure M.

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

At this time, the legislative body will consider public comments for a maximum of thirty minutes. A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. Speaker requests shall be submitted as set forth on the first page of this agenda. Speakers are limited to three minutes. If the allotted 30 minute time period expires before all speakers have had the opportunity to speak, the remaining speakers will be given an opportunity to speak prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on public hearing items should do so at the time of the hearing.

C. CONSENT AGENDA

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item time estimates: (Presentation / Committee Discussion / Public Comment)

1. City Clerk Department

   SUBJECT: Approval of Minutes.

   RECOMMENDATION: That the Finance and Governance Committee approve the minutes of the February 9, 2021 and February 23, 2021 regular meetings as presented.

   Contact: Rose Chaparro, (805) 385-7805

D. REPORTS

1. Human Resources Department

   SUBJECT: Delegation of Retirement Plan Functions.

   RECOMMENDATION: That the Finance and Governance Committee recommend that the City Council adopt a resolution:
   1. Appointing the Administrator for the City's 457(b) and 401(a) plans; and
   2. Delegating amendment authority over the City's 457(b) and 401(a) plans.

   Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/hdtnvqDvN_4

   Contact: Steve Naveau, (805) 385-7947

2. City Manager Department

   SUBJECT: City of Oxnard Whistleblower Summary Update.

   RECOMMENDATION: That the Finance and Governance Committee recommends City Council receive and file the update on whistleblower matters.
   (Presentation will be live upon consultant's request).

   Contact: Shiri Klima, (805) 385-7487

E. ITEMS FOR FUTURE AGENDAS

F. ADJOURNMENT

M I N U T E S
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE
Regular Meeting
FEBRUARY 9, 2021

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

At 5:01 p.m., Chair Zaragoza called to order the regular meeting of the Oxnard City Council Finance and Governance Committee in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Chair John Zaragoza was present in person and Members Gabriela Basua and Gabe Teran were present via videoconference.

Staff members present were Stephen M. Fischer, City Attorney; Shiri Klima, Deputy City Manager; and Rose Chaparro, City Clerk.
Staff members that participated via videoconference were Alexander Nguyen, City Manager; Kevin Riper, Chief Financial Officer; Donna Ventura, Assistant Chief Financial Officer; and Tonya Cheng, Controller. Eadie + Payne, LLP Auditors Hong N. Nguyen, Mary Maxion, and Eden Casareno, CPA's also participated via videoconference.

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA (None received.)

C. REPORTS

1. Finance Department

SUBJECT: Proposed City Council Policy for Development and Implementation of Internal Controls.

RECOMMENDATION: That the Finance and Governance Committee provide feedback on a proposed City Council Policy for Development and Implementation of Internal Controls and recommend City Council approve the proposed policy.

Auditors Hong N. Nguyen, Mary Maxion, and Eden Casareno from Eadie + Payne, LLP presented. Kevin Riper, Chief Financial Officer and Donna Ventura, Assistant Chief Financial Officer; were available to answer questions from the Committee. Discussion ensued among the Committee and staff. No public comment was heard.

It was moved by Member Basua seconded by Member Teran, to approve the recommended action as presented. VOTE: Basua, Teran, and Zaragoza voted in favor; the motion carried 3-0.

2. Finance Department

SUBJECT: Audit Committee Training by Eadie + Payne.

> RECOMMENDATION: That the Finance and Governance Committee:
> Receive a training presentation from Eadie + Payne on the roles and responsibilities of the Audit Committee.

Kevin Riper, Chief Financial Officer introduced Eadie + Payne, LLP auditors. Hong N. Nguyen, Mary Maxion, and Eden Casareno gave a presentation. Discussion ensued among the Committee and staff. No public comment heard. Report was received and filed, no formal action was required.

D. ITEMS FOR FUTURE AGENDAS (No requests were made.)

E. ADJOURNMENT

There being no further business on the agenda, and without objection, Chair Zaragoza adjourned the meeting at 6:45 p.m.

ROSE CHAPARRO City Clerk	JOHN ZARAGOZA Chair

M I N U T E S
OXNARD CITY COUNCIL
FINANCE AND GOVERNANCE COMMITTEE
Regular Meeting
FEBRUARY 23, 2021

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

At 5:00 p.m., Chair Zaragoza called to order the regular meeting of the Oxnard City Council Finance and Governance Committee in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Chair John Zaragoza was present in person and Members Gabriela Basua and Gabe Teran were present via videoconference.

Staff members present were Stephen M. Fischer, City Attorney; Shiri Klima, Deputy City Manager; and Rose Chaparro, City Clerk.
Staff members that participated via videoconference were Alexander Nguyen, City Manager; Kevin Riper, Chief Financial Officer; Donna Ventura, Assistant Chief Financial Officer; Steve Howlett, Assistant Public Works Director; and Tatiana Arnaout, City Engineer. Eadie + Payne, LLP Auditors Hong N. Nguyen, Mary Maxion, and Eden Casareno, CPA's also participated via videoconference.

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA (None received.)

C. REPORTS

1. Public Works Department

SUBJECT: Appropriation of Bond Proceeds.

RECOMMENDATION: That the Finance and Governance Committee recommend the City Council:
1. Make a findings that the appropriation of bond proceeds is not a "project" pursuant to California Environmental Quality Act (CEQA) sections 15061(b)(3) and 15378;
2. Approve the list of redevelopment bond proceeds projects; and
3. Appropriate $6,563,223 of 2006 Tax Allocation Bond (TAB) Proceeds for street and alley resurfacing, parking lot improvements, and fiber network expansions

Steve Howlett, Assistant Public Works Director and Tatiana Arnaout, City Engineer were available to answer questions from the Committee. Discussion ensued among the Committee and staff. No public comment heard.

It was moved by Member Basua seconded by Member Teran, to approve the recommended action as presented. VOTE: Basua, Teran, and Zaragoza voted in favor; the motion carried 3-0.

2. Finance Department

SUBJECT: Audit Committee Training by Eadie + Payne on "Fundamentals of municipal finance with a guided analysis of the City's CAFR and Single Audit reports"

RECOMMENDATION: That the Finance and Governance Committee receive a training presentation from Eadie + Payne on the roles and responsibilities of the Audit Committee, with this session focusing on the fundamentals of municipal finance with a guided analysis of the City's CAFR and Single Audit reports.

Kevin Riper, Chief Financial Officer introduced Don Ecker of Eadie + Payne, LLP. Don Ecker introduced auditors Hong N. Nguyen, Mary Maxion, and Eden Casareno which gave a presentation. Discussion ensued among the Committee and staff. No public comment heard. Report was received and filed, no formal action was required.

D. ITEMS FOR FUTURE AGENDAS (No requests were made.)

E. ADJOURNMENT

There being no further business on the agenda, and without objection, Chair Zaragoza adjourned the meeting at 6:27 p.m.

ROSE CHAPARRO City Clerk	JOHN ZARAGOZA Chair

CITY OF OXNARD CALIFORNIA	**FINANCE AND GOVERNANCE COMMITTEE** **AGENDA REPORT** **REPORTS** **AGENDA ITEM NO. D.1**

DATE: June 8, 2021

TO: Finance & Governance Committee

FROM: Steve Naveau, Human Resources Director, (805) 385-7947, steve.naveau@oxnard.org

SUBJECT: Delegation of Retirement Plan Functions.

RECOMMENDATION

That the Finance and Governance Committee recommend that the City Council adopt a resolution:
1. Appointing the Administrator for the City's 457(b) and 401(a) plans; and
2. Delegating amendment authority over the City's 457(b) and 401(a) plans.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/hdtnvqDvN_4

BACKGROUND

The City sponsors the City of Oxnard 401(a) Plan ("401(a) Plan") and the City of Oxnard 457(b) Deferred Compensation Plan ("457(b) Plan")(together, the "Plans"). The Plans, which are active, are defined contribution retirement plans that provide tax-deferred benefits to eligible employees of the City. The Plans are similar to 401(k) plans but are specific to public employees. In August 2019, the Plans were moved to Voya Financial, as approved by City Council in April 2019. Prior to that, there were multiple plan providers including Nationwide, ICMA-RC and MassMutual.

DISCUSSION

Under the terms of the Plans, an "Administrator" is responsible for their day-to-day management. This responsibility encompasses the following functions, among others:

1. determining eligibility of individuals to participate or remain a participant in the plan;
2. authorizing distributions to plan participants;
3. maintaining all necessary records for the administration of the plan;
4. maintaining practices and procedures necessary to administer the plan;
5. selecting the menu of investment funds to be offered under the plan; and
6. assisting participants with rights, benefits, or elections available under the plan.

When the Plans were established, the Plan document for each was silent as to who was designated as Administrator. For reasons detailed below, the Administrator should be formally designated via resolution by the governing body. The purpose of the attached resolution is to assign the day-to-day role of Administrator to the City Manager or his designee.

Under California law, when performing its functions, the Administrator must satisfy certain fiduciary duties. These include, among others: a duty to act solely in the interest of participants and beneficiaries (commonly known as "duty of loyalty"); and a duty to act with the care, skill, prudence, and diligence expected of a knowledgeable prudent person (commonly known as "duty of prudence"). The Administrator is liable for any failure to conform to these duties.

City staff contracted with the law firm Pillsbury Winthrop Shaw Pittman LLP ("Pillsbury") to obtain legal guidance concerning the role of the Administrator. Based upon Pillsbury's guidance, staff recommends appointing the City Manager or his/her designee to serve as Administrator. Absent such an appointment, under the Plans' terms, the City Council is effectively the Administrator with the attendant duties and responsibilities. These functions are outside the City Council's regular role. Pillsbury advised that appointing a day-to-day Administrator is consistent with widely accepted best practices.

The Plans require that the City Council periodically review the performance of the Plans under the appointed Administrator. Accordingly, the attached resolution contains a new requirement for the Administrator to, at least once per calendar year, update the City Council concerning relevant aspects of the Plans' operation.

Delegation of Authority to Amend 457(b) Plan and 401(a) Plan

Under federal tax laws, the City must operate the 401(a) and 457(b) Plans in accordance with the Plans' terms. From time to time, the City may need to amend the Plans. The reasons for amending are varied and may include, for example, to conform to changes in the laws governing the Plans (most common) or to increase or decrease benefits in accordance with changes to an employee bargaining group's memorandum of understanding (MOU) as approved by the City Council. Under the Plans' current terms, only the City Council has authority to amend the Plans for such routine administrative reasons.

The attached resolution delegates to the City Manager or his/her designee authority to adopt any amendment to the Plans, but only if the amendment is administrative in nature and meets one or more of the following criteria:

- The amendment does not increase the City or a Plan's costs.
- The amendment is necessary or appropriate to comply with applicable laws.
- The amendment is necessary or appropriate to maintain a Plan's tax-qualified or eligible status.
- The amendment makes technical changes conforming a Plan's terms to its operation.
- The amendment clarifies the meaning of a Plan.
- The amendment is necessary to implement a change in benefits provided under an MOU or resolution approved by City Council.

The City Council retains sole authority to adopt more substantive amendments not described above. **Any benefit changes under the Plans can only be made with City Council approval.**

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

There is no financial impact.

Prepared by: Mike More, Human Resources Manager

ATTACHMENTS

1. Attachment 1 - Resolution
2. Exh A to Attch 1 - 401(a) Plan Amendment
3. Exh B to Attch 1 - 457(b) Plan Amendment.final
4. FGC Presentation Plan Administrator 6-8-21
5. Attachment 1 - Resolution v2
6. FGC Presentation Plan Administrator 6-8-21 v2

RESOLUTION NO. ___________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD DELEGATING DUTIES AND RESPONSIBILITIES OVER CITY-SPONSORED RETIREMENT PLANS

WHEREAS, the City of Oxnard (the "City") sponsors two active defined contribution retirement plans for the benefit of eligible employees, the City of Oxnard 401(a) Plan ("401(a) Plan") and the City of Oxnard 457(b) Deferred Compensation Plan ("457(b) Plan") (each, a "Plan" and collectively, the "Plans"); and

WHEREAS, the 401(a) Plan and 457(b) Plan each provide that an "Administrator" is responsible for administering the Plans, is fully empowered to perform its administrative functions, and has a duty to perform its functions for the benefit of participants and beneficiaries; and

WHEREAS, the 401(a) Plan and 457(b) Plan further provide that the City Council has sole authority to amend the Plan; and

WHEREAS, the Finance and Governance Committee recommends that the City Council appoint an Administrator for the 401(a) Plan and 457(b) Plan and delegate authority to the appropriate City officer to adopt certain amendments to the Plans; and

WHEREAS, the City Council has carefully reviewed the recommendations of the Finance and Governance Committee and finds that said recommendations are desirable in the interest of maintaining an efficient municipal organization; and

WHEREAS, the City Council wishes to amend the 401(a) Plan and 457(b) Plan to implement such recommendations; and

WHEREAS, the City Council further wishes to reserve the right to delegate all or any part of the City's fiduciary responsibilities under the 401(a) Plan and 457(b) Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES HEREBY RESOLVE AS FOLLOWS:

1. The above recitals are true and correct.

2. The 401(a) Plan is amended in the form attached hereto as Exhibit A, which amendment is hereby adopted and approved.

3. The 457(b) Plan is amended in the form attached hereto as Exhibit B, which amendment is hereby adopted and approved.

4. The City Manager, or his or her designee, is hereby appointed as Administrator for the 401(a) Plan and the 457(b) Plan.

5. The City Manager, or his or her designee, is hereby authorized to adopt amendments to the 401(a) Plan and the 457(b) Plan, but only if the amendment is administrative in nature and meets one or more of the following criteria:

    a. The amendment does not increase the City or Plan's costs.
    b. The amendment is necessary or appropriate to comply with applicable laws.
    c. The amendment is necessary or appropriate to maintain the Plan's tax-qualified or eligible status.
    d. The amendment makes technical changes conforming the Plan's terms to its operation.
    e. The amendment clarifies the meaning of the Plan.

6. At least once per calendar year, the Administrator must report to the City Council on the operation and financial aspects of the 401(a) Plan and the 457(b) Plan.

7. The City Manager is hereby authorized and empowered to execute the amendments attached as Exhibits A and B and to take all other appropriate steps to carry out the purpose and intent of these resolutions.

PASSED AND ADOPTED THIS ___ day of ___________ 2021, by the following vote:

AYES: _______________

NOES: _______________

ABSENT: _____________

ABSTAIN: ____________

____
John C. Zaragoza, Mayor

ATTEST:

____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

____
Stephen M. Fischer, City Attorney

AMENDMENT TO THE
CITY OF OXNARD 401(a) DEFERRED COMPENSATION PLAN

The City of Oxnard 401(a) Plan, as amended and restated by signature dated December 2, 2019 (the "Plan"), is hereby amended as follows, effective as of January 1, 2021:

1. Section 5.1(b) of the Basic Plan Document is amended to add the following to the end of that section:

   The Employer may delegate all or any part of its fiduciary responsibilities to the Administrator, other than the Employer's duty to review the performance of the Administrator pursuant to Section 5.1(c).

2. Section 6.1(a) of the Basic Plan Document is amended to add the following to the end of that section:

   The Employer may delegate to the Administrator or other authorized officer of the Employer the authority to make any modifications or amendments to the Plan that are necessary or appropriate to meet the requirements of the Code or the regulations thereunder, or that would facilitate the operations of the Plan, provided such modifications or amendments do not significantly increase or decrease benefit levels or costs.

IN WITNESS WHEREOF, this amendment to the Plan is adopted, effective as of the date set forth above.

CITY OF OXNARD

By: ___________________________

Title: City Manager

AMENDMENT TO THE
CITY OF OXNARD 457(b) DEFERRED COMPENSATION PLAN

The City of Oxnard 457(b) Deferred Compensation Plan, as amended and restated effective September 2, 2019 (the "Plan"), is hereby amended as follows, effective as of January 1, 2021:

1. Section 5.1(b) of the basic plan document is amended to add the following to the end of that section:

   > The Employer may delegate all or any part of its fiduciary responsibilities to the Administrator, except for the Employer's duty to review the performance of the Administrator pursuant to Section 5.1(c).

2. Section 6.1(a) of the basic plan document is amended to add the following to the end of that section:

   > The Employer may delegate to the Administrator or other authorized officer of the Employer the authority to make any modifications or amendments to the Plan that are necessary or appropriate to meet the requirements of the Code or the regulations thereunder, or that would facilitate the operations of the Plan, provided such modifications or amendments do not significantly increase or decrease benefit levels or costs.

IN WITNESS WHEREOF, this amendment to the Plan is adopted, effective as of the date set forth above.

CITY OF OXNARD

By: ____________________________

Title: City Manager

DELEGATION OF RETIREMENT PLAN FUNCTIONS

Presented to the Finance and Governance Committee

Mike More, Human Resources Manager

June 8, 2021

CITY OF OXNARD CALIFORNIA

That the Finance and Governance Committee recommend that the City Council adopt a resolution:

- Appointing the Administrator for the City's 457(b) and 401(a) plans
- Delegating amendment authority over the City's 457(b) and 401(a) plans

BACKGROUND

- The City sponsors 457(b) and 401(a) defined contribution retirement plans for the benefit of eligible employees
  - The plans allow employees to defer a portion of salary for retirement
  - Like a 401(k) but for public sector employees
  - The plans have been with Voya Financial since August 2019
  - Prior to 2019 there were multiple providers (Nationwide, ICMA-RC, MassMutual)
- No designation of "Administrator" in original plan documents
- Administrator is responsible for day-to-day operations of the plans:
  - Determines eligibility of individuals to participate or remain a participant in the plans
  - Authorizes distributions to plan participants
  - Maintains all necessary records for the administration of the plans
  - Maintains practices and procedures necessary to administer the plans
  - Selects the menu of investment funds to be offered under the plans
  - Assists participants with rights, benefits, or elections available under the plans
- Administrator should be formally designated by City Council

- Outside counsel Pillsbury Winthrop Shaw Pittman LLP recommended the following:
  - Appoint City Manager or his/her designee to serve as Administrator (best practice)
  - Administrative role is outside the normal duties/responsibilities of City Council
  - Create a mechanism to require the Administrator to annually file a report with the City Council on each plan's operation
- Administrator acts as a fiduciary
  - A fiduciary is a person or organization that acts on behalf of another person or persons, putting their clients' interest ahead of their own
    - Duty to act <u>solely</u> in the interest of participants
    - Duty to act with care, skill, prudence, and diligence
- Governing body (City Council) oversees Administrator

- **Conduct day-to-day operations of the plans**
  - Determines eligibility of individuals to participate or remain a participant in the plans
  - Authorizes distributions to plan participants
  - Maintains all necessary records for the administration of the plans
  - Maintains practices and procedures necessary to administer the plans
  - Selects the menu of investment funds to be offered under the plans
  - Assists participants with rights, benefits, or elections available under the plans
- **Adopt administrative plan amendments if:**
  - It does not increase the City or plan's costs
  - It is necessary or appropriate to comply with applicable laws
  - It is necessary or appropriate to maintain the plan's tax-qualified or eligible status
  - It makes technical changes conforming the plan's terms to its operation
  - It clarifies the meaning of the plan

The Plan Administrator **cannot** increase or decrease benefits under the plans without City Council approval (e.g., new MOU)

RECOMMENDATION

- That the Finance and Governance Committee recommend that the City Council adopt a resolution:
  - Appointing the Administrator for the City’s 457(b) and 401(a) plans
  - Delegating amendment authority over the City’s 457(b) and 401(a) plans

QUESTIONS

RESOLUTION NO. ____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD DELEGATING DUTIES AND RESPONSIBILITIES OVER CITY-SPONSORED RETIREMENT PLANS

WHEREAS, the City of Oxnard (the "City") sponsors two active defined contribution retirement plans for the benefit of eligible employees, the City of Oxnard 401(a) Plan ("401(a) Plan") and the City of Oxnard 457(b) Deferred Compensation Plan ("457(b) Plan") (each, a "Plan" and collectively, the "Plans"); and

WHEREAS, the 401(a) Plan and 457(b) Plan each provide that an "Administrator" is responsible for administering the Plans, is fully empowered to perform its administrative functions, and has a duty to perform its functions for the benefit of participants and beneficiaries; and

WHEREAS, the 401(a) Plan and 457(b) Plan further provide that the City Council has sole authority to amend the Plan; and

WHEREAS, the Finance and Governance Committee recommends that the City Council appoint an Administrator for the 401(a) Plan and 457(b) Plan and delegate authority to the appropriate City officer to adopt certain amendments to the Plans; and

WHEREAS, the City Council has carefully reviewed the recommendations of the Finance and Governance Committee and finds that said recommendations are desirable in the interest of maintaining an efficient municipal organization; and

WHEREAS, the City Council wishes to amend the 401(a) Plan and 457(b) Plan to implement such recommendations; and

WHEREAS, the City Council further wishes to reserve the right to delegate all or any part of the City's fiduciary responsibilities under the 401(a) Plan and 457(b) Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES HEREBY RESOLVE AS FOLLOWS:

1. The above recitals are true and correct.

2. The 401(a) Plan is amended in the form attached hereto as Exhibit A, which amendment is hereby adopted and approved.

3. The 457(b) Plan is amended in the form attached hereto as Exhibit B, which amendment is hereby adopted and approved.

4. The City Manager, or his or her designee, is hereby appointed as Administrator for the 401(a) Plan and the 457(b) Plan.

5. The City Manager, or his or her designee, is hereby authorized to adopt amendments to the 401(a) Plan and the 457(b) Plan, but only if the amendment is administrative in nature and meets one or more of the following criteria:

    a. The amendment does not increase the City or Plan's costs.
    b. The amendment is necessary or appropriate to comply with applicable laws.
    c. The amendment is necessary or appropriate to maintain the Plan's tax-qualified or eligible status.
    d. The amendment makes technical changes conforming the Plan's terms to its operation.
    e. The amendment clarifies the meaning of the Plan.
    f. The amendment is necessary to implement a change in benefits provided under an MOU or resolution approved by City Council.

6. At least once per calendar year, the Administrator must report to the City Council on the operation and financial aspects of the 401(a) Plan and the 457(b) Plan.

7. The City Manager is hereby authorized and empowered to execute the amendments attached as Exhibits A and B and to take all other appropriate steps to carry out the purpose and intent of these resolutions.

PASSED AND ADOPTED THIS ___ day of ___________ 2021, by the following vote:

AYES: _______________

NOES: _______________

ABSENT: _____________

ABSTAIN: ____________

____
John C. Zaragoza, Mayor

ATTEST:

____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

____

Stephen M. Fischer, City Attorney

DELEGATION OF RETIREMENT PLAN FUNCTIONS

Presented to the Finance and Governance Committee

Mike More, Human Resources Manager

June 8, 2021

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the Finance and Governance Committee recommend that the City Council adopt a resolution:

- Appointing the Administrator for the City's 457(b) and 401(a) plans
- Delegating amendment authority over the City's 457(b) and 401(a) plans

BACKGROUND

- The City sponsors 457(b) and 401(a) defined contribution retirement plans for the benefit of eligible employees
  - The plans allow employees to defer a portion of salary for retirement
  - Like a 401(k) but for public sector employees
  - The plans have been with Voya Financial since August 2019
  - Prior to 2019 there were multiple providers (Nationwide, ICMA-RC, MassMutual)
- No designation of “Administrator” in original plan documents
- Administrator is responsible for day-to-day operations of the plans:
  - Determines eligibility of individuals to participate or remain a participant in the plans
  - Authorizes distributions to plan participants
  - Maintains all necessary records for the administration of the plans
  - Maintains practices and procedures necessary to administer the plans
  - Selects the menu of investment funds to be offered under the plans
  - Assists participants with rights, benefits, or elections available under the plans
- Administrator should be formally designated by City Council

- Outside counsel Pillsbury Winthrop Shaw Pittman LLP recommended the following:
  - Appoint City Manager or his/her designee to serve as Administrator (best practice)
  - Administrative role is outside the normal duties/responsibilities of City Council
  - Create a mechanism to require the Administrator to annually file a report with the City Council on each plan's operation
- Administrator acts as a fiduciary
  - A fiduciary is a person or organization that acts on behalf of another person or persons, putting their clients' interest ahead of their own
    - Duty to act <u>solely</u> in the interest of participants
    - Duty to act with care, skill, prudence, and diligence
- Governing body (City Council) oversees Administrator

PLAN ADMINISTRATOR DELEGATED AUTHORITY

- **Conduct day-to-day operations of the plans**
  - Determines eligibility of individuals to participate or remain a participant in the plans
  - Authorizes distributions to plan participants
  - Maintains all necessary records for the administration of the plans
  - Maintains practices and procedures necessary to administer the plans
  - Selects the menu of investment funds to be offered under the plans
  - Assists participants with rights, benefits, or elections available under the plans
- **Adopt administrative plan amendments if:**
  - It does not increase the City or plan's costs
  - It is necessary or appropriate to comply with applicable laws
  - It is necessary or appropriate to maintain the plan's tax-qualified or eligible status
  - It makes technical changes conforming the plan's terms to its operation
  - It clarifies the meaning of the plan
  - It is necessary to implement a change in benefits provided under an MOU or resolution approved by City Council

The Plan Administrator **cannot** increase or decrease benefits under the plans without City Council approval (e.g., new MOU)

- That the Finance and Governance Committee recommend that the City Council adopt a resolution:
  - Appointing the Administrator for the City’s 457(b) and 401(a) plans
  - Delegating amendment authority over the City’s 457(b) and 401(a) plans

CITY OF OXNARD CALIFORNIA

QUESTIONS

FINANCE AND GOVERNANCE COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.2

DATE: June 8, 2021

TO: Finance & Governance Committee

FROM: Shiri Klima, Deputy City Manager, (805) 385-7487, shiri.klima@oxnard.org

SUBJECT: City of Oxnard Whistleblower Summary Update.

RECOMMENDATION

That the Finance and Governance Committee recommends City Council receive and file the update on whistleblower matters.
(Presentation will be live upon consultant's request).

BACKGROUND

The City of Oxnard established various mechanisms for employees and residents of the City to report potential fraud, waste or abuse. Those mechanisms include a whistleblower hotline and a web page on the City's website for online submissions as well as email complaints to the independent accounting firm that monitors the whistleblower hotline, Price Paige & Company. Price Paige & Company will conduct investigations on allegations and complaints received in accordance with the program guidelines. Price Paige & Company will report to the City Council's Finance and Governance Committee on a periodic basis depending on the volume of complaints received.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic plans adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

The whistleblower program is designed to help reduce potential fraud, waste or abuse of resources of the City which can be substantial.

Prepared by: Shiri Klima, Deputy City Manager

ATTACHMENTS

1. Whistleblower Program Summary through 5.18.2021
2. City of Oxnard Whistleblower Presentation through 5.18.2021

PRICE PAIGE & COMPANY
Accountancy Corporation

The Place to Be

May 18, 2021

From: Price Paige & Company
To: Finance and Governance Committee of the City of Oxnard

City of Oxnard Whistleblower Activity Report

Whistleblower Information

The City of Oxnard Whistleblower Policy authorizes Price Paige & Company ("PPC"), a contracted independent accounting firm, to receive complaints from city employees and members of the public who wish to report an improper governmental action. An "improper governmental action" is defined as "any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct". The complaints received by PPC shall remain confidential, and the identity of the complainant will not be revealed without the permission of the complainant, except to an appropriate law enforcement agency conducting a criminal investigation.

Upon receiving a complaint, PPC may conduct an investigation into the facts alleged in the complaint to determine whether an improper governmental action has occurred. Before launching an investigation, PPC's staff will conduct a careful evaluation of the complaint to determine whether it has enough potential merit to warrant the expenditure of city resources to conduct an investigation. After PPC receives a complaint, any investigation resulting from the complaint is confidential, so PPC's staff cannot provide any updates about what is being done to investigate the complaint or what information has been uncovered. Information about the investigation will not be released unless PPC substantiates that an improper action has occurred and issues a report on it.

Whistleblower Priority Assessment

Due to the limited resources of the City, conducting full investigations of all allegations and complaints received is not feasible. PPC will first screen the allegation to determine "predication". Predication is defined by the Association of Certified Fraud Examiner as *"the totality of circumstances that would lead a reasonable, professionally trained, and prudent individual to believe a fraud has occurred, is occurring, and/or will occur."* Predication is the basis upon which an investigation is commenced. Investigations should not be conducted without proper predication. Once predication is established, PPC will commence an investigation into the allegation or complaint.

570 N. Magnolia Avenue, Suite 100
Clovis, CA 93611

tel 559.299.9540
fax 559.299.2344

www.ppcpas.com

Allegations and complaints received are ranked by risk, and investigative efforts are focused on those that represent the greatest risk to the City. The following shows how we generally classify types of tips based on risk:

High Priority – Matters that are considered high priority could include: potential loss to the City of more than $75,000, high level management involvement, collusion of multiple wrongdoers, major department-wide issues, or the need for immediate action to stop a potential major issue. These matters could take priority over other investigations and audits subject to the Internal Auditor's professional judgment.

Medium Priority – Matters that are considered medium priority could include: potential loss to the City of more than $25,000, include abuse of authority, medium-to-low-level employee involvement, minor department-wide issues, or patterns of small issues that could be significant cumulatively. Some medium-priority items could be referred to a department for further review.

Low Priority – Matters that are considered low priority could include: potential loss to the City of up to $25,000, comprised of isolated instances of time abuse, wasteful practices that could lead to efficiencies if corrected, or allegations that lack creditability and evidence. The Internal Audit Department would aim to investigate items in this list, but may not do so due to limited resources. Some low priority allegations could be referred to a department for their review.

Whistleblower Activity Report

The following allegations and complaints were received during the period of November 24, 2020 through May 18, 2021:

Incident #	Primary Type of Allegation	Source of Submission	Priority	Current Status
2021-1-1	Inappropriate use of city resources	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-1-2	Hostile work environment	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-1-3	COVID-19 safety concerns	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-1-4	COVID-19 safety concerns	Email	Low	Non-fiscal related; forwarded to appropriate department
2021-1-5	Unrelated to the City	Website	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-6	Unrelated to the City	Website	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-7	COVID-19 related	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-1-8	Hostile work environment	Email	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-9	Code violation	Website	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-10	Hostile work environment	Email	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-11	Compliance and regulations violation	Phone Call	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-12	Unauthorized access to information	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-1	Personnel complaint	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-2	Unauthorized access to information	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-3	Personnel complaint	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-4	Waste/abuse of resources	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-5	Code violation	Email	Low	Non-fiscal related
2021-2-6	Personnel complaint	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-7	Safety concerns	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-8	Ordinance violation	Website	Low	Non-fiscal related; forwarded to appropriate department

There were a total of 20 complaints/allegations received from November 24, 2020 through May 18, 2021.

Whistleblower Activity Summary

There are no current investigations related to the whistleblower monitoring. Many of the allegations received thus far are non-fiscal related and as appropriate, have been forwarded to the appropriate department.

City of Oxnard Whistleblower Program

PRICE PAIGE & COMPANY
Accountancy Corporation

Whistleblower Program

- In 2017, the City established a Whistleblower Program, contracted through Price Paige & Company, an independent accounting firm, to receive complaints from city employees and members of the public who wish to report an improper governmental action.
- Complaints received by Price Paige & Company (the “Firm”) shall remain confidential, and the identity of the complainant will not be revealed without the permission of the complainant, except to an appropriate law enforcement agency conducting a criminal investigation.

Whistleblower Program

- The Firm will only focus on fiscal related matters. Other matters received through the program will be forwarded to the appropriate department.
- After receiving a complaint, the Firm will evaluate the complaint for merit prior to launching an investigation. The Firm will not provide updates to the complainant or other parties until the matter has been fully investigated and reported.

Whistleblower Priority Assessment

- The Firm will screen the complaint for "*predication*".
- Predication is defined by the Association of Certified Fraud Examiner as *"the totality of circumstances that would lead a reasonable, professionally trained, and prudent individual to believe a fraud has occurred, is occurring, and/or will occur."*

Whistleblower Priority Assessment

Quantitative Assessment Categories:

High Priority:	Above $75,000
Medium Priority:	Between $25,000 to $75,000
Low Priority:	Less than $25,000

Whistleblower Priority Assessment

Qualitative Assessment Categories:

High Priority: Involves high level management, collusion of multiple wrongdoers, etc.

Medium Priority: Abuse of authority, medium to low employmee involvement, etc.

Low Priority: Isolated incidents of time abuse, wasteful practices, etc.

Whistleblower Activity Report

Complaints from November 24, 2020 through May 18, 2021:

Incident #	Primary Type of Allegation	Source of Submission	Priority	Current Status
2021-1-1	Inappropriate use of city resources	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-1-2	Hostile work environment	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-1-3	COVID-19 safety concerns	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-1-4	COVID-19 safety concerns	Email	Low	Non-fiscal related; forwarded to appropriate department
2021-1-5	Unrelated to the City	Website	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-6	Unrelated to the City	Website	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-7	COVID-19 related	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-1-8	Hostile work environment	Email	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-9	Code violation	Website	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-10	Hostile work environment	Email	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-11	Compliance and regulations violation	Phone Call	N/A	Non-fiscal related; forwarded to appropriate department
2021-1-12	Unauthorized access to information	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-1	Personnel complaint	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-2	Unauthorized access to information	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-3	Personnel complaint	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-4	Waste/abuse of resources	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-5	Code violation	Email	Low	Non-fiscal related
2021-2-6	Personnel complaint	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-7	Safety concerns	Website	Low	Non-fiscal related; forwarded to appropriate department
2021-2-8	Ordinance violation	Website	Low	Non-fiscal related; forwarded to appropriate department

Whistleblower Activity Report

Complaints from November 24, 2020 through May 18, 2021:

Primary Type of Allegation	Number of Complaints
Inappropriate use of city resources	1
Hostile work environment	3
COVID-19 safety concerns	2
Unrelated to the City	2
COVID-19 related	1
Code violation	2
Compliance and regulations violation	1
Unauthorized access to information	2
Personnel complaint	3
Waste/abuse of resources	1
Safety concerns	1
Ordinance violation	1
Total Complaints Received	**20**

- A total of 20 complaints have been received for the period above. None met the criteria or had sufficient information to pursue an investigation.
- All were considered to be non-fiscal related.

Whistleblower Activity Report

Complaints from FY2018 through FY2021:

Primary Type of Allegation	FY2018	FY2019	FY2020	FY2021	Total
Abuse of authority	0	0	1	0	1
Abuse of position or authority	1	0	0	0	1
Building safety concerns	0	1	0	0	1
Code violation	3	0	0	2	5
Compliance and regulations violation	3	0	1	1	5
Conflict of Interest	1	0	0	0	1
COVID-19 safety concerns	0	0	9	4	13
Customer service complaint	0	0	1	0	1
Employee relations	3	0	0	1	4
Employment practices	0	0	1	0	1
Heatlh Hazard	0	0	0	3	3
Hostile work environment	0	0	1	3	4
Inappropriate conduct	0	1	0	0	1
Inappropriate neighborhood activity	0	1	1	0	2
Inappropriate use of city resources	0	0	0	1	1
Inefficient use of city resources	0	3	1	0	4
Internal controls over billings	1	0	0	0	1
Internal controls over cash receipts	1	0	0	0	1
Noise complaint	2	0	1	0	3
None specific	0	0	2	2	4
Ordinance violation	2	0	0	1	3
Personnel complaint	1	1	0	4	6
Potential abuse of authority	0	0	1	0	1
Potential conflict of interest	0	1	0	0	1
Potential favoritism	0	2	0	1	3
Potential misappropriation of assets	0	2	0	0	2
Potential waste of overtime	0	1	0	0	1
Procurement	0	0	0	1	1
Procurement and budgeting controls	0	0	3	0	3
Public service complaint	0	0	1	0	1
Safety concerns	0	0	0	1	1
Sidewalk hazard	0	0	1	0	1
Unauthorized access to information	0	0	0	2	2
Unrelated to the City	7	0	0	3	10
Unsolicited City email	0	0	1	0	1
Unsolicited communication	0	1	0	0	1
Utility hazard	0	0	2	0	2
Waste/abuse of resources	0	0	1	1	2
Total Complaints Received	**25**	**14**	**29**	**31**	**99**

Whistleblower Activity Report

Complaints from FY2018 through FY2021:

- A total of 99 complaints have been received for the period above
- The top 3 categories of complaints include:
  - COVID19 safety concerns
  - Matters unrelated to the City
  - Personnel complaints
- To date, we have substantiated and investigated a total of 2 of the 99 complaints/allegations received as part of the Whistleblower Program.

City of Oxnard Whistleblower Program

Questions and comments?