Agenda Item No.: **48.**

AGENDA SUMMARY PAGE

CITY COUNCIL MEETING OF: APRIL 7, 2010

DEPARTMENT: CITY MANAGER
DIRECTOR: ELIZABETH N. FRETWELL ☐**Consent** ☒ **Discussion**

SUBJECT:
ADMINISTRATIVE

Report and possible action regarding the status of negotiations and concessions between the City of Las Vegas and the various bargaining units - All Wards

Fiscal Impact

☐ **No Impact** ☐ **Augmentation Required**
☐ **Budget Funds Available**

Amount:
Funding Source:
Dept./Division:

PURPOSE/BACKGROUND:
At the direction of Mayor and Council, the City Manager's Office will give a report of ongoing labor discussions and related fiscal issues. The report will provide a thorough review of labor concessions and fire negotiations at the city consistent with the intent of NRS 288.

RECOMMENDATION:
City Council to accept the report and give direction if necessary

BACKUP DOCUMENTATION:
Submitted after Meeting - PowerPoint Presentation by Staff

Motion made by GARY REESE to Accept the report

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0
RICKI Y. BARLOW, LOIS TARKANIAN, STEVE WOLFSON, OSCAR B. GOODMAN, GARY REESE, STEVEN D. ROSS, STAVROS S. ANTHONY; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:
CITY MANAGER ELIZABETH FRETWELL gave a historical perspective and reason for the report. Through a PowerPoint presentation, she explained that the City is required to recognize employee groups that decide to become represented and is covered under NRS 288, which focuses on negotiations and labor management relations between those organized and recognized labor groups and the City of Las Vegas. It determines what is mandatory for bargaining purposes, how the City determines the ability to pay, how to use arbitrators and prevents state and local government employees from striking.

Collective bargaining agreements exist because of a state law that requires these rules must be followed.

During the last legislative session, SB 427 was adopted requiring the City Manager to provide a public hearing within 45 days, describe issues negotiated, describe the fact finder recommendation or arbitrator decision, and the fiscal impact of the recommendations. As this was discussed, the report would be done at the end of the process, so an agreement would be made and the decision would be made public.

After discussions and briefings, many of the Councilmembers had indicated to follow the spirit of the intent of the law and to create greater transparency so that everyone knows how the result was reached. The request was for regular reporting in public describing the current status of negotiations.

Pursuant to COUNCILMAN WOLFSON'S request, CITY MANAGER FRETWELL provided the General Fund history report that reveals that the City's expenditures have exceeded revenues for the last three to four years. Consequently, expenses have been significantly curtailed.

For Fiscal Year 2011 (FY11), the $493 million in expenditures is still higher than what revenues are anticipated for next year. The red line of expenditures does not anticipate any concessions. The gap between the red and the green lines in FY11 will be filled with further cuts or reserves.

Looking back to FY 2007, every penny went toward capital projects by budget policy. The reason for few capital projects is because more is being spent than revenue being generated.

COUNCILMAN BARLOW asked the City Manager to explain the dollar difference between revenue and expenditure for FY11. CITY MANAGER FRETWELL explained that the difference is a shortfall of about $53 million.

CITY MANAGER FRETWELL provided a chart detailing the previous concessions and labor negotiations with the Las Vegas City Employees Association (LVCEA), Las Vegas Police Officers Association (LVPOA), the Las Vegas Protective Police Association (LVPPA) and the International Association of Fire Fighters (IAFF). The IAFF contract is open for wages and insurance for FY11 and the parties are currently in negotiations.

She explained that a request was made in November 2009 of all bargaining units to eliminate normal contractual growth, such as COLA (Cost of Living Adjustment), steps, merit and longevity, and a wage reduction of 8 percent for FY11 and 2012. She provided an outline of what the savings would equate to. She verified for COUNCILMAN REESE that the $21.5 million and the $20 million figures have not changed.

COUNCILMAN WOLFSON stated that many ask him what a COLA is and why it is received. He understands it is a bargaining adjustment. He asked how many years COLA eligible City employees have received the adjustment. CITY MANAGER FRETWELL replied, that based on an analysis for the last 15 years, eligible employees received adjustments on an annual basis.

The Councilman asked if the cost of living for the last 15 years increased and is it continuing to increase or has the cost of living actually increased. MARK VINCENT, Chief Financial Officer, replied that the Western State Consumer Price Index (CPI) has increased for those 15 years, it will be negative but for calendar year 2009. The CPI has averaged about 2.8 percent. For calendar year 2010 and 2011, he believes it will be flatter than normal.

COUNCILMAN REESE pointed out that during those 15 years, the cost of living went up but salaries increased exponentially. COUNCILWOMAN TARKANIAN verified that the cost of living increase that toward what had been accumulated through the years, including base salary.

CITY MANAGER FRETWELL stated that an analysis done a year ago showed the City's wage growth against the Western States CPI, and each year the City exceeded the Western States CPI.

COUNCILWOMAN TARKANIAN discussed with the City Manager that the negative COLA in 2009 is not deducted because the bargaining agreements indicate a COLA that goes up is not necessarily tied to the CPI. If the CPI was going down and was negative for 2009, the City was providing COLA for each bargaining agreements. COUNCILWOMAN TARKANIAN opined that the general public's perception is that employees receive a COLA concurrent with the CPI.

DAN TARWATER, Employee Relations Manager, Human Resources, stated that historically in the Valley when there is a COLA negotiated, that becomes the base and six months later another union is bargaining. That base is usually what they are bargaining from, and then it spirals up.

MR. TARWATER provided a PowerPoint presentation outlining the current offers and proposals by the LVCEA, LVPOA, LVPPA and the IAFF.

He summarized his statements and indicated that the targets were the dollar amounts used at the beginning of each concession meeting. He stressed concession meetings are on-going with the bargaining units.

MR. TARWATER provided an overview of the IAFF labor negotiations Articles which began February 16, 2010. He summarized that FY11 goal is $29.7 million; the offers from each bargaining unit totals $10 million with a difference of $19.7 million.

CITY MANAGER FRETWELL clarified that the executive and appointive employees have not received an adjustment for many years. She clarified for COUNCILMAN WOLFSON that executives consist of the City Manager, Deputy City Managers, directors, and managers. The appointive employees are non-classified employees who provide professional support. They could be management analysts, council liaisons, some executive assistants, and administrative support. Less than 300 emplpyees make up the executive and appointive employees.

MR. VINCENT explained that remaining flat is worth about 4.5 percent, plus the 8 percent that represents more a 12.5 percent reduction. Therefore, it is not closer to a 4.5 percent rollback but probably closer to 2 percent.

Regarding the IAFF'S concession of a year ago, MR. VINCENT explained that in lieu of not receiving a COLA, the City absorbed the employee share of the Public Employees Retirement System of Nevada (PERS) increase, at a cost of 1.5 percent. Under the PERS' law, the City is an employer-paid system. If PERS goes up 3 percent, the employer pays the entire 3 percent, because the system requires that the employee pay its half. If the employee's salary stays flat, in a year that the PERS contribution goes up, half of that contribution rate is assumed to be a COLA that the employees gave up. CITY MANAGER FRETWELL added that something similar was done with the executive and appointive employees, salaries were adjusted by .5 percent to compensate for the PERS rate increase.

CITY MANAGER FRETWELL pointed out that no bargaining unit offers have been rejected and are still being negotiated in good faith, despite the rumors. She hopes the report has shed some light to the process of labor negotiations so that when a resolution is reached with all or some of the bargaining units, it will be clearer how the end was achieved for the employees, citizens and for the City Council, who ultimately would have to make a decision about whether or not those are the right agreements for the City at this time.

MAYOR GOODMAN asked for a chronology of the important dates that have to be met. CITY MANAGER FRETWELL replied that the final budget hearing is on May 18, 2010 and the budget needs to be submitted by June 1, 2010. The window is closing, but there is a plan for the $493 million dollar budget. The reserves will be used more than what was reported in March, based on the current year's revenue performance. It is anticipated that there will be a significant gap of $52 million, and that $493 million does not include concessions.

MAYOR GOODMAN remarked that fairness requires, at least, an offer to the representatives to the various bargaining units. If the representations made are inaccurate, this would be the chance for the bargaining units to correct the record.

COUNCILMAN REESE verified with CITY MANAGER FRETWELL that there is a mandate in the budget policy that a 12 percent ending fund balance be retained in the reserve. About two years ago the City Council changed that percentage to 10 percent. There is no mandatory amount required in the reserves. However, the 10 percent reserve is about five weeks of cash flow for the City of Las Vegas. A section of NRS indicates that a little bit more than 8 percent of the ending fund balance is protected from bargaining.

COUNCILWOMAN TARKANIAN asked for a hard copy of the PowerPoint presentation. The Mayor indicated it would be helpful if a hard copy is provided before any future presentations.

COUNCILMAN BARLOW asked for clarification on the 12 percent ending fund balance as it relates to the Councils position or policy years prior and what that fund balance currently is or what is being reduced to from that 12 percent. CITY MANAGER FRETWELL explained that this year, a $31 million deficit was budgeted, which anticipates a draw down in the ending fund balance from where it closed last June 30 through the course of this year. The estimate is to use between $26 million and $28 million of the reserve. She specified that when the proposal was brought to the City Council in November to make adjustments in the mid year because of declining revenues, $493 million was identified to be a reasonable number. The exact same budget number that is being recommended that the Council approve for FY11 is the number recommended for FY10. Every department director and every representative from each bargaining unit is doing his/her very best to hit that $493 million for current FY10. She is confident that it will be close to that number. The approved budget was $528 million. This shows that revenues have declined even though expenses have been cut significantly from $528 to $493.

She is hopeful that over the course of the next three months, the target will be reached. However, she cautioned that revenues are dropping at such a precipitous rate that cutting expenses is not enough and will have to dip into the reserves more than she would like to in this current year, which will have dramatic impacts on the fiscal year budget. During the tentative budget on March 10, 2010, she suggested making close to $31 million in cuts from personnel, services and programs, and also drawing down reserves by $38 million. That estimate is now closer to $53 million. Significant work needs to be done and be extremely aggressive in resolving that structural deficit.

MR. VINCENT added that there has been a significant reduction in the franchise tax revenues, in particular electric bills. The downturn in the economy has impacted the license tax revenue related to gross receipt license fees. Lower interest rates have resulted in less interest income.

Regarding the 12 percent ending fund balance, MR. VINCENT indicated that there is no statutory requirement, but industry standard recommendations by government finance associations, could be anywhere from 8 to 15 percent. About ten years ago, the City established a policy of a 12 percent ending fund balance policy. Two years ago it was revised to 10 percent because the bond raters look at the 10 percent reserve policy.

CITY MANAGER FRETWELL indicated that there is 8.125 percent that is not subject to mandatory bargaining. It is important to recognize there is a reserve, which is a cash flow to meet salaries, of at least five weeks.

MR. VINCENT indicated that 8 percent at the end of FY11 will represent about $40 million. CITY MANAGER FRETWELL remarked that the City is completely dependent upon state transfers; some are three months in arrears. Therefore, the cash flow issue is a significant concern, as well as having adequate reserves to preserve the bond rating.

MR. VINCENT added that there is no way of predicting unexpected events, the reserves give the City time to plan through unforeseen events.

COUNCILWOMAN TARKANIAN noted that Los Angeles had to institute a two-day furlough because of the loss in its reserve funds.

COUNCILMAN WOLFSON referred to the chart regarding the general fund history. He opined that all efforts must be geared, not only for today, but for the future.

CHRIS COLLINS, Executive Director of the LVPPA, stated that a proposal was made six weeks ago. Even though it has not been rejected, no work was done on it. He has not heard any response as to what the proposal is or where it is. At this point, it is not the union's fault. He does not believe the PPA and the City are in formal contract negotiations as per NRS 288. He does not believe SB 427 has anything to do with what they have been doing. That statute clearly calls for a letter to open negotiations, but there has been no letter and only have had unfruitful discussions.

Las Vegas should utilize its own CPI and not the Western States CPI. The workforce he represents is a young workforce, who has purchased homes in the last three or four years. The CPI will be down because of the housing market, but employees still have to pay mortgages.

MAYOR GOODMAN appreciated MR. COLLINS' advocacy on behalf of the employees he represents, but he reminded MR. COLLINS to comment on the factual statements made by CITY MANAGER FRETWELL, MR. TARWATER or MR. VINCENT.

MR. COLLINS noted that PERS only consideres the last three years. He agreed that appointive employees received no COLA but they received time off in lieu of an increase. The time off is equivalent to a 2 percent COLA. This is not being offered to any of the union members, and he suggested this could be a concession.

These contracts were not negotiated in a vacuum, but rather the union sat down with the negotiation teams, came to an agreement and brought the contract before the City Council and they were approved. To make the unions solely responsible for these contracts is not fair.

COUNCILMAN REESE indicated that he has voted on many of these contracts and appreciates the good faith shown during the negotiations in good times, and he asked to continue to negotiate in good faith in bad times.

COUNCILWOMAN TARKANIAN remarked that things have changed, and it is hard for the Council to take action on these issues. She clarified with MR. COLLINS that the appointive employee he was referring to who received days off was the City Attorney. MAYOR GOODMAN verified that that was part of his contract negotiations.

The Councilwoman indicated that there are no resources to do what was done in the past, and that is why the unions are being asked for additional cutbacks. MR. COLLINS rebutted that the unions are willing to work with management, and he believes the LVPPA has made a fair offer.

DON KING, President of the LVCEA, commented that the CEA offered to tie the wage increases to the CPI but was turned down by the City. There used to be a provision in the contract that allowed either side to open the contract if it was one percent, plus or minus, outside of the CPI. Again, City management removed that provision. He suggested these things might be looked at during future negotiations.

BRUCE SNYDER, LVCEA General Counsel, referred to the summary slide showing the City seeking $16.7 million from the LVCEA, and that the CEA's offer to date was worth $8.7 million. However, in that calculation the CEA is only getting credit for only 2 percent for the 3 percent COLA the CEA is giving up. Management claims that 1 percent was given last year. The CEA proposal should be around $10.2 million out of the $16.7 million that the City requested. The CEA should get credit for the 1 percent, because the agreement reached with the City last year imposed three conditions in order for the City to take the 1 percent. His belief is that the City has not met all of the three conditions. Management did not meet the condition that the City must have made reasonable efforts to obtain substantial similar concessions from other unions.

The second clarification is that the CEA's offer said that any money given back to the City was to buy back the laid off positions. The CEA is scheduled to have 121 people laid off out of 142. The CEA offer is really worth $10.2 million and that that $10.2 million could be used to bring back about 100 employees.

COUNCILMAN BARLOW asked CITY MANAGER FRETWELL to clarify the $10.2 million referred to by MR. SNYDER. CITY MANAGER FRETWELL clarified that it is an accurate reflection of the discrepancy. MAYOR GOODMAN remarked he did not want the discussion to turn into a bargaining session. He wanted to give the bargaining units an opportunity to clarify the record. He does not feel this is the appropriate forum to negotiate. COUNCILMAN BARLOW felt he needed the clarification in order to understand the presentation.

MR. VINCENT explained that the FY11 goal assumed the reduction of the COLA by 1 percent. Therefore, the goal is predicated on a 2 percent COLA. To inflate the offer by 1 percent, he would have to inflate the goal by an extra 1 percent.

DEAN FLETCHER, President of the Las Vegas Fire Fighters, referred to the Revenue and Expenditure slide, and clarified that they did not have expenditures exceed revenues in FY09, as the graph represented. Therefore, that is a budgeted amount, not an actual amount. He offered to provide the facts to backup his comment.

MR. FLETCHER referred to the CPI for December 2009 at 2.8%, January at 2.5 percent and February of 2010 at 2.0 percent. That is not a flatline as stated by MR. VINCENT. The firefighters made offers that were not mentioned, and on-going negotiations continue, which he hopes MR. TARWATER with share with the City Council during the Closed Session.

CITY MANAGER FRETWELL hopes that this discussion creates more transparency. She recognizes this is above and beyond SB 427 requirements, and it is to assist, not only the public, but also the Council, employees and the process so that when a conclusion is reached, it will be clear.

MAYOR GOODMAN was pleased that everyone was given an opportunity to speak. It is important for the public to understand what the parties are facing.

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MAYOR GOODMAN commented that he tried to tone down his rhetoric for the past two weeks in an effort to give those at the discussion tables the opportunity to reflect and not be defensive. There is no question in his mind, after agonizing over this issue with other members of the City Council, and taking this as seriously as one can take any matter that the Council has had to deal with, that the condition of the City is going from serious to critical. Every time the financial forecast reports on where the City stands financially, the news gets worse. He is speaking for himself but, at the same time, for the Council because they have had closed door sessions and chats with one another. The Council has a moral and fiduciary obligation to address this so that the critical condition does not erode any further.

Referring to the revenue and expenditures chart, the Mayor remarked that without the 8 percent salary reduction, the City would have to look at alternatives, such as reducing staff by terminating employees whose service to the City is appreciated, reduce services to constituents and look to privatization. It is not a threat but a fact. The window is closing quickly and there will be no time to rectify the a sad situation of losing 141 employees. He urged the City and all bargaining units to do whatever they can to get to the 8 percent, plus flat, in order to reduce teh gap between expenditures and revenues

COUNCILMAN REESE stated these are difficult times, and he looks forward to bringing this to a conclusion as soon as possible.