

**Minutes of Meeting
Board of Trustees
Police & Fire Employees' Retirement Fund
November 9, 2010 (Revised as of January 25, 2011)**

A meeting of the Board of Trustees was called to order at 5:35 p.m. in EOC room Basement Level, City Hall, 6801 Delmar.

Member in Attendance: Diane Sher, Anne Silverstein, Jaime Mendez, James Carr, Mark Winer, Fred Kramer, Tom Deken

Members Absent: None

Others in attendance: Janet Watson, Deputy City Mgr/Finance Dir (Treasurer)
John Mulligan, City Attorney
Tom Mug, Attorney

The meeting was called to order.

Change in Requirement for Service Retirement – Retroactive Status

Ms. Watson stated that the reason for the meeting was that City Attorney Mulligan had presented certain research about the retroactive aspect of this change in service age. This was important since there was one recent retirement which would benefit from this change as approved.

Mr. Mulligan stated the law has been clear that there is no ability to grant retroactive benefits. There is state statute prohibiting granting compensation after services are performed or making a gift (giving away of public money). Missouri law states that retirement is a form of compensation. If not due at the time of retirement (date of entitlement) it is not allowed, except periodic cost of living increases.

When laws are applied to the most recent proposal, it would be changing the rules for an employee who is not otherwise eligible for benefits. This action would be awarding five years or more of benefits after the fact, or as a gift. These provisions are well known in Missouri municipal law. Mr. Mug agreed with this information.

Member Carr asked Member Kramer about his perspective. Member Kramer said he had already distributed information to staff about the retroactive decision. Mr. Mulligan stated he has advised previous city administrations in years past of this legal information. Member Kramer asked if the board could be sued if we allowed the retroactive benefits. Mr. Mulligan stated that a taxpayer could sue because a retiree received too much money. Member Deken asked if this employee could sue the city for five years of benefits. Mr. Mulligan stated he would not have a claim since the benefits were not due him.

Member Deken asked about whether the City could make any other change to allow this retiree to receive the benefits such as bringing the person back (re-hire) to allow the pension, as this would then be prospective in nature. Member Winer asked whether the

board was stating that nothing could be done for that employee. Member Sher asked if other employees could retire before the City Council takes a vote on this amendment? Member Winer wondered if there was any reason why making the amendment prospective would harm the City in any way. Mr. Mulligan answered that a lawsuit filed by someone who retires cannot be a claim for benefits when such benefits were passed at a later date. Member Deken stated he only wanted to do what was legal, but that the amendment should be passed as soon as possible because employees are ready to retire now. Ms. Watson stated that there was a state required 45-day posting of the notice prior to making a plan change. Member Winer stated that he believed the board was taking this action for fairness.

Member Silverstein made the following motion:

In view of legal advice and further discussion, the Board withdraws its previous recommendation for a change in requirement for service retirement in regard to retroactive status.

Member Winer seconded the motion and it passed unanimously.

Member Deken made the following motion:

The Board recommends to the City Council a change, on a prospective basis, to the normal service retirement allowing employees to retire after completing 25 years of membership in the Police & Fire Pension Fund and then to begin receiving benefits at age 50.

Member Kramer seconded the motion and all approved.

Adjournment

Member Deken moved to adjourn the meeting. The motion was seconded by Member Silverstein and carried.

From: Diane Sher [REDACTED]

Sent: Thursday, November 11, 2010 10:30 AM

To: 'Anne Silverstein'; 'Anne Silverstein'; 'Diane Sher'; Frederick Kramer; 'James Carr'; 'Jamie Mendez'; Janet Watson; 'Mark Winer'; 'Michael Glickert'; 'Stephen Siepman'; Tom Deken

Subject: Recommendation to the Council: Executive Summary

FYI, after our adjournment last evening, Janet, Mike, Tom and I had an informal discussion regarding the next steps in the process of this effort and its hopefully smooth approval process. We agreed that Tom would prepare for our review and potential approval an "Executive Summary".

The purpose of this exercise, as it was with the Ordinance revisions, is to briefly outline in plain language the issues and assist the Council with its understanding and their possible questions. This would more thoroughly summarize our efforts and considerations as well as highlight the budget / expense positives while allaying possible concerns that this would increase the future obligations of the plan. Please watch for an email in the coming days.

We are all welcome at the Council Meeting on December 13th. Thanks for all you do for U City. Diane

Diane Sher, CPA, PFS, CFP®, AIF®
President



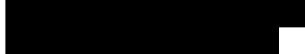
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TO: City Council

FROM: Police & Firefighter Pension Board Employee Representatives

DATE: November 30, 2010

SUBJECT: Executive Summary regarding Pension Board Recommended Changes to Retirement Service Requirements

For more than twelve months the Police and Firefighter Pension Board has been discussing a change in retirement service requirements for police and firefighters. This is not related to the pension plan updates currently before the City Council and does not affect any employee who has already terminated employment with the City.

Results of Review and Recommendations

The project included a review of the current qualifications for normal retirement and the preparation of an actuarial cost study which was funded by the police association. Currently, the earliest opportunity qualifying for “normal service retirement” is to have twenty-five (25) years of service AND to reach age fifty (50). The fundamental reason for this requested change to the pension is fairness. Current pension rules potentially allow some members to draw their retirement pay as much as five years earlier than other members who have more service time.

As an example, two employees may have been hired on the same date with one being 20 years old and one being 24 years old. The older employee could retire at age 50 because the employee would meet both the age and service requirement (age 50 with 25 years of service). The younger employee would need to work 29 years to meet both the age and service requirement. If the employee left employment after 25 years of service, the employee could not draw his retirement benefits until age 55 per the current ordinance.

We believe the proposed change benefits the pension fund because it reduces the payout to those who have met their 25 year service requirement and terminates employment before becoming age 50. When the member separates service, the fund pays one percent (1%) less for each year the member is less than 50 years of age. The average salary for the early “retiree” would also be less, as they would not add pay raises or cost of living increases in the year(s) between separation from service and the actual date they began drawing retirement pay.

In the example above for the younger employee, with this proposed change the employee could meet the 25 years of service requirement and leave employment. Then when the employee reached age 50 they would begin receiving retirement benefits. The fund would pay 5% less (1% for each year of service) on a lower average salary.

Without this change in place, pension members with 25 years of service are highly unlikely to leave before they are 50 years old. In the same example, this employee would

likely not leave service until he was 55 or he would forfeit more than \$150,000 over the five year period he was required to wait to receive benefits.

In the history of the pension fund, employees can recall only one member with 25 or more years of service who left the city's employment before reaching 50 years of age. That member made a lateral move to a job with higher pay.

The proposed change also benefits the City by replacing those employees with higher salaries (top base pay) and numerous accrued benefits (higher accruals of vacation leave, sick leave and longevity pay) with newer employees having lower base pay and entry level benefits.

The actuarial cost study performed provided for a 0.28% of payroll as the cost for this change to occur. This cost appears minimal and is only slightly above the amount (0.25%) which required any legal posting per state statutes. We believe that employee behavior may change enough that it may actually be a savings to the pension plan as described above, and to the City as well.

At the Board's last meeting it voted to recommend a prospective change to the normal service retirement allowing employees to retire (leave service) after completion of 25 years of membership in the Uniformed Pension Fund and then to begin receiving benefits upon reaching age 50.

Scheduling

Assuming introduction of the bill at the December 13, 2010 City Council meeting, due to the forty-five (45) legal posting requirement the change cannot be passed by the City Council until the regularly scheduled City Council meeting of February 8, 2010.

From: Janet Watson

Sent: Monday, December 13, 2010 2:21 PM

To: 'Anne Silverstein'; 'Anne Silverstein'; 'Diane Sher'; Frederick Kramer; 'James Carr'; 'Jamie Mendez'; Janet Watson; 'Mark Winer'; Michael Glickert [REDACTED]; 'Stephen Siepman'; Tom Deken

Subject: Police & Fire service requirement change

Board Members,

The City Manager has asked that the attached ordinance for the pension requirements be pulled from tonight's agenda and a council study session will be planned on this topic instead. I will let you know when that study session is planned.

From: Diane Sher [REDACTED]

Sent: Monday, December 13, 2010 4:43 PM

To: 'Anne Silverstein'; 'Anne Silverstein'; Frederick Kramer; 'James Carr'; 'Jamie Mendez'; 'Mark Winer'; 'Michael Glickert'; 'Stephen Siepman'; Tom Deken

Cc: Janet Watson

Subject: URGENT; RESPONSE REQUESTED RE: Proposed Police & Fire service requirement change and Board's position

Good afternoon, All. I trust you stayed warm and had a good weekend.

As you should recall from my email of 11/11, I had asked that Tom respond to Janet with an Executive Summary on this issue. This was in an effort to once again give the Council enough information and understanding as well as anticipate their questions with a successful outcome. As I have said throughout this discussion, "many will perceive this as an increase in benefits in a fiscally challenging time" if not handled well.

I stated in the email we would all review and approve the summary it prior to any dissemination to the Council which Janet had agreed to do. Having not received anything I emailed Janet again 11/24 – no response. So the Executive Summary was sent out in Council packets last week without our Board review of the document. All of us have now seen it this afternoon. I have yet to review it.

And I understand that there are now questions from our fellow citizens as well as from our Board regarding our recommendation to the Council fielded by Janet. I think it was a good idea on the part of the City Manager to pull this from tonight's Agenda. He has proposed a Study Session. I'm not sure we want to do this because I don't think a Study Session is the place for our Board to debate our position which was previously decided by a unanimous vote. We may have to delay and revisit this on our own.

In the future, please include me in your communications regarding our Board activities. In the meantime, please contact me as soon as possible on this issue with your comments, so I may understand your positions rather than react to what I have been told second hand. Obviously, email me anytime or call me between 4 – 5 PM tomorrow here at the office. Email me with the approximate time of your call, so I can plan accordingly.

Thanks again for all you do for U City. Diane

Diane Sher, CPA, PFS, CFP®, AIF®
President



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