

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 18

DATE: December 16, 2008

STAFF: Chuck Seest

SUBJECT

Resolution 2008-130 Adopting the Seventh Amendment to the City of Fort Collins General Employees' Retirement Plan as Amended and Restated December 31, 2001.

RECOMMENDATION

Staff and the General Employees Retirement Committee recommend adoption of the Resolution.

FINANCIAL IMPACT

Based upon discussions with both the City Attorney's Office and outside counsel who assist the General Employees Retirement Plan ("Plan") with technical matters, the IRS tax law changes would not have a financial impact on the Plan as the changes relate to upper limits on annual benefits provided by defined benefit plans in general.

Although there is no direct financial impact, the Plan needs to incorporate all changes required by the IRS in order for the Plan to remain in good standing with the IRS. It should be noted that the Plan Document will be submitted to the IRS by January 31, 2009 for an updated determination letter.

EXECUTIVE SUMMARY

By adoption of this Resolution, Council would incorporate mandatory technical tax law changes from the final Treasury Regulations under Internal Revenue Code Section 415, effective January 1, 2008 into the General Employees' Retirement Plan ("Plan").

The General Employees Retirement Committee ("GERC") met on November 13, 2008 and held a discussion on this item. The GERC recommends that the City Council approve the Seventh Amendment to the Plan.

ATTACHMENTS

1. Draft copy of minutes from the GERC November 13, 2008 Meeting.



Approval of Work Plan for 2009

The Committee reviewed the work plan document for 2009. Bill Switzer moved to accept the work plan as written and Rick Richter seconded the motion. Motion passed unanimously.

Approval of Hiring Legal Services for Plan Amendment and Submission of the Plan to the IRS by January 31, 2009.

Rick Richter moved to hire attorney Dan Lacomis to assist in preparing the correct information to submit to the IRS. Jim Lathrop seconded the motion and the motion passed unanimously.

→ Approval of the Plan amendment to be considered by City Council in December.

The purpose of this resolution is to inform City Council that the GERP is being brought into compliance with new IRS regulations.

Jim Lathrop moved that the GERP Committee approve taking this resolution to the City Council meeting on December 16th 2008. Rick Richter seconded the motion the motion passed unanimously.

Monthly Investment Report

Harold Hall reported that three funds the GERP has invested in have increased their Morningstar rating from two to three stars and are performing well. The total portfolio is down 18.94% year to date. Harold recommends staying on the current investment path for now, and he will be watching the market closely. Pat Kahle said that in her experience, other similar plans are currently down 25% or more so the GERP is still doing well comparatively.

Discussion of Board Vacancy

Jim O'Neill reminded the Committee of the upcoming vacancy. There were two applicants for the vacancy, and interviews will be held on Monday, November 17th.

Other Business

Pat distributed a Public Plan Survey (of large pension plans) to the group for use as a guideline or comparison to the GERP.

The next meeting is scheduled for December 11th, but Jim O'Neill stated that he'd like it to be moved to the December 18th. The annual luncheon will occur first, at 12:00 noon, followed by the meeting at 1:15pm. Bill Switzer moved to change the meeting date and Rick Richter seconded the motion. Motion passed unanimously.

At 1:50 pm, Jim Lathrop moved to adjourn the meeting and Rick Richter seconded the motion. Motion passed unanimously.

RESOLUTION 2008-130
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING THE SEVENTH AMENDMENT TO THE CITY OF FORT COLLINS
GENERAL EMPLOYEES' RETIREMENT PLAN
AS AMENDED AND RESTATED DECEMBER 31, 2001

WHEREAS, the City adopted, effective January 1, 1971, a qualified defined benefit pension plan known as the City of Fort Collins Employees' Retirement Plan (the "Plan"), for the purpose of providing retirement benefits for certain of its employees; and

WHEREAS, the City has amended the Plan from time to time and restated the Plan to incorporate all prior amendments and other changes required by law effective December 31, 2001; and

WHEREAS, the City Council adopted the first amendment to the 2001 Restated Plan effective January 1, 2002, via the adoption of Section 2 of Resolution 2001-157, the second amendment to the 2001 Restated Plan effective January 1, 2002, via the adoption of Resolution 2002-103, the third amendment to the 2001 Restated Plan effective July 1, 2003, via the adoption of Resolution 2003-078, the fourth amendment to the 2001 Restated Plan effective April 10, 2006, via the adoption of Resolution 2006-029, the fifth amendment to the 2001 Restated Plan effective March 20, 2007, via the adoption of Resolution 2007-029, and the sixth amendment to the 2001 Restated Plan generally effective January 1, 2008, via the adoption of Resolution 2008-007; and

WHEREAS, the Retirement Committee ("the Committee") has recommended to City Council a seventh amendment to the 2001 Restated Plan to incorporate mandatory technical tax law changes from the final Treasury Regulations under Internal Revenue Code Section 415, effective January 1, 2008; and

WHEREAS, the City Council wishes to adopt the recommendation of the Committee; and

WHEREAS, Article XV, Modification or Termination of Plan, Section 2 of the 2001 Restated Plan, authorizes the City Council to amend the terms of the 2001 Restated Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS, COLORADO, as follows:

Section 1. That effective January 1, 2008, Section 1 of Article XVI of the City of Fort Collins General Employees' Retirement Plan is amended to read as follows:

Section 1. Limitation of Benefits. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a Member from this Plan provided by City contributions shall be subject to the limitations of ~~IRS~~ Code Section 415 in accordance with ~~subparagraphs a. and b.~~ ~~through e.~~ below:

a. Any annual Pension payable to a Member hereunder shall not exceed the “defined benefit dollar limitation” under IRS Code Section 415(b), which is \$160,000, as adjusted under IRS Code Section 415(d) in such manner as the Treasury Secretary shall prescribe, and payable in the form of a straight life annuity.

b. **Determining Limitation if Benefit Not Single Life Annuity:** If the form of benefit is other than a single life annuity, such form must be adjusted to an Actuarially Equivalent single life annuity. For Limitation Years beginning on or after July 1, 2007:

1. The Actuarial Equivalent of a Plan benefit payable in a form not subject to Code Section 417(e)(3) means the actuarially equivalent straight life annuity equal to the greater of the annual amount of the straight life annuity payable to the Member under the Plan commencing on the same date as the Member’s form of benefit and the annual amount of the straight life annuity commencing on the same date that has the same actuarial present value as the Member’s form of benefit, computed using a five percent (5%) interest rate assumption and the mortality assumption set forth in Section 2.b. of Article II.

2. The Actuarial Equivalent of a Plan benefit payable in a form subject to Code Section 417(e)(3) means the actuarially equivalent straight life annuity equal to the greater of the benefit computed using the Plan’s interest rate and mortality table used for Actuarial Equivalence for the particular form of benefit payable to the Member on the benefit commencement date and the benefit computed using a five and one-half percent (5.5%) interest rate assumption and the mortality assumption set forth in Section 2.b. of Article II, commencing at the same date. For Plan Years beginning after December 31, 2005, the Actuarial Equivalent of a Plan benefit payable in a form subject to Code Section 417(e)(3) means the actuarially equivalent straight life annuity payable on the Member’s benefit commencement date equal to the benefit computed using the mortality assumption set forth in Section 2.b. of Article II and an interest rate assumption that is the greatest of:

i. Five and one-half percent (5.5%);

ii. the rate that provides a benefit that is not more than one hundred five percent (105%) of the benefit that would be provided if the “applicable interest rate” under Code Section 417(e)(3) were the interest rate assumption; or

iii. the rate used for Actuarial Equivalence for the particular form of benefit payable.

No adjustment is required for the following: qualified joint and survivor annuity benefits; pre-retirement disability benefits; pre-retirement death benefits; and post-retirement medical benefits.

c. The maximum annual Pension shall be adjusted when required, as provided

in paragraph 1. below, and if applicable, 2. or 3. below).

1. ~~Fewer Than~~ **Adjustment for Less than Ten (10) Years of Service or Participation** : If the Member has fewer than ten (10) years of participation in the Plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the Plan and (ii) the denominator of which is ten (10). **If the Member has fewer than ten (10) years of service with the Employer, the defined benefit compensation limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of service with the Employer and (ii) the denominator of which is ten (10). The provisions of this subparagraph 1. shall not apply to distributions made on account of a Member's Disability or Death.**

2. **Payment Beginning before Age 62.** If payment to a Member commences before the Member attains age sixty-two (62), the defined benefit dollar limitation applicable to the Member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the Actuarial Equivalent of the defined benefit dollar limitation applicable to the Member at age sixty-two (62) (adjusted under paragraph 1. above, if required). The defined benefit dollar limitation applicable at an age before age sixty-two (62) is determined as the lesser of (i) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table specified in Section b. of Article II of the Plan, and (ii) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using a 5% interest rate and the mortality table specified in Section b.(3) of Article II of the Plan. **Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (b) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.**

3. **Payment Beginning After Age 65.** If payment to a Member commences after the Member attains age sixty-five (65), the defined benefit dollar limitation applicable to the Member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is the Actuarial Equivalent of the defined benefit dollar limitation applicable to the Member at age sixty-five (65) (adjusted under paragraph 1. above, if required). The Actuarial Equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as the lesser of (i) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table specified in Section b. of Article II of the Plan, and (ii) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using a 5% interest rate and the mortality table specified in Section b.(3) of Article II of the Plan. **For these purposes, mortality between age sixty-five (65) and the age at which benefits commence shall be ignored.**

(d) In no event shall a Member's maximum annual Pension allowable under this

Section be less than the annual amount of Pension (including Early Retirement Benefits and qualified joint survivor annuity amounts) duly accrued by such Member under IRS Code Section 415 limitations then in effect as of December 31, 1982 (disregarding any ~~plan~~Plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount).

b. e. Aggregation of Employer Plans. In applying the limits of this Article XVI, Section 1, all defined benefit plans sponsored by the Employer are treated as a single plan. Benefits payable under any other plan with respect to a Member shall be reduced to the extent possible before any reduction will be made in such Member's benefits under this Plan, if necessary to observe these limits.

Section 2. All other terms and provisions of the Plan shall remain unchanged and in full force and effect.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 16th day of December A.D. 2008.

Mayor

ATTEST:

City Clerk