TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING
HELD ON THURSDAY, DECEMBER 3, 2009

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting was called to order on Thursday, December 3, 2009, at 2:00 p.m., at 355 S. County Road, Palm Beach, Florida 33480, in the Central Fire Station, in the Emergency Operations Center (EOC). On roll call, all elected officials were found to be present.

II. PLEDGE OF ALLEGIANCE

President Rosow led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion made by Council Member Diamond, seconded by Council Member Kleid, to approve the Agenda. On roll call, the motion carried unanimously.

Town Manager Elwell called attention to an additional item on the Agenda regarding work on Tangier Avenue.

Amended motion made by Council Member Diamond, seconded by Council Member Kleid, to approve the Agenda as amended. On roll call, the motion carried unanimously.

Resolution No.123-09

Public Works Director Paul Brazil presented the following item regarding an emergency sanitary sewer repair; he displayed photos of the failure to the Council. Staff recommended approval of Resolution No. 123-09 to allow repairs with an anticipated budget of $267,000, and authorization of Town Manager Elwell to enter into a contract with Dee Griffin Earthworks for $237,000, which included a small contingency.

Town Manager Elwell noted that there were sufficient funds to draw from without making additional appropriations at this time.

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01/29/2010

RESOLUTION NO. 123-09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A CONTRACT FOR EMERGENCY SEWER IMPROVEMENTS FOR THE E-6 FORCE MAIN, A FUND 307 PROJECT, FOR THE TOWN OF PALM BEACH.

Mr. Elwell requested that the waiving of normal purchasing procedures be included in the motion, due to the urgency of the matter.

Resolution No. 123-09 was read by Town Manager Elwell, by title, as printed above.

Motion made by President Pro Tem Coniglio, seconded by Council Member Diamond to approve Resolution No. 123-09, including waiving usual purchasing procedures. On roll call, the motion carried unanimously.

IV. PRESENTATION AND DISCUSSION OF THE TOWN'S PENSION STUDY. [Jose Fernandez, Cavanaugh Macdonald, LLC]

Jose Fernandez of Cavanaugh Macdonald Consulting, LLC, provided a PowerPoint presentation to the Town Council. A copy was submitted into the record.

Mr. Fernandez responded to questions and comments by the Council.

V. COMMENTS FROM TOWN RESIDENTS AND TOWN EMPLOYEES

Wilbur Ross, Chairman of the Palm Beach Firefighter Board of Trustees, provided the following comments, which were submitted for the record:

> The trustees discussed with the consultant matters of the alternative of participation by the town employees with the Florida Retirement System. The trustees were very concerned that to do so would actually create additional costs to the Town associated with future funding of the current unfunded liabilities without relieving the Town of administrative responsibilities for the remaining members with the current plan. The trustees also reviewed the past performance of the Florida Retirement System compared to the past performance of the Firefighter plan. It appears that there is no material difference, but there seems to be a more conservative allocation with the Florida Retirement System that tends to better in a good market and worse in a bad market.
>
> Mr. Fernandez explained that if the Town Council were to select an alternative that would terminate the existing plan, there exists a $33.3 million dollar cost the Town will bear while saving around $400,000 per year due to lower contribution

requirements. The trustees noted that similar savings can be achieved by changing the current retirement program, but keeping the administration and investment with the Town plans.

There was discussion by the consultant and plan attorney regarding a "Fresh Start" plan. This is also referred to as the "Stop and Start" plan. The plan would allow the Town to gain approximately $171,000 or more per year monies from the state that is currently being used to fund the Firefighter Share accounts. These monies could be used to offset Town pension costs. The plan would require the affirmative vote of the majority of Firefighters in order for the Town to be able to receive the monies. Since these monies are in the nature of real estate tax premiums, the amount of the subsidies would go up with valuations of property in the Town of Palm Beach.

In the year 1999, the Town increased a benefit factor for Firefighters, and a portion of the Share account has been used to pay for the" increase. The actuary reported that the total cost of the increase is approximately $125,000 per year and will grow annually with wage inflation. The Town's portion, less the state subsidy, is approximately $30,000.

The actuary has assumed historically that average annual increase in base pay, merit and overtime, to be 7.5% to 8.0% per year. Since the assumption used by the fund for investment returns is 8.0%, we barely stay even if we do achieve an 8 percent return each year on the portfolio. The actuary stated that a one percentage point change in the wage inflation assumption will Increase or decrease the pension contribution by $400,000 per year.

The trustees discussed that overtime is included in pension calculations, and there are no minimum or maximum provided by the Firefighter plan. It was noted that the state law at Chapter 185 requires that no less than 300 hours of overtime actually worked be included in compensation for calculation of retirement benefits. It was noted that hurricanes represent a significant cause for overtime, but it is not a significant cause for past salary increases, and has an insignificant Impact on the Town contributions. It was noted that it is management's practice that once a firefighter gets 144 hours of overtime, that person's name goes to the bottom of the list for subsequent overtime eligibility. In recent years, overtime has represented four percentage points out of a fifteen percent increase in total compensation for a particular year reviewed. It was represented that FEMA reimburses the Town for overtime served.

The trustees reviewed the assumption used for mortality noting that Firefighters as a class typically have higher mortality experiences. It was noted that the system uses a 1983 mortality table, which reflects a higher mortality experience. It was discussed that to the degree the assumption might understate life expectancy, actual costs will exceed forecast and to the degree that it overstates life expectancy, actual costs will be lower. The actuary stated that the universe of people in the system is too small to be statistically significant. The actuary stated that the mortality assumption used will not have an impact on the contributions, and the assumption used is appropriate for the plan.

The trustees discussed with the consultant and actuary the merits of extending to 10 or 15 years the asset valuation smoothing method. The consultant stated that doing so would have negligible positive effect on contributions in the first couple of years, a favorable effect for several subsequent years, and a negative impact in the out years. The cumulative cost goes up the longer the period and the consultant recommended that the five year smoothing not be extended.

It was noted that West Palm Beach Firefighters recently negotiated a one year contract with the Town, with only minor changes to the pension plan.

Mr. Wilbur responded to questions and comments by the Town Council.

Jim Linn, the Town's Pension Attorney, commented on the "Stop and Start" plan. He indicated that it was a way to convert old benefits into new extra benefits by reducing the benefits in an ordinance, and increasing the benefits in a second ordinance, which puts them back. In so doing, more of the state premium tax money could be used to offset the Town's contributions. He responded to questions and comments by the Town Council.

Raymond Snow, Chairman of the Police Retirement Board of Trustees, commented that the interest of the 8% investment assumption was discussed at their police board meeting. The Board planned to recommend to the Town a 7% investment assumption going forward instead, based on the most recent data from the Town. The police board performance had also been better than the Florida Retirement System (FRS), although not significantly. He noted that one of the problems with the Defined Contribution Plan (DCP) was the lack of disability or special death benefits, which was due to the high risk of the job. He continued that the insurance premiums were taxed on homeowners insurance, which were higher than car insurance, generally. The Board discussed the two-tiered plans, and Mr. Fernandez addressed some of their concerns.

Brett Madison, General Employees Retirement Board Trustee, provided comment that the Board had made some investment changes, the employees were looking to increasing their returns, and were down one-half percent in the last year; he noted that they felt as though they were moving in the right direction. He stated that they looked forward to hearing back from Council, working with them, and seeing what changes could be made to go forward.

Joel Brier, Executive Vice President of Professional Firefighters of Palm Beach County, requested that the Council take the employees into consideration and not make a negative substantial impact on the rest of their lives.

Donna Bragel, general employee, provided the following comments, which were submitted for the record:

The members of the Finance Department understand that you are looking for input regarding modifications to the Town's retirement plans. Here are our prioritized ideas:

• Any changes to the retirement plan should affect new employees only. Current employees, at the time of hire, were promised a pay package and consequently made a decision to come to work for the Town based on those Town commitments. Many employees have invested a large portion of their lives dedicating their career to the Town of Palm Beach. Past Councils have valued long term career commitments because of the increase in the level of knowledge and avoidance of turnover costs that long term careers brings to an organization.

• If changes need to be made to the defined benefit plan, the preference would be to increase to the employee contribution rate in order to continue current benefit levels.

• Limit or eliminate the amount of overtime that is included in the calculation of retirement pay.

• Tie cost of living increases to an index, including a cap, which would generally follow the trends of investment returns.

By far, the most important point we want to make, is the need to keep the defined benefit plan with the existing multipliers and negotiate on other items within the current plan.

We understand that many people in Palm Beach have suffered losses, as many of us have. We see our daily living expenses rising, yet we accept the fact that we will not be getting any raises or cost of living increases this year. We are making that sacrifice - really we understand. We ask only that you respect our contributions to the Town and understand our concern regarding these serious changes that will affect the remainder of our lives. Thank you.

The following employees provided comments:

Jayson French, Firefighter Pension Board Trustee
Jeff Taylor, general employee,
Spencer Wilson, general employee,
Paul Castro, general employee
Lisa Gorman, General Employee Retirement Board
Joseph Sekula, firefighter
Steve Kartrude, general employee

Donald Singer, 2295 South Ocean Boulevard, asked questions of the Council regarding the moral imperative of the employee pensions, such as: current employees' contributions used for retirees' pensions; if the negotiating process failed, what was the state's legal position; and who would make the final decision.

Town Manager Elwell responded that in the event of an impasse, a process was in place that a special master would hold a hearing, conduct fact finding discussions, and make recommendations as how to resolve the impasse; the report would be heard by the Town Council at a public hearing, and ultimately the Town Council would decide.

Brad Armstrong, an actuary with Gabriel, Roeder, Smith & Co., commented regarding Mr. Singer's question that the current employees did not contribute to the retirees' pensions and the pensions were funded by the existing assets. He also responded to questions and comments by the Council.

Discussion occurred among the Town Council, with Council Member Wildrick suggesting that Town Manager Elwell be assigned the task of developing a proposed pension plan. Various means of developing the plan were discussed, with Council Member Kleid suggesting that the Council discuss some alternatives and narrow the parameters before Mr. Elwell begins the assignment.

Town Manager Elwell responded that he accepted the responsibility to develop the plan, and that Council Member Kleid's suggestion that the Council provide guidance could be very helpful in the next step of the process. He noted that staff would need additional assistance from the actuary and the consultant, and could provide an estimate of how much additional funding was needed at the December 17th, 2009, Town Council Meeting.

Motion made by Council Member Wildrick, seconded by Council Member Diamond, that Town Manager Elwell would provide a cost estimate for assistance from the consultant and actuary in preparation of the pension plan at the December 17, 2009, Town Council Meeting; Town Manager Elwell would return with the proposed pension plan at the February 9, 2010, Town Council Meeting. On roll call, the motion carried unanimously.

Fred Angelo, Legislative Vice President of the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc., suggested a proactive approach with a labor management session comprising of all the retirement boards of the Town.

President Rosow asked that Mr. Elwell take Mr. Angelo's comment under advisement, as the Council did not become involved in the day to day negotiations.

The following additional employees provided comment:

Mike Hayes, Firefighter Pension Board
John Cuomo, firefighter
Rob Walton, general employee
Cindy Delp, general employee
Jim Bowser, general employee
Det. Mike Lynch, Police Pension Board

Mark Loree, general employee

President Rosow commented that the Council respected the hard work that was done by all of the employees.

Town Manager Elwell addressed the issue about what the employees had earned in the existing pension plan, and that the accrued benefit to date was owned by the employee; any changes that would affect existing employees, would only be from the effective date of that change forward.

VI. ANY OTHER MATTERS

There were none.

VII. ADJOURNMENT

There being no further business to discuss, the December 3, 2009, Special Town Council Meeting was adjourned at 6:00 pm.

APPROVED:

David A. Rosow
Town Council President

ATTEST:

Joanna Cunningham
Town Clerk