



Agenda Cover Memorandum

Meeting Date: January 25, 2016

Meeting Type: COW (Committee of the Whole) City Council Budget Workshop

Item Title: Police Pension Board Update

Action Requested: Approval Discussion Feedback Requested For Your Information

Staff Contact: Shawn Hamilton, City Manager w/ Adam Simon, City Attorney

Background:

Once the transition to the new City Attorney was completed, I asked Ancel Glink for an opinion on the current structure of the Police Pension Board.

Section 3-128 of the Pension Code describes the composition of the Police Pension Board as 1) two members appointed by the Mayor, 2) two members "elected from the active participants.... by the active participants", and 3) one member "elected by and from the beneficiaries". The current composition of the Board (2 Mayoral appointments, 1 active participant, 2 beneficiaries) does not comply with the Code. Laura Kappler was counted as an active participant, up until her retirement 6/27/2014. Her term expired 5/1/2014. Ms. Kappler still remains on the Board and is the current Board President because no active participant has run for election since her term expired.

After consulting with Attorney Simon, I forwarded the attached letter to the IDOI for an interpretation. The response is also attached. Their interpretation is that the status quo is acceptable until the active membership elects a successor, but both Attorney Simon and I agree that is not what the law intended. Plus, one could argue that the investment motivation of a beneficiary is different from the investment motivation of an active participant.

All of this information has been shared with the Police Pension Board and their Attorney Charles Atwell. I have requested from Ms. Kappler and Attorney Atwell whether or not this topic would be discussed at their next Pension Board meeting on 1/26/2016. Multiple requests have gone without a response.

The active duty police officers have the ability to correct this situation by selecting a candidate to represent them on the Police Pension Board. The City Council is permitted to solicit candidates.

Budget Implications:

Attachment(s), if any:

- letter to Illinois Department of Insurance dated 10/22/2015
- response from Illinois Department of Insurance dated 11/4/2015



CITY OF PARK RIDGE

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October 22, 2015

VIA TELEFAX (217) 557-8491
AND FIRST CLASS MAIL

Illinois Department of Insurance
Public Pension Division
320 West Washington Street - 5th Floor
Springfield, IL 62767-0001

ATTN: Bruce Sartain, Audit Questions

RE: City of Park Ridge Police Pension Board

Dear Mr. Sartain:

This letter solicits your assistance in determining whether the City of Park Ridge Police Pension Board ("Board") is legally constituted at this time.

The current Board members include two (2) members appointed by the Mayor, one (1) member elected from the active participants, and two (2) members who are beneficiaries of the police pension fund. The composition of the Board has so evolved because of the retirement of an active participant who has continued to holdover on a seat elected from the active participants. Moreover, such member's term has expired, but no active participant was willing to run for election.

According to Section 3-128 of the Illinois Pension Code, the composition of the Police Pension Board shall be comprised of:

- 1) Two members appointed by the Mayor;
- 2) Two members "elected from the active participants"... "by such active participants;" and
- 3) One member "elected by and from the beneficiaries."

While the current composition of the Board clearly does not meet the strict letter of the law, the City wishes to know whether the retirement of a Board member elected by the active participants immediately disqualifies such member from continuing to hold an office designated for an active participant according to Section 3-128 of the Pension Code.

In an effort to resolve this question independently, City staff has reviewed the frequently asked questions presented on your website. The one which seems most pertinent to our question is presented below:

- Q. Can a third elected active member serve on the board if no beneficiary is willing to serve?
A. Statute does not allow for a third elected active member to serve on the board.

While this is not directly on point, it does seem to prove that the statutory composition of the Board is inflexible.

Given the foregoing information, please provide the City of Park Ridge and the City of Park Ridge Police Pension Board an opinion regarding whether the Board is legally constituted at this time and, if not, what corrective action must be performed.

Thank you in advance for your cooperation with this request. Please feel free to contact the undersigned if you have any questions.

Very truly yours,

City of Park Ridge



Shawn Hamilton
City Manager

cc: Charles Atwell, Police Pension Board Attorney
Adam Simon, City Attorney



Illinois Department of Insurance

BRUCE RAUNER
Governor

ANNE MELISSA DOWLING
Acting Director

Via Electronic Mail

November 4, 2015

Shawn Hamilton, City Manager
City of Park Ridge
505 Butler Place
Park Ridge, IL 60068-4182

Dear Mr. Hamilton:

I am writing in response to your letter of October 22nd, sent to Bruce Sartain at the Illinois Department of Insurance, Public Pension Division (the "Division"), requesting an advisory opinion pursuant to Section 1A-106 of the Illinois Pension Code (40 ILCS 5/1A-106). This advisory opinion is based on the assertions made in your letter. If the assertions made in your letter change or are not complete, the opinion given below may not be appropriate given any change in facts or circumstances. The Division responds to your inquiry as follows:

Your inquiry seeks the Division's opinion regarding, "whether the retirement of a Board Member elected by the active participants immediately disqualifies such member from continuing to hold an office designated for an active participant according to Section 3-128 of the Pension Code." It is the Division's opinion that an elected trustee may remain in the position to which he or she was elected to on the board for the remainder of the term for which he or she was elected, if he or she so chooses.

Further your inquiry seeks the Division's opinion on the proper procedure in the circumstance where "such member's term has expired, but no active participant was willing to run for election." It is the Division's opinion that the lack of statutory language regarding this issue allows the option of filling one of the active trustee positions with a beneficiary by action of the Board.

I trust that this fully answers your inquiry. If you have additional questions, please feel free to contact the undersigned at 312-814-5411.

Sincerely,

Mary Jane Adkins
Acting Deputy Director
Public Pension Division
Illinois Department of Insurance

cc: Shawn Hamilton, City Manager shamilton@parkridge.us (via electronic mail)
Charles Atwell, Police Pension Board Attorney charles@atwellandattwelllaw.com (via electronic mail)
Adam Simon, City Attorney asimon@ancelglink.com (via electronic mail)
Laura Kappler, Fund President kappler113@hotmail.com (via electronic mail)