CM14-17

November 24, 2014

To: His Worship the Mayor
and Members of City Council

Re: Regina Civic Employees' Superannuation & Benefit Plan

RECOMMENDATION

That City Council approve the elements of a joint submission from the employer and employee sponsors to the Superintendent of Pensions as outlined in the Memorandum of Understanding (Appendix "A"), notably:

1. Unless otherwise specifically provided, the sponsors will use the 2013 Letter of Intent (LOI) framework as the basis for the joint submission.

2. The sponsors will work toward the development and implementation of a new, independent governance structure which will include a new Sponsor Board comprised of 7 employee and 7 employer representatives, with a temporary 15th representative appointed as a potential dispute resolution mechanism.

3. The terms of the agreed upon amendments will be implemented effective July 1, 2015.

4. The split of the pre-implementation deficit will be 60% employers and 40% employees with a 20 year amortization as per the terms of the LOI.

5. The expected blended contribution rates after actuarial valuation will be 10.9% employer and 9.8% employee.

6. In the event of future deficit or surplus, a series of sequential steps will be taken as prescribed respecting adjustments to contribution rates and benefits.

7. Upon receiving confirmation from the Superintendent of Pensions that solvency and deficit relief will be available, the sponsors will recommend ratification to their principals by December 31, 2014.

8. The sponsors agree to request extension of the deadline for filing submissions to December 5, 2014 to facilitate preparation of the joint submission.

CONCLUSION

This Memorandum of Understanding (MOU) represents a negotiated approach to address the current pension Plan problem.

The MOU is expected to meet the requirements of the Superintendent of Pensions and protect the interests of retirees, employees and taxpayers.

BACKGROUND

Over a number of years, there have been several discussions around taking a more proactive approach to changing the Pension Plan. None of these initiatives has accomplished substantial changes within the current governance process. In 2003, the Pension Plan Board of Directors identified that Plan issues were beginning to develop, as the Plan could not financially sustain the current level of benefits over the long term. At that time a list of recommended benefit changes was identified, however the sponsors of the Plan did not proceed with formal discussions or implement any changes. Again in 2005/06, the financial sustainability challenges of the Plan were identified, and a list of the Board's recommendations for benefit reductions was discussed. Through a formal vote of both the Civic Pension and Benefits Committee and City Council, the only benefit reduction that was implemented was the elimination of the grow-in benefit.

Since early 2009, City Administration, along with the other participants in the joint Pension Plan Review Committee, has continued to pursue agreement on Plan changes, including further education around the Plan issues and reviewing possible solutions as identified by the Plan's actuary and sponsors. The primary goal of the joint Pension Plan Review Committee was to identify options for a competitive, affordable (for employers and employees) pension plan that would be attractive in recruiting and retaining employees, support workforce requirements and provide a meaningful benefit. As part of this process, both the Employers and Employees have prepared and shared with each other their proposals to amend the Plan.

On September 15, 2010, the Pension Board finalized the 2009 Pension Plan Valuation, and this was filed on October 13, 2010 with the Superintendent of Pensions. As part of this filing, the Pension Board elected to take advantage of a temporary (three year) moratorium from funding the solvency deficiency under the Plan, as permitted by Saskatchewan pension legislation. This reduced the total revised average contribution rate from 35.2% to 27.7% of earnings, as compared to the existing rate of 20.7% of earnings. In addition, the valuation was also filed with Canada Revenue Agency (CRA), and a waiver of the employee contribution rate limit has since been received from CRA.

On December 15, 2010, the Civic Pension and Benefits Committee voted in favour of increasing the Plan's average contribution rates to 13.85% per side (before solvency funding); however, not all employee groups voted in favour of this increase (including some City of Regina employee groups). In addition to the resistance from many employees, the higher rates were seen as unaffordable for taxpayers, and did nothing to address the longstanding issues within the Plan. While this valuation was accepted by the Superintendent, based on City Council's decision not to approve the rate increase, the increased contribution rates were not implemented. On January 18, 2012, the sponsors were notified that the Civic Pension Administration Board had decided to approve and file the December 31, 2010 valuation of the Plan and would be pursuing the process to have the resulting new rates implemented.

According to City Council's direction from May 3, 2012, the Administration continued to engage in negotiations for Plan changes with the Civic Pension and Benefits Committee representatives. Those discussions, while still protracted, were eventually more constructive than previous discussions, and resulted in a Letter of Intent ("LOI") being agreed to in mid-2013.

However, that LOI was not sufficient to address all of the Civic Pension Plan problems. The Superintendent of Pensions has advised that there are three main problems which persist even if the LOI is implemented. Each of these problems must be solved, in order to achieve a permanent solvency exemption. In turn, a permanent solvency exemption is essential in order to achieve an affordable pension plan.

These three problems are:

1. Intergenerational Inequity. Younger employees with less service are subsidizing the pensions of older employees with more service.

2. Contribution rates are not secure nor are they sustainable.

3. The Plan governance is unusual and ineffective. The Double Veto on Pension Plan Design Change (Contribution Rates and Benefit Reductions) remained. This means that unless both employers and employees agree on Plan change, the process of Plan change is paralyzed.

On July 17, 2014, the Superintendent of Pensions advised that consideration was being given to termination of the Civic Pension Plan. He invited submissions from interested parties. The City of Regina and the Civic Pension and Benefits Committee have both submitted proposals to amend the Plan. The Superintendent of Pensions has not yet advised if he is prepared to recommend a permanent solvency exemption on the basis of either submission.

After the Superintendent of Pensions advised of the potential plan termination, negotiations with the Civic Pension and Benefits Committee continued on many dates up to and including November 20, 2014. Specific agreement was reached in the following areas:

1. Governance of the Plan would change:

   (i) the City of Regina would no longer represent employers and the Civic Pension Committee would no longer represent employees.

   (ii) a Sponsors Group representing both employers and employees would manage the Plan design, within pre-determined contribution rates. In the event of disputes where majority vote is required between employers and employees, a 15th member, would determine the matter.

   (iii) the current Administrative Board would remain in place, with its duties essentially unchanged.

2. Benefit reductions already tentatively agreed to in the LOI (removal of COLA, Final Average Earnings of five years instead of three, removal of overtime, rule of 80 to 85) would continue.

3. The implementation date will change from January 1, 2015 to July 1, 2015.

4. The cap on contributions has been removed.

5. Initial blended contribution rates have been estimated at 10.9 % for employers and 9.8% for employees.

6. In the event of future deficit or surplus, a series of sequential steps will be taken as prescribed respecting adjustments to contribution rates and benefits.

7. The funding policy has been further amended to provide that any required benefit reductions shall be determined by the Sponsor Board.

8. The continued role of City Council and the Civic Pension and Benefits Committee has been clarified to confirm that both shall continue to appoint their representatives to the Sponsor Board.

DISCUSSION

The Memorandum of Understanding outlines the principles that the employer and employee sponsors agree to recommend for the basis of a joint submission to be presented to the Superintendent and to achieve long-term sustainability of the plan. Subject to the terms of the MOU, the May 22nd, 2013 Letter of Intent (LOI) framework forms the basis for a joint submission to the Superintendent of Pensions.

The MOU has the following terms:

Governance
The parties will work toward the development and implementation of a new, independent governance structure for the plan which, once implemented, will allow the repeal of Bylaw 3125 (by a projected date of July 1, 2015). In the new structure that is contemplated, there will be a new Sponsor Board which, along with a fiduciary Administrative Board, will be responsible for the governance of the plan. The new Sponsor Board will consist of 7 employee and 7 employer representatives, with a temporary 15th representative appointed as a potential dispute resolution mechanism. Permanent representation on that Sponsor Board will reflect the membership in plan. A joint request for reasonable costs (legal, actuarial, etc) associated with this process will be made to the Administrative Board for settlement from the plan fund.

From and after the effective date, the Sponsor board is responsible for any amendments to the plan and funding policy. Unless otherwise provided for, decisions regarding amendments to the plan text and funding policy require at least 2/3 majority. Deadlocks requiring a simple majority are resolved by the fifteenth member. Simple majority votes will also be used for any plan amendments that are clearly contemplated by the Funding Policy and required to put its terms into effect.

PBC will continue to exist with responsibility to appoint employee representatives to the Sponsor Board and Admin Board.

City Council shall have responsibility to appoint employer representatives to the Sponsor Board and Admin Board.

Deficit Funding
The split of the pre-implementation deficit will be 60% employers and 40% employees with a 20 year amortization as per the terms of the LOI.

Contribution Rates
An actuarial valuation will be conducted at implementation with expected blended contribution rates of 10.9% for employer and 9.8% for employees.

Actuarial
All decisions affecting benefits shall be based on an actuarial valuation that could be filed with the Superintendent if necessary.

Subject to regulatory approval, the Sponsor Board shall have input with respect to appropriate margins, actuarial methods, assumptions, and timing of filing of actuarial valuations. It is intended that the Sponsor Board shall not be considered a fiduciary as a result of these discussions or at all.

Funding Policy

A) Deficit Management

After implementation, if there is a deficit requiring an increase to the initial contribution rates it is expected that the first step to address the deficit will be a consideration of adjusting actuarial assumptions, methods or margins to mitigate or control rate increases.

If the pre-implementation deficit exists:

a. If the adjustment of actuarial assumptions, methods, and margins is not sufficient to maintain current contribution rates, such rates will increase equally until they reach 12.1% employer and 11% employee.

b. If a future draft filing valuation shows a combined contribution obligation above 23.1% and below or equal to 24.1% of pensionable payroll the rate increase will be met by 67% related to adjusting contribution rates and 33% related to temporary benefit reductions. Temporary benefit reductions shall be reinstated on a prospective basis on the earliest date on which such benefits may be restored without incurring combined contribution levels above 23.1%.

c. If a future draft filing valuation shows a combined contribution obligation of above 24.1% of pensionable payroll then the rate increase will be met by 50% related to adjusting contribution rates and 50% related to temporary benefit reductions. Temporary benefit reductions shall be reinstated on a prospective basis on the earliest date on which such benefits may be restored without incurring combined contribution levels above 24.1%.

If the pre-implementation deficit does not exist:

d. If the adjustment of actuarial assumptions, methods, and margins is not sufficient to maintain current contribution rates will increase equally until they reach 10.5%ER and 10.5% EE.

e. If a future draft filing valuation shows a combined contribution obligation above 21% and below or equal to 22% of pensionable payroll the rate increase will be met by 67% related to adjusting contribution rates and 33% related to temporary benefit reductions. Temporary benefit reductions shall be reinstated on a prospective basis on the earliest date on which such benefits may be restored without incurring combined contribution levels above 21%.

f. If a future draft filing valuation shows a combined contribution obligation of above 22% of pensionable payroll then the rate increase will be met by 50% related to adjusting contribution rates and 50% related to temporary benefit reductions. Temporary benefit reductions shall be reinstated on a prospective basis on the earliest date on which such benefits may be restored without incurring combined contribution levels above 22%.

B) Surplus Management

The parties agree to refine the surplus utilization methodology to incorporate margins as appropriate. In decision-making regarding surplus utilization, the Sponsor Board may consider retroactive restoration of any benefits that have been reduced.

Process

The employer and employee sponsors agree to recommend inclusion of these principles in a joint submission (notionally, to be prepared by November 28) to the Superintendent of Pensions and request exemption from solvency funding and extension of going concern deficit funding to 20 years. If and on receiving confirmation from the Superintendent that solvency and deficit relief will be available, the parties agree to recommend ratification to their principals on or before December 31, 2014 for implementation effective July 1, 2015.

To facilitate preparation of the joint submission parties agree to request extension of the deadline for filing submissions from November 30 to December 5, 2014, if required.

The parties agree to implement the terms of the agreed upon amendments effective July 1, 2015. It is also agreed that all pension-related grievances will be withdrawn on ratification of the Plan changes.

Benefit Changes Previously Agreed to in the LOI

A) Retiree Benefits and Benefits Earned to Date
There will be **no** benefit changes for retirees or the benefits earned to date by contributing employees**. (accrued benefits)**

The only benefit changes are those that were agreed to in the 2013 Letter of Intent, and they are: the Retirement Eligibility Calculation, Cost of Living Adjustment, Years of Earning Calculation and the Removal of overtime.

B) Eligibility Calculation – Rule of 85
To receive an unreduced, or full pension, a member must be 55 years of age or older, and the member's age plus years of service total 85 or more (the current plan provision is Rule of 80.). An exception will be provided for a member who, within three years of the implementation date of the changes, would be 55 or older, and the member's age plus years of service total 80 or more. Employees do not automatically move from Rule of 80 to Rule of 85, as of the implementation date. Their years of service before the effective date are used in a calculation with the Rule of 80, and their years after the effective date are used in a calculation with the Rule of 85. Most employees will fall somewhere between the Rule of 80 and 85. Employees currently with longer service will fall closer to Rule of 80.

C) Cost of Living Adjustment (COLA)
The current pension benefit is adjusted to reflect a cost of living factor. This benefit will change from a guaranteed benefit to a conditional one. When the Pension Fund is 90% funded and investment returns are above average, a cost of living calculation will be applied; when the Fund is 120% funded the full COLA can be reinstated. Full COLA will be applied to years of service prior to the implementation date, and conditional COLA (if available) will be applied to years of service after implementation date.

D) Years of Earning Calculation
The years of earning calculation will change from the average of the highest three consecutive years of earnings to the average of the highest five consecutive years of service. Average of highest three consecutive years of earnings will be applied to years of service prior to the implementation date, and average of the highest five consecutive years of earnings will be applied to years of service after the implementation date.

E) Removal of Overtime
Overtime pay will no longer be included in pensionable earnings after the date of implementation. This change will not affect pensionable earnings earned in the Plan.

Actuarial Costing
The lower contribution rates now contained in the MOU have resulted from an updated Costing Report from Aon Hewitt, the Actuaries for the Civic Pension Plan.

Significant elements of the Aon costings are as follows:

1. The going concern deficit of the pension plan was reduced from $292,815,000 at December 31, 2012 to $249,603,000 at December 31, 2013. Both of the figures assume a 10% margin.

2. An extrapolation of the going concern deficit as at December 31, 2014, with a 10% margin, indicates a reduction to $224,186,000. All going concern deficit calculations assume that the benefit changes in the LOI are implemented.

3. The contribution rates required to fund the proposal contained in the MOU are 10.9% and 9.8% (both blended) for employers and employees respectively. These rates assume a 10% margin.

These lower rates provide for a cushion to fund new deficits firstly from the original estimated contribution rates of 12.1% for employers and 11.0% for employees.

RECOMMENDATION IMPLICATIONS

Financial Implications

In its most recent credit rating assessment (May 29, 2014), Standard & Poor's noted "significant unfunded pension liabilities" as a factor that offset numerous positive elements of the City's financial condition. The credit rating influences the interest rate charged on the City's debt, and the City of Regina currently enjoys a very strong credit rating. The agreement terms establish a method for funding prior period pension obligations and introduce controls that reduce the risk of unplanned cost increases in future periods. This will positively influence future credit rating assessments. Maintaining a strong credit rating helps minimize financing costs when the City issues debt.

Environmental Implications

None to with respect to this report.

Policy and/or Strategic Implications

The MOU is expected to meet the requirements of the Superintendent of Pensions and protect the interests of retirees, employees and taxpayers.

Other Implications

None with respect to this report.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

A Communication Plan will be implemented to ensure that Plan members and City of Regina residents are advised of the proposal. There will be an ongoing Communication Plan.

DELEGATED AUTHORITY

The recommendation in this report is within the authority of City Council.

Respectfully submitted,

Byron Werry, City Solicitor
Office of the City Solicitor

Respectfully submitted,

Glen B. Davies, City Manager and
Chief Administrative Officer