

CHARLOTTE FIREFIGHTERS' RETIREMENT SYSTEM

428 East Fourth Street • Suite 205 • Charlotte, North Carolina • 28202 • (704) 626-2728 • Fax (704) 626-7365

SPECIAL BOARD MEETING MINUTES

September 3, 2020

PRESENT: Vanessa Heffron – Chair, Joey Hager, Lee Thompson, Kelly Flannery, Marvin Wilson, Melinda Manning, Teresa Smith, Ryan Pope, and Sheila Simpson

OTHER: CFRS Staff - Sandy Thiry, Tony Bass, Desiré Dixon
Sr. Assistant City Attorney -Lisa Flowers

GUESTS: Ryan Bergman, FFII Jeff Clark, Captain Lance Patterson, retiree Allen Middleton, retiree Gary McCormick, retiree James Burke

ABSENT: John Carr

AGENDA

I. CALL TO ORDER by Vanessa Heffron at 8:01 a.m. Due to the gathering restrictions surrounding COVID-19, the Special Board Meeting took place via teleconference. Roll call was conducted with all trustees in attendance except John Carr.

II. ACT AMENDMENTS

Vanessa Heffron advised that the Special Meeting allows the Board of Trustees to discuss and vote on the proposed Act amendment updates submitted by the Benefits Committee including provisions that impact the long-term funding levels such as the employer contribution rate, prior military service purchase cost, and various changes for consistency and legal clarity. She further explained that although the Trustees would vote to either approve or deny any recommendations, anything approved still needs to be approved by the City Council before moving on to the Legislature for final approval. Melinda Manning and Lisa Flowers reviewed the individual suggested changes as indicated in the drafted red line version of the Act provided to the Trustees as outlined herein.

- a) Section 2 – Definitions – Updated 2(2) "basic benefit" to "Basic Benefit" as a defined term related to Section 17 and referenced throughout the document. Added Section 2(11a) Final Average Salary. Legal inserted draft language as a placeholder in the red line version so if the City proposed a change to the averaging period, the language would be ready for Board/Committee's discussion. The Committee discussed and determined that since this has not been a recommendation by the Committee, remove this section. In error, this section was not removed before it was provided to the Trustees for this meeting. Discussion ensued about changing the averaging period which had been a suggestion vetted by the Benefits Committee which would minimize enhancement of benefits and control the employer's contribution rate. Concerns were raised about this topic including unfavorable opinions expressed from Members prior to and during this meeting.

MOTION: Joey Hager motioned to remove Section 2(11a) from the suggested language changes. Roll call vote was taken with all present Trustees. The records reflect the motion carried with seven affirmative and one opposed vote.

- b) Section 4 – Periods of Workers' Compensation & Accident and Sickness, Family Medical Leave Act, and Long-Term Disability Benefits – Recommendation to add the language to be

consistent with the update to Section 24. The Board discussed the proposed language, “...% or, for any new periods of such leave beginning after _____, such other percentage rate as may be determined from time to time by the City upon recommendation of the Board of Trustees in accordance with Section 39 and any funding policies adopted by the Board.”. Suggestion was offered that Section 4 apply to any leaves beginning after legislature’s approval, such as July 1, 2021.

- c) Section 6 – Return from Active Military Duty. Recommendation to update the Act in recognition that the USSERA laws are amended from time to time; and include the acronym “USERRA” for Uniformed Services Employment and Reemployment Rights Act, which is referenced throughout the document.
- d) Section 7(a) – Purchase of Membership Service Credit – Recommendation to change the cost of military purchases to be consistent with the language in Section 7(b) and 7(c). Also updated for consistent use of “Membership Service Credit” within this section. Suggestion was made that the change be effective for anyone hired on or after July 1, 2021.
- e) Section 12(c) – Failure to Return From Active Military Duty – Recommendation to change “benefit accrual” to reference the defined term, “Accrued Benefit”.
- f) Section 17 – Recommendation to add “Basic Benefit” as Section title, clarify salary language to include “not to exceed the salary” related to IRS requirements, and change “basic benefit” to the defined term “Basic Benefit” for consistency throughout the document.
- g) Section 19(c) – Disability Retirement in the Line of Duty – Recommendation to change the language of “...by the disability retirement regulations” to “in accordance with the Disability Regulations” for consistency. Also change reference to disability retirement regulations to the Board’s properly named regulations. Likewise, similar changes to Section 20(b) and 20(c) Disability Retirement not in the Line of Duty.
- h) Section 23 – Post-Retirement Adjustments – Recommendation to move Section 25(d) to Section 23(b2) due to the similarity of the material in this section.
- i) Section 24 – Member Contributions – Recommendation to add the language of “% or such other percentage rate as may be determined from time to time by the City upon recommendation of the Board of Trustees in accordance with Section 39 and any funding policies adopted by the Board” which would allow the Board to recommend updates to the Employee Contribution Rate as they occur, without having to amend the Act.
- j) Section 25 (a) – City of Charlotte Contributions – Recommendation based on the Board’s prior approval to change the employer contribution rate consistent with current practice of 14% and for an incremental 2% increase up to 24% over the next five years with a floor of 14%. “Effective July 1, 2020, the City of Charlotte shall contribute to the Charlotte Firefighters’ Retirement System an amount equal to the Member’s Compensation multiplied by 14% for each and every payroll of such Member to be increased each Plan Year by 2% for the next five years to a maximum contribution rate of 24% for each and every payroll of such Member. The contribution rate shall remain at 24% unless the Actuarially Determined Employer Contribution (ADEC) rate falls below 24% in a Plan Year; in that case, the contribution rate shall be the ADEC rate or such other percentage rate as may be determined by the City upon recommendation of the Board of Trustees in accordance with Section 39 and any funding policies adopted by the Board but in no case shall the contribution rate be less than 14%.”
- k) Section 29 (a)(v) and (a)(vi) – Board of Trustees – Recommendation to change the language to “Election Regulations adopted by the Board” to reference the Board’s formal name for the regulations.
- l) Section 30 – Election of Member Trustees – Recommendation to add “Retiree” to the title and change the language “Rules and Regulations” to “the Election Regulations”. Additional changes in this section would clarify section references.
- m) Section 31 – Oath of Office – Recommendation to change the language to add “or the Mayor’s designee” which will allow flexibility to the administration of the oath of office.

- n) Section 32(e) – Vacancy on Board of Trustees – Recommendation to add “*Notwithstanding the above, the Board of Trustees may allow a vacancy of an elected Trustee for longer than 90 days if it finds it would be more practical to wait for the next election to fill the vacancy*”. This provides flexibility in cases where there is a short unexpired term, or the practical timing of a special election competes with a regular election.
- o) Section 35 – Meetings – Recommendation to (b) to add “electronic mail” and grammar corrections. Add new section (b1) “*The Board of Trustees may allow remote participation of a Trustee member in Board and Committee meetings pursuant to policies and procedures adopted by the Board.*” Add to (c) “*or, in the case of a vacancy, a majority of the current Trustees*” ...remove “*at least six*” ...and add “*from the majority of the Trustees in attendance*”. This language follows common practice.
- p) Section 36 (b) – Employment of Professional Services – Recommendation to add “*pursuant to Sections 19 and 20*” which references the disability sections.
- q) Section 51 – Restrictions – Recommendation of change reference to proper defined terms and formal regulation name.
- r) Section 54 – Errors – Recommendation to bring this section to the Board for discussion due to complexity involving fiduciary responsibility and any legal risks. Added “*If the benefit was mistakenly set too low, the System shall make a lump sum payment to the recipient of an amount equal to the difference between the benefits that should have been paid and those actually paid, plus interest at the effective rate from the date the unpaid amounts accrued to the date of payment. If the benefit was mistakenly set too high, the System may recover the amount overpaid from the recipient thereof, either directly or by deducting such amount from the remaining benefits payable to the recipient. However, if (1) the amount of the benefit was mistakenly set too high, and (2) the error was undiscovered for 3 years or longer, and (3) the error was not the result of incorrect information supplied by the affected member or beneficiary, then upon discovery of the mistake the benefit shall be adjusted to the correct level, but the recipient of the benefit need not repay to the System the excess amounts received in error.*” After the last Benefits Committee and before this meeting, Lisa Flowers was able to have a conversation with outside legal counsel regarding this topic and learned that clawing back overpayments is currently in review within the Internal Revenue Service (IRS) and guidance may be issued in the near future. Lisa stated that the current language is permissible and that the Board could wait for IRS guidance.

MOTION: Joey Hager motioned to leave Section 54 out of the proposed changes and Sheila Simpson seconded the motion. Roll call vote was taken with all present Trustees. Motion carried unanimously.

MOTION: Sheila Simpson motioned to accept the recommended changes including the suggested edits to effective dates and the exclusion of Sections 2(11a) and 54. Lee Thompson seconded the motion. Roll call vote was taken with all present Trustees. Motion carried unanimously.

Lisa Flowers will make the revisions and send to Sandy Thiry for distribution of the final edited copy to the Trustees. A draft letter with the suggested Act edits will be sent to the City council with a copy to Marcus Jones, City Manager.

Joey Hager motioned to adjourn at 9:45 a.m. Melinda Manning seconded the motion. Roll call vote was taken with all present Trustees. The motion carried unanimously.

Next Regular Board Meeting is scheduled for Thursday, October 22, 2020.