



City of Hallandale Beach City Commission Agenda Cover Memo

Meeting Date:	Item Type:		1 st Reading	2 nd Reading
11/6/2019	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Other	Ordinance Reading	Click or tap to enter a date.	Click or tap to enter a date.
		Public Hearing	<input type="checkbox"/>	<input type="checkbox"/>
		Advertising Required	<input type="checkbox"/>	<input type="checkbox"/>
		Quasi Judicial:	<input type="checkbox"/>	<input type="checkbox"/>
Fiscal Impact (\$):	Account Balance (\$):	Funding Source:	Project Number :	
N/A	N/A	N/A		
Contract/P.O. Required	RFP/RFQ/Bid Number:	Sponsor Name:	Department:	
<input type="checkbox"/> Yes <input type="checkbox"/> No		City Attorney	Office of the City Attorney	
Strategic Plan Focus Areas:				
<input checked="" type="checkbox"/> Financial	<input type="checkbox"/> Organizational Capacity	<input type="checkbox"/> Infrastructure	<input type="checkbox"/> Development, Redevelopment and Economic Development	
Implementation Timeline				
Estimated Start Date: 11/7/2019 Estimated End Date: 12/15/2019				

SHORT TITLE:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT FOR RESOLUTION OF THE LITIGATION BETWEEN THE CITY OF HALLANDALE BEACH AND THE POLICE AND FIRE PENSION BOARD OF THE CITY OF HALLANDALE BEACH; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF SUMMARY:

Summary:

The City has negotiated a potential settlement agreement with Police and Fire Pension Board to resolve the matters which led to litigation in the Case No. 18-019266 between the two entities. The attached resolution would approve the proposed settlement agreement, which would then be filed with the court. The settlement agreement is just one component of a multi-part solution to the issues that have arisen between the City and the Pension Board. The City is also offering pension enhancements to the pension benefit cap and the pension COLA calculation for pre-2013 service and, in exchange, seeking protections to be negotiated with the police and fire unions for inclusion in the collective bargaining agreements and the pension ordinance.

Background:

In 2013, the City negotiated pension reform with the Police and Fire unions that included a cap on pension benefits and a limit to pension cost-of-living (COLA) adjustments. In 2014, after the 2013 changes took effect, the actuary predicted that, by 2017, the City's unfunded liability would be \$ 59,743,239. The changes were approved by the Pension Board, Pension Board attorney and the Florida Division of Retirement Services.

However, commencing in 2017, the P&F Pension board made unilateral changes to the benefit calculations that have increased the unfunded liability and the City's annual contribution. Rather than apply the ordinance as written, the Pension Board's attorney advised the board, in a series of legal opinions, that the Board may calculate the pension benefit in a manner not contemplated by the City and unions during their 2013 negotiations. The pension board attorney based his opinions on a series of Florida cases that held that accrued benefits cannot be reduced. The board also took unilateral actions to resolve other issues, including COLA and AAS (the ability of members to purchase time in the plan within certain constraints).

The following table demonstrates the changes to the annual unfunded liability and the unfunded liability that was projected for 2017. It utilizes data from reports issued by the actuary hired by the Pension Board to analyze the plan every year, as required by Florida Law. Their actuary estimates future liability, how much of that is unfunded and determines what the City's payment will be for that year in order to "pay off" the unfunded liability in 30 years. The actuary also projects what will happen to the unfunded liability in the coming years if everything goes according to plan (the assumptions made about membership, salary, retirements, deaths, investment returns and other components).

Year	City Changes to Pension Plan	City Payment	Investment return	Unfunded Liability	Projected 2017 Unfunded Liability
2013	YES	\$ 8,030,916	9.80%	\$ 70,724,348	\$ 61,309,209
2014	NO	\$ 8,013,721	12.06%	\$ 66,905,715	\$ 59,743,239
2015	NO	\$ 7,889,834	9.77%	\$ 63,256,911	\$ 58,336,132
2016	NO	\$ 8,675,861	9.98%	\$ 64,428,556	\$ 61,925,891
2017	NO	\$10,730,133	9.77%	\$ 74,228,352	
2018	NO	\$11,744,898	8.27%	\$ 76,501,384	

As demonstrated in the table above and reported in the pension board's own actuarial valuations, the plan's unfunded liability increased by over \$11 million due to the modifications to the plan directed by the Pension Board, despite incredible investment returns that out-performend investment expectations. The City's payment, as a percentage of salary, also increased to nearly 85% of salary according to Human Resources department estimates.

The City disagreed with the position of the pension board attorney that the 2013 changes affected accrued benefits. The City further urged the Pension Board to reconsider its actions in letters issued in 2017 and 2018 noting that the issues of accrued benefits were to be negotiated at the bargaining table between the City and unions representing the employees. Among other concerns, the City noted that Florida Statute Section 185.06 states, "(4) The sole and exclusive administration of, and the responsibilities for, the proper operation of the retirement trust fund and for making effective the provisions of this chapter are vested in the board of trustees; however, nothing herein shall empower a board of trustees to amend the provisions of a retirement plan without the approval of the municipality."

In 2018, in response to the increasing costs resulting from the Pension Board's actions and no action in response to the City's requests for reconsideration, the City filed a lawsuit. The City had hoped to avoid this course of action because legal costs of the pension board are charged to the plan and ultimately paid by the City.

Current Situation:

In addition to filing of the lawsuit, the City also sought to address the issue through negotiations individually with the Police and Fire unions. Initially the City sought to opt out of Florida Statutes Ch. 175 and Ch. 185 which mandate the existence of the pension board, amongst other things.

Currently, the City has arrived at a potential multi-phased solution to address the current and potential future issues with the pension board. The first component of the solution is the attached proposed settlement agreement with the Pension Board itself.

The agreement was approved unanimously by the Pension Board and would rescind the adoptions of the legal opinions that led to the dispute. The Pension Board recognizes that the City is negotiating an amended benefit structure with the unions. The agreement would provide for grandfathering of certain individuals who have retired by January 1, 2020, (a list eligible individuals will be submitted for commission approval at a future meeting) and would provide a process for resolution of AAS issues. The agreement will be filed with the Court and the parties will seek a Consent Decree, a mechanism for retaining the court's jurisdiction to address issues arising from the agreement in the future.

Cost Benefit:

Rescinding of Legal Opinions is expected to reduce City's Contribution, although not dollar-for-dollar to the increases due to the proposed changes to the benefit structures currently being negotiated with the unions. To be clear, the City does NOT expect an \$11 million dollar reduction in the liabilities because a number of members have already retired under the effect of the legal opinions and the City is offering benefit improvements in the benefit cap and pension COLA that would offset some of the savings. However, the City further seeks to incorporate future protections to prevent a repeat of the current situation. Those protections would provide that the liability for unilateral pension board action is shared with the membership and not solely on the City.

If the current Pension Board litigation were to continue, there would be a significant increase in liability for the City until litigation is finalized. Resolving the dispute mitigates the need for litigation expenditures and the accrued cost of members continuing to secure inflated lifetime benefits pursuant to the challenged legal opinions. The exact impact of the attached pension board settlement is unknown until the collective bargaining agreements are finalized with the Police and Fire Unions, individually, for the reasons stated above.

PROPOSED ACTION:

The City Commission consider the attached Resolution

ATTACHMENT(S):

Exhibit 1 – Resolution

Exhibit A – Proposed Settlement Agreement