



REPORT FOR ACTION

Consolidation of Text of the Toronto Civic Employees' Pension and Benefit Fund (Civic), the Metropolitan Toronto Pension Plan (Metro) and the Metropolitan Police Benefit Fund (Police)

Date: December 22, 2017
To: Government Management Committee
From: Treasurer and City Solicitor
Wards: All

SUMMARY

This report seeks authority to revise and re-enact the texts of the by-laws governing the Civic Employee's Pension Plan (currently By-law 380-74, as amended, of the former City of Toronto), the Metropolitan Toronto Pension Plan (currently By-law 15-92, as amended, of the former Municipality of Metropolitan Toronto) and the Metropolitan Toronto Police Benefit Fund (currently By-law 181-81, as amended, of the former Municipality of Metropolitan Toronto), all of which now pertain to pension plans sponsored by the City as a result of the 1998 amalgamation of the City of Toronto. The revisions will in each case take into account all amendments made since the last revision and re-enactment, correct some clerical errors, delete some provisions which are no longer relevant, and bring the text into harmony with the Plans' current administrative practices. These re-enactments are a requirement of the Pension Transfer Agreements to be entered into between the City and OMERS for the merger of those Plans into the OMERS Primary Plan, as recently authorized by City Council, and will assist OMERS in implementing the mergers.

RECOMMENDATIONS

The Treasurer and the City Solicitor recommend that:

1. City Council authorize the introduction of bills to:
 - (a) consolidate, to the satisfaction of the City Solicitor, all by-law amendments since the last revision and consolidation of the texts of each of the Toronto Civic Employees' Pension Plan, the Metropolitan Toronto Pension Plan and the pension plan supported

by the Metropolitan Toronto Police Benefit Fund, together with the further amendments described in the body of this report;

(b) stipulate, to the satisfaction of the City Solicitor, that the text of each such pension plan as so consolidated is to be interpreted to reflect:

(i) that the new City of Toronto has assumed as of January 1, 1998 all obligations of the former municipality under the plan; and

(ii) the retirement date of the last active member of the plan; and

(c) repeal By-law 380-74 of the former City of Toronto and By-laws 15-92 and 181-81 of the former Municipality of Metropolitan Toronto currently governing the pension plans.

FINANCIAL IMPACT

Enactment of the recommended consolidating by-laws will have no financial impact on the City.

The Acting Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting held on October 24 and 25, 2011, City Council adopted Executive Committee report EX11.10 "City-Sponsored Pre-OMERS Pension Plans – Analysis of Alternative Investment and Pension Administration through OMERS" authorizing staff to investigate the options of:

(i) a possible merger of the City's five Pre-OMERS pension plans with the OMERS plan; and

(ii) potentially winding up each of the Plans through purchase of annuities.

Following is the link to the staff report and Council decision:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX11.10>

At its meeting held on June 13, 2016, Government Management Committee requested the Treasurer to report to the Government Management Committee semi-annually on the status of the merger of the City of Toronto Pre-OMERS Pension Plans and include any relevant correspondence from OMERS with the report.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM13.5>

At its meeting on May 29, 2017, Government Management Committee received the latest report on Progress on the Merger of the City of Toronto Pre-OMERS Pension Plans.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM21.9>

At its meeting held on October 2, 3 and 4, 2017, City Council adopted Government Management Committee report GM22.23 " Direction Regarding Merger of the Five (5) City of Toronto Pre-OMERS Pension Plans with OMERS", and authorizing the following:

(1) Authorizing the Treasurer to:

- (i) enter into a Pension Transfer Agreement with the OMERS Sponsors Corporation and the OMERS Administration Corporation for each of the five pre-OMERS pension plans sponsored by the City on the terms indicated in Confidential Attachment 1 to the report;
- (ii) make public the terms of the Pension Transfer Agreements following the adoption of the Pension Transfer Agreement recommendation;
- (iii) provide instructions as required to the City's outside counsel to negotiate with an authorized legal representative of the pensioners of each plan likely to have surplus assets remaining after its merger, and to document in a suitable manner, a mutually satisfactory allocation of such assets between the City and those pensioners within certain parameters;
- (iv) make public the terms of the negotiated allocation of surplus assets for each plan immediately following the execution of the required documentation;
- (v) report back on the progress of each merger and, subject to confidentiality as required, the progress of the surplus allocation negotiations, as appropriate;
- (vi) report back on the financial results of each transfer and the implementation of each negotiated surplus allocation following the completion of each;

(2) Directing that the content of Confidential Attachment 2 to the report from the Treasurer containing the negotiating parameters remain confidential in its entirety as being related to the security of the City's property;

(3) Requesting the administrator of each pension plan to proceed expeditiously to fulfil its role in the merger of its plan, including adoption of the resolution called for by Confidential Attachment 1 to the report and diligent instruction of City pension staff regarding all statutory requirements, all in a timely manner; and

(4) Authorizing City staff to take all steps necessary to achieve the mergers on behalf of both the City and each administrator, as applicable.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM22.23>

COMMENTS

One of the requirements in each Pension Transfer Agreement to implement the respective mergers of the Civic, Metro and Police Plans into the OMERS Primary Plan is that the City deliver to OMERS, within 30 days of the execution of the Agreement, a true, correct and complete copy of a current consolidation of the Closed Plan text, as filed with the Financial Services Commission of Ontario, reflecting all relevant amendments thereto, so that following the merger OMERS can properly administer the benefits provided under the York Plan.

OMERS has required that the consolidation be approved and enacted as a by-law by Council rather than assembled administratively.

It is therefore recommended that Council approve the consolidations of the text, to the satisfaction of the City Solicitor, with the intent that, as part of each consolidation, the new consolidated by-laws shall correct some clerical errors, delete some provisions no longer relevant, and bring the text into harmony with the particular plan's current administrative practices and the *Pension Benefits Act*.

Under the current by-laws, one of the members of the Board of Trustees of each of the Metropolitan Toronto Pension Plan and the Metropolitan Toronto Police Benefit Fund and one of the members of the Pension Committee of the Civic Employees Plan, are to be appointed by the "Deputy City Manager and Chief Financial Officer" from among his or her staff, and so it is also recommended that in view of the recent reorganization respecting the Deputy City Managers, the consolidations call for the "Chief Financial Officer" to make those appointments.

The proposed amendments will include administrative harmonizations in the text of the Metro Plan as described in Schedule A, to the text of the Police Plan as described in Schedule B and to the text of Civic Plan as described in Schedule C.

OMERS has indicated its approval of the plan amendments referred to above.

It is also recommended that each consolidating by-law make clear that although the revised text still includes the provisions concerning contributions by active members, early retirements and eligibility for disability benefits, those provisions are for the historical record only, having been superseded by the provisions relating to retired members and their entitled survivors. The last active member retired recently and the City is, in re-enacting these by-laws, neither purporting to create a new pension plan for future employees nor taking on greater financial responsibilities.

CONTACT

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SIGNATURE

Mike St. Amant
Treasurer

Wendy Walberg
City Solicitor

ATTACHMENTS

Schedule A, B, C

Schedule A

Harmonizing Amendments to the Metro Plan

(i) stating more directly that a member's unseparated spouse at the member's retirement is entitled to a 66 $\frac{2}{3}$ % joint and survivor pension with the member only if the retirement took place after 1987;

Schedule B

Harmonizing Amendments to the Police Plan

(i) stating more directly that a member's unseparated spouse at the member's retirement is entitled to a 66 $\frac{2}{3}$ % joint and survivor pension with the member only if the retirement took place after 1987.

Schedule C

Harmonizing Amendments to the Civic Plan

(i) stating that a member's unseparated spouse at the member's retirement is entitled to a 66 $\frac{2}{3}$ % joint and survivor pension with the member only if the retirement took place after 1987;

(ii) to eliminate inconsistency in the criteria for determination of a "Spouse" where a plan member retired on or before December 31, 1987 (requiring that if the member and the person claiming status as the Spouse were not married to each other, the minimum cohabitation period be 8 years if either the member or the claimant or both were already married to another person), as compared to the criteria for such a determination where a plan member has retired after that date (where the corresponding period is 3 years, in accordance with the *Pension Benefits Act*), making the last-mentioned criteria applicable to all such determinations;

(iii) to eliminate non-statutory inconsistency in eligibility as between Spouses, removal of the condition requiring that where the member has retired before 1988, a Spouse be a designated beneficiary, since for retirements after 1987, no such condition is permissible under either the Act (for unseparated Spouses at retirement) or imposed by the by-law (for persons who become a member's spouse after the retirement, whose benefits are not mandatory under the Act);

(iv) removal of the condition that in certain cases dependent children be designated as beneficiaries, since dependent children are unconditionally entitled to survivor benefits where an entitled Spouse has died or would have been entitled if he or she had not predeceased the member;

(v) removal of requirement that if both a Spouse and any other person(s) are named as designated beneficiaries, they are each entitled to a lump sum amount rather than a pension — this requirement pre-dated the Act, which would prohibit such a requirement from operating with respect to a Spouse.