

RETIREMENT COMMITTEE MINUTES
SPECIAL MEETING OF JANUARY 18, 2011

Chairman Warren called the meeting to order at 10:05 a.m. in the Council Chambers.

ROLL CALL

Chairman Edwin Warren: present
Don Campbell: present
Gary Langston: present
Jeanette Hurt: absent

OTHERS PRESENT

Abdel Salem, City Manager, Trustee
Lettie DeDios, Finance Director, Trustee
Sylvia B. Bermudez, Assistant Finance Director
Phyllis A. Kraft, City Clerk, Trustee
Richard Kirkwood, Human Resources Director
Alan Peake, City of Delano Attorney
Javier E. Villarreal, Recording Secretary
Marcus Wu, of Hanson Bridgett LLP

Chairman Ed Warren opened the meeting at 10:05 stating that there is an urgency ordinance on the agenda for January 24, 2011 City of Delano Council meeting amending Chapter 2.52 of the Delano Municipal Code in its entirety which is related to the City's Employee Pension Plan.

Then Mr. Alan Peake introduced the matter of the meeting. The City is going through a voluntary correction process with the IRS, which is due on January 31, 2011 and the City needs to submit the restatement plan and that is the reason to include this item on the agenda for the January 24, 2011 City of Delano Council meeting, so the City Council can take action and approve the final document and also approve to submit the application.

Mr. Peake stated that the purpose of the changes is to ensure the Plan is in compliance with the current existing laws. What the City did is hired the firm Hanson Bridgett; then he introduced Mr. Marcus Wu, who was involved with the restated of the Pension Plan. He provided with a memorandum along with the plan. He suggested going with Mr. Wu and start section by section through the Memo seems to be the most efficient way to get through this process.

Mr. Alan Peake also appreciated the presence of the bargain groups.

He was clear when he mentioned that there were no changes in benefits, nobody is losing a benefit, and there is no change on formulas or anything. Any questions are welcome any time.

Mr. Wu started his presentation and he went over how he was involved in this and he mention that the plan document needs to comply with the tax law and overtime the law changed and the plan was not updated accord with the laws. The second goal was to update the plan so it can reflect how the Plan actually works. The ordinance was base on a plan document that applies to a non-governmental agency.

Mr. Marcus went on detail about what rules apply for private and what apply to governmental pension plan. He also mentioned that about two or three year ago, the IRS decided to enforce the rules for governmental plans. He also mentioned that at the time the City submit the plan; it needs to ask for an IRS determination letter. After this he started explain chapter by chapter.

The restatement will be effective starting July 1, 2010.

After a brief discussion on the Final Average Compensation (Section 1.16), it was clarified that in order to calculate the average of a Participant's monthly Compensation it will be the last 36 whole months, not consecutive months.

Section 1.10. The restatement, in order to comply with California law includes as a beneficiary a domestic partner.

Section 1.30. There was a discussion over years of service and if part-time employees, after reached 1,000 hours in a year, are eligible to participate in the Pension Plan; finally it was stated that part-time employees are not eligible to participate in the Plan.

Section 2.01. Eligible Employee. Mr. Warren asked a question about this section referring to "an eligible employee means an employee who is employed on a regular, active, and full-time basis scheduled to work at least 30 hours per week", and after a brief discussion it was agreed to avoid any confusion the words "30 hours per week" will be taking out.

Section 4.04. The existing Plan provides that a participant becomes 100% vested upon reaching normal retirement age; the restatement adds a service requirement to this 100% vesting provision, but only for new employees. Specifically, for employees hired on or after January 1, 2011, "normal retirement age" means the later of reaching age 60 or completing seven years of service. This provision will prevent immediate vesting of employees who are age 60 or older when hired; they will now vest under the Plan's seven year schedule. This will enable the Plan to comply with the 100% vesting rule in the tax laws, but avoid immediate vesting of new employees who are 60 years old or over at the time when they were hired.

Also there was a discussion about the contributions after a participant reach 60 years old. The City stops to contribute to the plan for the employees that reach the normal retirement age. The restatement of the Plan will add a provision that when the participant reaches this age he/she will get his/her retirement benefits base on actuarial equivalent valuation or for years of service, which it is greater.

There were concerns and discussion about the individual contracts (Department Heads) and Mr. Peake stated that those are individual contracts and they will have a choice.

Section 3.02 (c). Effective February 2011, although designated as employee contributions, Participant contributions will be picked up by the Employer for tax purposes in accordance with Section 414(h) (2) of the Code and will be treated as pre-tax Employer contribution.

Mr. Ed Warren announced a recess at 12:05 p.m.

[Meeting was resumed at 1:06 p.m.]

Mr. Marcus Wu started explain Article 4 such as normal, early and late retirement benefits. As it was mention before, the vesting will be change in order to comply with the 100% vesting rule in the tax laws, but avoid immediate vesting of new employees who are 60 years old or over at the time when they were hired.

Mr. Wu explained about section 4.04 (d)(1)(2) that refers to reemployment; (1) refers to a Participant's employment with the Employer terminates before the Participant is Vested, and (2) if a Participant is Vested when his or her employment whit the Employer terminates. This section is related to Section 4.05 (c), and applies to any Participant who receives one or more distributions

of any portion of his or her account after termination of employment with the Employer, and who is subsequently rehired by the Employer and recommences active participation under Section 2.04 within five years after the termination date. In order to get credit for the years before the break, the Participant needs to repurchases such service by re-depositing the amount received plus interest of 6% per annum.

And Mr. Wu went on section by section. He explained section 4.05, termination before retirement; then section 4.07 which basically reflect the types of benefits of payments a Participant may elect. On section 4.09 it was reduce from \$3,500 to \$1,000. Also he mentioned that section 4.10 was added in order to describe the Plan's suspension of benefits upon reemployment. Section 4.10 refers to a suspension of benefits upon reemployment and the different cases it could happen. Section 4.11 refers to the different scenarios when a Vested Participant dies before retiring. Section 4.12, refers to death before vesting. Also was explained section 4.14, which refers to an eligible rollover distributions. For all section above were brief discussions and also clarification of what will be reflecting on the Plan.

Then Mr. Wu explained Article 5 and said that this article contains mandatory language by tax laws. The restatement updates similar provisions in the existing Plan, bringing these provisions into compliance changes in the tax laws.

There are no significant revisions for Article 6.

Article 7 refers to Committee. Section 7.01, the restatement stated that the City Council of the City of Delano shall appoint a Committee consisting of five members. Two members shall be elected by General Participants, and the other three members shall be appointed by the Mayor of the City of Delano, with approval of the City Council. Also it said that members shall not be subject to the residency requirements as it was before.

Mr. Wu finalized his presentation with an explanation of Article 8. After a brief discussion Mr. Warren asked if there were any questions or concerns.

Mr. Alan Peake thanked everyone that attend the meeting and stated that if there are any other questions or concerns should be addressed to him on Monday, January 24, 2011.

A motion was made by Mr. Don Campbell and seconded by Mr. Gary Langston to recommend the City Council approve the Ordinance with the changes. *Motion passed unanimously.*

ADJOURNMENT

There being no further business, by motion passed the meeting was adjourned at 2.20 p.m.



Javier E. Villarreal,
Recording Secretary