


City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 9, 2010

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: RESOLUTION TO AMEND THE CITY OF ALEXANDRIA SUPPLEMENTAL RETIREMENT PLAN CHANGING SOME OF THE PROVISIONS TO THE PLAN

ISSUE: Consideration of proposed changes to the City of Alexandria Supplemental Retirement Plan, as amended and restated January 1, 2009 (the "Plan").

RECOMMENDATION: That City Council adopt the attached resolution (Attachment 1) changing the provisions of the (Attachment 2) Plan. The changes in this amendment are necessary:

1. To vest participants in their accrued benefit if they become disabled before accruing five years of service as was intended in the original plan design;
2. To allow participants with less than five years of service whose benefit is vested due to disability to receive a monthly benefit;
3. To establish that an employee who is receiving disability benefits under the City of Alexandria Firefighters and Police Officers Pension Plan (Fire and Police Plan) will not also receive disability benefits from this Plan; and
4. To establish that an employee terminated due to dishonesty, malfeasance, or misfeasance in office shall forfeit the right to receive a monthly benefit payable under this Plan, but will have the right to appeal the denial of benefits.

DISCUSSION: The Supplemental Plan is a defined benefit plan that provides both retirement and disability benefits to all regular, full-time and part-time City employees who work at least 50 percent of full-time and who are not currently firefighters or police officers. Although, some employees currently covered under the Plan were previously employed as City firefighters or police officers, that service is not covered under the Plan. The Plan also covers employees of the Virginia Department of Health who work at the Alexandria Health Department as well as members of City Council. There are approximately 2,000 active participants and 300 retired participants.

The Plan was created to supplement benefits employees receive from the Virginia Retirement System (VRS). For that reason, many of the provisions of the Plan were designed to parallel the provisions of the VRS plan. The Plan was originally effective August 1, 1970. It was restated January 1, 1999, and again on January 1, 2009 to comply with current retirement plan requirements.

A summary of the proposed changes follow.

1. Employer-Derived Benefit Vesting (“First Change”)

Currently, a monthly benefit is not vested and not payable if the employee is younger than 60 years old and leaves the City with less than five years of service. However, the plan’s attorney has said the Plan was never intended to deny a retirement benefit to a participant who terminates employment due to disability.

This change will allow an employee who is disabled prior to vesting (with five years of service) to receive the value of their accrued benefit. The employee will not receive an increased pension. They will receive the value of the benefit that has accrued to the date of disability. This is a common practice under governmental pension plans including the City’s Fire and Police Plan.

This change to section 6.1 of the Plan will make disability a qualifying event for vesting and will vest the service retirement benefit under the Plan. The vesting provisions relating to service retirement benefits will parallel those of the VRS plan and the City funded Fire and Police Plan.

2. Amount of Participant’s Deferred Vested Retirement Benefit (“Second Change”)

This change to section 6.3 of the Plan clarifies that an employee who is eligible for disability due to the First Change may elect to receive monthly benefits prior to age 65. The monthly benefits will be actuarially reduced for age as described in the Plan. This change adds a provision that is similar to the one already in the Fire and Police Plan to make the two plans consistent. A participant’s pension benefit becomes vested if the employee becomes disabled, regardless of years of service with the Plan. It is anticipated that the cost of this change will be minimal since participants with fewer than five years of service are typically younger employees who tend to be healthier and not as prone to becoming disabled. In addition, eligibility for Social Security disability benefits, which is more stringent than eligibility for VRS disability benefits, is a requirement for an employee who wants to take advantage of this change to the Plan.

3. Disability Eligibility (“Third Change”)

Occasionally, employees receiving disability retirement benefits under the Fire and Police Plan may return to work for the City in a job that is covered under the Supplemental Retirement. This change excludes an employee who is receiving disability benefits under the Fire and Police Plan from being eligible to receive additional disability

benefits under this Plan. The reason for this change is that such an employee is already receiving City-funded disability benefits under another City pension plan (Fire and Police Plan). This employee would still be eligible to receive their Supplemental pension benefits already earned under this Plan. The pension benefits would be based on service accrued in this Plan as well as the participant's age.

This change to section 7.1 makes no change to contributions or benefits. However, it does change eligibility under this Plan for any employee who is already receiving disability benefits under the Fire and Police Plan by eliminating a second disability benefit.

4. Retirement Benefits Forfeited Due to Misconduct ("Fourth Change" and Fifth "Change")

In accordance with Section 51.1-153(C) of the Code of Virginia, VRS denies retirement benefits to VRS members if the employer certifies the member was terminated because of dishonesty, malfeasance, or misfeasance in office. Recently, an incident occurred where the City certified to VRS that an employee was terminated for this reason. The monthly VRS benefit for this employee was denied under the VRS Plan provisions. The City was not able to deny the employee monthly pension benefits under the Plan since a similar provision currently does not exist in the Plan. The City would like to create a provision similar to the VRS provision to allow the denial of benefits should any other employee be terminated due to dishonesty, malfeasance, or misfeasance in office. The Fourth and Fifth Changes will provide for this.

The Fourth Change to Section 10.2 of the Plan adds a general statement about termination due to dishonesty, malfeasance, or misfeasance in office. The Fifth Change to Section 10.7 of the Plan is added as a new section to describe the process for terminating benefits. An employee who is terminated because of dishonesty, malfeasance, or misfeasance in office will forfeit the accrued benefit, or monthly benefit accumulated to date. By federal and state law, the employee cannot forfeit receiving any contributions he has made or the City has made on his behalf.

These two changes do no change current contributions and benefits, but do change eligibility for an employee terminated because of dishonesty, malfeasance, or misfeasance in office.

The proposed amendment was announced to affected employees. An announcement also appeared on the employee internal website with a link to the amendment on the Pension website. Additionally, the Pension Administration Division held a meeting and gave employees the opportunity to comment and ask questions.

FISCAL IMPACT: This amendment is anticipated to have minimal fiscal impact. The value of any benefit that would be paid to an employee affected by the First and Second changes is negligible. Only a small number of employees could be affected by the Third Change, producing limited savings for the City. It is anticipated that few, if any, employees will be affected by the Fourth and Fifth Changes related to malfeasance.

ATTACHMENTS:

Attachment 1: Resolution

Attachment 2: Proposed Second Amendment

STAFF:

Bruce Johnson, Chief Financial Officer

Laura B. Triggs, Finance Director

Steven Bland, Retirement Administrator

RESOLUTION NO. _____

WHEREAS, the City of Alexandria maintains the “City of Alexandria Supplemental Retirement Plan” (the “Plan”); and

WHEREAS, the City of Alexandria desires to adopt and incorporate certain amendments to the Plan as set forth in the Plan attached hereto; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA, VIRGINIA THAT the Alexandria City Council does hereby recognize, adopt, amend, and approve the Plan to incorporate the amendments attached hereto and incorporated fully herein by reference; and

BE IT FURTHER RESOLVED THAT this Resolution shall be effective immediately; provided however, that the amendments hereby approved shall be effective as stated in the Plan.

ADOPTED _____ (date)

William Euille **Mayor**

ATTEST:

Jackie M. Henderson, City Clerk

**SECOND AMENDMENT TO
THE CITY OF ALEXANDRIA SUPPLEMENTAL RETIREMENT PLAN,
AS AMENDED AND RESTATED EFFECTIVE AS OF JANUARY 1, 2009**

Pursuant to the powers of amendment reserved under Section 14.1 of The City of Alexandria Supplemental Retirement Plan, as amended and restated effective as of January 1, 2009 (the "Plan"), said Plan shall be and the same is hereby amended by the City of Alexandria, Virginia (the "City"), effective as of [July 1, 2010 or such earlier dates as noted herein], as follows:

FIRST CHANGE

The second paragraph of Section 6.1 shall be amended to read as follows:

A Participant's vested interest in his Employer Derived Benefit shall be determined in accordance with the following schedule, based upon the number of full years of Service credited to him; provided, however, that a Participant's vested interest in his Employer Derived Benefit shall be 100 percent (1) if he is employed by the City on his Normal Retirement Date, (2) if he becomes totally and permanent disabled (as defined in Section 7.1) while an Employee, or (3) if he is a Full-Time Employee, and he is employed by the City on the date he attains age 60, regardless of Service.

SECOND CHANGE

Section 6.3 shall be amended to read as follows:

6.3 Amount of Deferred Vested Retirement Benefit

An eligible Participant's deferred vested retirement benefit shall be equal to his Accrued Benefit determined as of the date of his termination of employment and payable commencing on his Normal Retirement Date; provided, however, that if the Participant is totally and permanent disabled (as defined in Section 7.1) while an Employee, and he is not otherwise entitled to a disability benefit under Article VII, the Participant may elect to receive a reduced retirement benefit commencing as of the first day of any month prior to his Normal Retirement Date. The amount of such reduced benefit shall be determined by applying the appropriate early commencement factor determined as provided in the Table attached to the Plan.

THIRD CHANGE

Section 7.1 shall be amended to read as follows:

7.1 Eligibility

Each Participant who (a) suffers permanent and total disability prior to his Normal Retirement Date while actively employed by the City as a Employee, (b) has at least five years of Service, and (c) is entitled to disability benefits under Title II of the Social Security Act shall be eligible for a disability benefit under this Article VII. For purposes of this Article, "permanent and total disability" means any physical or mental condition sustained while an Employee that prevents the Participant from engaging in any substantial gainful activity, as determined by the Administrator, in its discretion, on the basis of medical evidence satisfactory to the Administrator.

Notwithstanding the forgoing, a Participant who is receiving disability benefits under the City of Alexandria Firefighters and Police Officers Pension Plan (or who was receiving disability benefits under the City of Alexandria Firefighters and Police Officers Pension Plan prior to reaching his normal retirement date under such plan) shall not be eligible for disability benefits under this Article VII.

FOURTH CHANGE

The last sentence of Section 10.2 shall be amended to read as follows:

Notwithstanding the foregoing, retirement benefits hereunder may be (i) reduced pursuant to a domestic relations order approved by the Administrator in accordance with the procedures set forth in Section 13.11, and (ii) forfeited for termination due to dishonesty, malfeasance, or misfeasance in office in accordance with Section 10.7.

FIFTH CHANGE

The following new Section 10.7 shall be added effective with respect to benefits that are accrued after [_____, __, 2010]:

10.7 Forfeiture of Benefits Due To Misconduct

In the event that the employment of a Participant is terminated because of dishonesty, malfeasance, or misfeasance in office, the Participant shall forfeit and cease to have any right to receive his or her Accrued Benefit

(or any other benefit under the Plan). A forfeiture pursuant to this Section 10.07 may be appealed to the Administrator in accordance with the provisions of Section 13.12.

IN WITNESS WHEREOF, the City has caused this Second Amendment to be executed by its City Manager on this ____ day of _____, 2010.

CITY OF ALEXANDRIA

By: _____
James K. Hartmann, City Manager

RESOLUTION NO. 2411

WHEREAS, the City of Alexandria maintains the “City of Alexandria Supplemental Retirement Plan” (the “Plan”); and

WHEREAS, the City of Alexandria desires to adopt and incorporate certain amendments to the Plan as set forth in the Plan attached hereto; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA, VIRGINIA THAT the Alexandria City Council does hereby recognize, adopt, amend, and approve the Plan to incorporate the amendments attached hereto and incorporated fully herein by reference; and

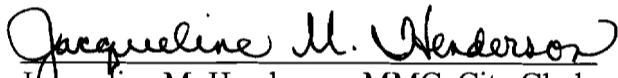
BE IT FURTHER RESOLVED THAT this Resolution shall be effective immediately; provided however, that the amendments hereby approved shall be effective as stated in the Plan.

Adopted: June 22, 2010



WILLIAM D. EULLE MAYOR

ATTEST:



Jacqueline M. Henderson, MMC City Clerk