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Item No. 6

Halifax Regional Council
April 22, 2008

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

Teresa Troy, Chief Executive Officer, HRM Pension Plan Committee

DATE: April 17, 2008

SUBJECT: Status Update - Pensioner Increase

INFORMATION REPORT

ORIGIN

Halifax Regional Municipality Pension Committee

BACKGROUND

In November 2007, the HRM Pension Committee ("Committee") and the bargaining units approved a 2% increase in pensions paid to retired members of the HRM Pension Plan ("HRM Plan") and the Prior Pension Plans. Pensioners have not been granted an increase for some time and have been lobbying the Committee for an increase. The last pension increase for pensioners in each of the Plans has been:

- The current HRM Pension Plan - 1 January 2001 (2.8%)
- The Prior Metro Authority Plan - 1 January 2004 (2.0%)
- The Prior City of Dartmouth Plan - 1 January 2000 (1.3%)
- The Prior City of Halifax Plan - 1 January 2000 (1.3%)
- The Prior Halifax County Plan - 1 January 2000 (1.3%)

In accordance with the terms of the applicable governing documents of the pension plans, the Committee obtained the necessary approval from Council in November 2007 to provide pension increases to retired members of the HRM Plan and the Prior City of Halifax Superannuation Plan. The Committee did not require Council approval to grant pension increases to retired members of the Prior City of Dartmouth Employees' Retirement Pension Plan, Prior Halifax County Municipality Full-Time Retirement Pension Plan, and the Prior Metropolitan Authority Employees' Pension Plan.

UPDATE

November 26, 2007 - Terri Troy, CEO of the HRM Plan and Glenn Hirschfeld, Director of Pensions met with Nancy MacNeill Smith, Superintendent of Pensions (“Superintendent”) to present the draft actuarial valuation report including the 2% pensioner increase a second proposed amendment to increase the maximum pension payable from the pension plan to be in line with Income Tax Limits. This second amendment was approved by the Committee, bargaining units, and Council.

Mid December 2007 - Superintendent notified the CEO that she was not willing to accept the amendments unless the cost of both amendments was pre-funded. The cost of the pensioner increase is \$10.8 million (solvency), and \$8.9 million (going-concern). The cost of the maximum pension amendment is \$2.4 million (solvency) and \$19.3 million (going-concern). She requested the CEO to file the actuarial valuation excluding both amendments. CEO asked for an extension to file the actuarial valuation report (as at December 31, 2006 and due December 31, 2007) in order to better understand the Superintendent’s rationale for declining either amendment. Filing extension was granted.

Definition Note:

Solvency Valuation

The valuation of liabilities and assets of a pension plan determined as if the plan had been wound up on the valuation date.

Going Concern Valuation

The valuation of liabilities and assets of a pension plan for the valuation of a continuing plan.

Subsequent meetings were held between officials of HRM, representatives from the HRM Plan and representatives from the Province (including the Deputy Minister, the Minister of Labour and Environment, and the Superintendent) in January and February 2008 to discuss each other’s position on each amendment. However, the Superintendent could not be persuaded to change her mind. The differing opinions are summarized on the next page.

The CEO and Committee received formal notice via a “Notice of Proposed Refusal and Order” dated February 8, 2008 from the Superintendent. In this report the Superintendent proposed to refuse to register both amendments and ordered the Pension Committee to file a revised actuarial report excluding the proposed amendments.

March 2008 - Committee filed a revised actuarial valuation report along with a letter expressing their profound disappointment with the Superintendent’s decision. On advice from the HRM Plan’s actuary, the Committee proposed to pre-fund the \$2.4 million solvency cost of the maximum pension amendment with part of the \$4.1 million in excess cumulative contributions. Unfortunately, the HRM Plan cannot afford to pre-fund the cost of the 2% pensioner increase. The Committee wrote a letter to all retirees updating them on the status of the pensioner increase and urged them to contact

their MLA concerning the Superintendent's refusal to grant pensioner increases.

April 2008 - CEO received a letter from the Superintendent dated April 10, 2008 denying the maximum pension amendment included in the March 2008 filing of the actuarial valuation because the \$4.1 million in excess contributions was not sufficient to fund the \$19.1 million going-concern cost. The Superintendent provided an extension to April 25, 2008 to file a reconsideration of her February 8, 2008 "proposed refusal and order" report.

Arguments for Approving and Not Approving the Proposed Amendments:

In 2006, the Committee successfully lobbied the Provincial Government to obtain solvency funding relief for municipal pension plans in Nova Scotia. While the Committee sought full exemption from unreasonable and stringent solvency funding rules that should not be applicable to public sector pension plans due to their extremely low probability of going bankrupt, the Province was only prepared to provide temporary and limited relief until it conducted a comprehensive review of its pension legislation. The Province's pension plans are exempt from the rules imposed on all other pension plans.

If a municipal pension plan wishes to take advantage of the 10-year solvency relief period, it cannot make any benefit improvements to the pension plan unless they are fully funded in advance. This is impractical for a pension plan that is cost-shared by employees and employers.

The Committee, supported by a legal opinion and the plan's independent actuary, believe that the amendments can be made under the current pension regulations effective December 31, 2006, the date of the valuation report. The solvency relief period starts January 1, 2007, after the date of the valuation report. As per standard actuarial practice, going-concern funding of the amendments would not commence until 2007 and the cost would be amortized over 15 years. The requirement to fully fund the amendments in advance would not be required.

The Superintendent's position is that amendments cannot be made retroactively. The Committee and Council did not approve the amendments until November 2007, which the Superintendent believes falls during the solvency relief period. As such, the amendments can only be approved if the full cost is paid for in advance. However, it is interesting to note, that the Provincial Government passed recent pension legislation, Bill 4, retroactively.

The Committee's legal advisor has informed the Committee that the Superintendent has discretion in these matters. While it is unfortunate that a number of reasonable interpretations of pension legislation may exist, the Court will likely defer to her judgement.

The Superintendent also denied the Plan's use of excess cumulative contributions to pre-fund the solvency cost of an amendment. Instead, she requires the Plan to pre-fund the going concern amount. The Plan's legal advisors believe that the Superintendent is not making a reasonable interpretation of the solvency relief pension legislation. Solvency relief legislation intuitively applies to solvency costs.

BUDGET IMPLICATIONS

None

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

NEXT STEPS

The Pension Committee will ask for a reconsideration hearing for each of the proposed amendments separately. The pensioner increase amendment may be more of a political issue than a legal issue. The maximum pension amendment is a legal issue that will be pursued with the Courts if the Superintendent does not change her position.

The Province announced an independent review of pension legislation. The Minister of Environment & Labour recommended that the Committee pursue changes to pension legislation (e.g. full exemption from stringent funding rules), which will provide the Committee and Council with the flexibility to grant amendments when the Committee believes the pension plan can prudently afford to do so. The Committee plans to devote time and resources to provide a compelling case for consideration by the newly created pension review panel, chaired by Bill Black. Consultations are expected to begin in the summer of 2008.

ATTACHMENTS

None

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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