CITY COUNCIL WORK SESSION
APRIL 18, 2011
6:00 P.M.
NEWBERG PUBLIC SAFETY BUILDING
401 EAST THIRD STREET

THE CITY COUNCIL OF THE CITY OF NEWBERG WILL HOLD A WORK SESSION TO REVIEW THE COUNCIL AGENDA ITEMS. NO ACTION WILL BE TAKEN ON THE AGENDA ITEMS AND NO DECISIONS WILL BE MADE. THE COUNCIL MAY HEAR REPORTS FROM BOARDS, COMMISSIONS, AND COMMITTEES. THE BELOW WILL BE HEARD:

- PRESENTATION FORM THE CITY MANAGER AND RETIREMENT CONSULTANT ON NEWBERG'S RETIREMENT SYSTEM.

DANIEL DANICIC
CITY MANAGER

ACCOMMODATION OF PHYSICAL IMPAIRMENTS:
In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical accommodations you may need as far in advance of the meeting soon as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact the city recorder, at (503) 537-1283. For TTY service please call (503) 554-7793.

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MEMORANDUM

TO: Newberg City Council

FROM: Everett Moreland

DATE: April 18, 2011

RE: City of Newberg Employees Retirement Plan

This memo is intended to inform the City Council about the City of Newberg Employees Retirement Plan. As requested by the City's Finance Director, this memo covers the following matters about the Plan:

- Brief general description of the Plan.
- Relationship of defined benefit to defined contribution.
- Flexibility in the amount of employee contributions.
- Fiduciary responsibility of the City Council.

This memo does not describe the Plan benefits of public safety employees, because all the City's current public safety employees are eligible for membership in the Oregon Public Employees Retirement System (PERS) and so are not covered by the Plan. The Plan's benefits for former public safety employees are generally the same as the benefits described in this memo for the City Attorney.

Brief general description of the Plan

Year Plan established. The City established the Plan in 1964.

Persons primarily involved with the Plan and their roles. The persons primarily involved with the Plan as it stands today are the City, Principal Financial Group, some current and former City employees and their beneficiaries, and the Internal Revenue Service.

- The City. The City maintains the Plan, administers the Plan except as to benefit payments, is the primary source of funding for the Plan, and invests the Plan's assets through a third party (currently Principal).

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- Principal. Principal holds and invests the Plan's assets and administers the Plan as to benefit payments.

- Current and former employees and their beneficiaries. Some current City employees earn retirement benefits in the Plan. (The Plan refers to these current City employees as Active Participants. See below under City employees covered by the Plan for a description of which City employees are Active Participants.) Some former City employees and their beneficiaries receive, or in the future will receive, retirement benefits from the Plan.

- The IRS. The Internal Revenue Service requires the Plan to comply with federal laws regulating government retirement plans. Periodically the Plan is amended or restated to comply with changes in these federal laws. The Plan was last restated in 2003 and will be restated again in 2011. In 2003 the IRS approved the Plan's 2003 Restatement. The Plan's proposed 2011 Restatement was submitted to the IRS on January 31, 2011, for approval, which I anticipate the City will receive in about two years.

City employees covered by the Plan. The Plan covers full-time regular City employees who are not eligible for membership in PERS.

- "Active Participants." The Plan refers to these employees as Active Participants.

- Employees eligible for membership in PERS. Currently all the City's public safety and ambulance service employees, and most of the City's management employees, are eligible for membership in PERS and so are not covered by the Plan. Management employees who were promoted to management through the ranks after June 20, 1993, and were Active Participants in the Plan on June 20, 1993, are not eligible for membership in PERS and so are covered by the Plan.

- Former public safety employees. In the past the Plan covered the City's public safety employees, and so the Plan now pays benefits to several of them.

- Number of current and former employees covered by the Plan. Currently the Plan covers about 70 City employees and about 70 former City employees or their beneficiaries.

Monthly retirement benefit. The Plan provides a participant a monthly retirement benefit starting at her or his Normal Retirement Date.

- Benefit formula. The monthly retirement benefit is 1.67% (2% for the City Attorney) of average compensation times years as an Active Participant.

- "Average compensation." "Average compensation" means the participant's average base pay during the 36 consecutive months during the last 10 years of employment with the City that produce the highest average, plus 1/72 of the value of the participant's unused sick leave.

- Additional monthly retirement benefit for participants hired before July 1, 1993, and the City Attorney. A participant hired before July 1, 1993, and the City Attorney earn an additional monthly retirement benefit funded by the part of her or his account (see below) that is derived from contributions made after June 30, 1979.

- COLA. Monthly retirement benefits in pay status are adjusted each year for changes in the cost of living, but may not be increased in any one year by more than 2%.

When monthly retirement benefit vests. A participant's monthly retirement benefit vests after five years as an Active Participant or, if earlier, when the participant attains age 50 (age 45 for the City Attorney) while an Active Participant.

When monthly retirement benefit is payable. Payment of a participant's monthly retirement benefit starts at the participant's Normal Retirement Date or, if later, termination of the participant's employment with the City, but a participant may elect to start payment at the participant's Early Retirement Date.

- Normal Retirement Date. The Normal Retirement Date is the first of the month on or after the date the participant attains age 60 (age 58 for the City Attorney).

- Early Retirement Date. The Early Retirement Date is the first day of a month selected by the participant to start payment of monthly retirement benefits before the Normal Retirement Date that is on or after the date the participant has attained age 55 (age 50 for the City Attorney) and terminated employment with the City.

- Reduction for starting at the Early Retirement Date. Monthly retirement benefits are reduced by 8% for each year payment starts before the Normal Retirement Date (or for the City Attorney, by 8% for each year payment starts before age 55). However, benefits are not reduced after 30 years (25 years for the City Attorney) as an Active Participant.

Options for payment of monthly retirement benefit. A participant may elect to receive monthly retirement benefits in the form of a life annuity, a life annuity with 5 or 10 years certain, a 50% or 100% joint and survivor annuity, or a cash refund annuity (in which the participant's beneficiary receives a payment equal to any excess of the participant's account (see below) over the total monthly payments to the participant). A participant may also elect to receive a lump sum payment of the participant's account (see below) and a reduced monthly annuity. Each option has the same present value. For example, a 50% joint and survivor annuity pays a lower monthly retirement benefit than does a life annuity.

City contributions to the Plan, and City and participant contributions to participant accounts. The Plan is funded by City contributions and by "participant" contributions of 6% of compensation (excluding overtime, longevity pay, and pager pay).

- Accounts. Participant contributions are credited to an account for the participant, which earns 8% interest annually. A participant's account is always vested.

- Funding of accounts. Participant contributions are funded by participants, except that the City funds the participant contributions for participants represented by The Newberg-Dundee Public Safety Association or International Association of Firefighters, Local 1660, and for participants employed in the following positions: City Attorney, Building Official, HR Manager, and Maintenance Supervisor.

Monthly disability benefit. The Plan's monthly disability benefit is payable to an employee who becomes totally and permanently disabled while an Active Participant and after 10 years of Active Participation or in the performance of duties. The Plan's monthly disability benefit is the same as the monthly retirement benefit, except that (1) it is not reduced for starting before the Normal Retirement Date, (2) it is not adjusted for changes in the cost of living, and (3) for the City Attorney, it is computed by crediting years as an Active Participant to age 55, if the City Attorney becomes eligible for monthly disability benefits before age 55.

Death benefit. The beneficiary of a participant who dies before payment of her or his monthly retirement benefit starts will receive a lump sum death benefit equal to 2.2 times the participant's account, but may convert part or all of the lump sum to an annuity.

Lump sum termination benefit before the Early Retirement Date. A participant who has terminated employment may elect to forgo an annuity and receive instead a lump sum payment of her or his account before the Early Retirement Date.

Voluntary contributions. Active Participants may make voluntary contributions to the Plan. A participant may elect to receive the voluntary contributions, adjusted for investment gains and losses, in a lump sum or may convert them to an additional monthly retirement benefit.

Relationship of defined benefit to defined contribution

The Plan is a defined benefit plan but has a defined contribution feature (the Plan's accounts for voluntary contributions).

A defined benefit plan provides a defined benefit, for example a monthly retirement benefit of 1.67% of average compensation times years as an Active Participant.

A defined contribution plan provides an account balance, for example an account balance equal to voluntary contributions adjusted for investment gains and losses.

The Plan's accounts for 6% participant contributions are a defined benefit feature, not a defined contribution feature, because the accounts are credited with 8% interest, not with investment gains and losses.

A defined benefit plan places all investment risk and benefit on the employer. A defined contribution plan places all investment risk and benefit on the employee.

The reasons the Plan is a defined benefit plan are (1) defined benefit plans are the predominate and traditional retirement plan for public employees and (2) in 1979 the City revised the Plan to make it similar to PERS (which was then entirely a defined benefit plan), to help the City satisfy the requirement that the City provide retirement benefits for public safety employees that are equal to or better than PERS benefits for public safety employees.

In recent years some governments have placed new employees in defined contribution plans, to shift investment risk to the employees.

Flexibility in the amount of employee contributions

Why participant contributions are 6%. The reason the Plan requires 6% (of compensation) contributions to participant accounts is that the Plan was designed to be similar to PERS, which requires 6% contributions to member accounts. Except as discussed in the second following paragraph, nothing requires that any amount or percentage be contributed to participant accounts or that the Plan have participant accounts.

Changing the contribution rate for new hires. For new hires, the City could change the Plan to require that a lower or higher percentage of compensation, or that no amount, be contributed to accounts. This change for bargaining unit employees would need to be made consistent with collective bargaining law.

Changing the contribution rate for current employees. For current employees, the Oregon constitution might restrict the City's power to increase the amount of contributions made by the employee, unless the employee or, for a bargaining unit employee, the union consents. The Oregon Supreme Court decisions on the constitutional restriction on a government's power to require employees to make additional contributions are such that it is not possible to predict the outcome of litigation with any reasonable certainty. The conservative approach is to assume that the City could not require a current employee to make additional contributions unless the employee or (for a bargaining unit employee) the union consents.

Role in funding Plan benefits. These 6% contributions fund a substantial part of the Plan's benefits. They represented $198,218, or 25%, of the $789,625 contributed to the Plan in the year ended June 30, 2009, and $181,983, or 21%, of the $864,188 contributed to the Plan in the year ended June 30, 2010. The part of benefits funded by these 6% contributions will go up as the City's contribution rate to the Plan (as a percentage of compensation) goes down, and will go down if the City's contribution rate goes up. The City's contribution rate declined from 16.7% of Active Participants' compensation for the year ended June 30, 2010, to 15.9% of Active Participants' compensation for the year ending June 30, 2011. Principal's Actuarial Valuation Report for the Plan for the year ending June 30, 2011, projects that these 6% contributions will represent 24% of the contributions made to the Plan after June 30, 2010.

Fiduciary responsibility of the City Council

The City has the following responsibilities and power relative to the Plan:

- Maintain the plan document in compliance with legal requirements. The implied contractual responsibility to maintain the Plan's plan document in compliance with legal requirements (primarily these are IRS legal requirements). The City contracts with the law firm of Hershner Hunter to timely provide the City with Plan amendments as needed to comply with changes in legal requirements.

- Administer the Plan. The fiduciary responsibility to administer the Plan in accordance with the Plan's plan document and legal requirements.

- Fund the Plan. The contractual responsibility to make contributions to the Plan as needed to fund benefits.

- Invest the Plan's assets. The fiduciary responsibility to invest the Plan's assets.

- Amend the Plan. The power to amend the Plan.

All the above City responsibilities and power rest primarily with the City Council.

- The City Manager's power to amend the Plan. The City Manager has a limited power to amend the plan (to clarify the Plan, to facilitate the administration of the Plan, or to make changes adapting the Plan to the requirements of law, changes in law, or the terms of a collective bargaining agreement).

- The City Council's responsibilities and power. Except for the City Manager's limited power to amend the Plan, the Plan places all the above City responsibilities and power with the City Council, except those that the City's governing documents or City Council actions vest in other City officials. For responsibilities vested in other City officials, the City Council may have a duty to monitor the officials' performance.

- Hiring advisors. The City has hired the following independent contractors to advise the City about the Plan:

  Plan document. Hershner Hunter advises the City about maintaining the plan document.
  Administration. Principal performs the Plan administration relating to paying benefits (giving participants the paperwork needed to elect a payment option, paying the elected option, and tax withholding and reporting). The City performs the rest of the Plan administration and occasionally asks the advice of Principal or Hershner Hunter about Plan administration.
  Funding. Principal advises the City about funding the Plan.

Investments. Principal recommends the Plan's asset allocation, such as the percentage of the Plan's assets to invest in stocks and the percentage to invest in bonds. The City decides the Plan's asset allocation, after considering Principal's advice. Principal decides how to invest the Plan's assets invested in each asset class (such as in stocks and in bonds).

The City (meaning the City Council except where the City's governing documents or City Council actions vest responsibility in other City officials) has the duty to monitor these advisers.

- Delegating administration and investment responsibilities. The City can delegate to a retirement committee the City's responsibility to administer the Plan and can delegate the responsibility to invest the Plan's assets, but the City (meaning the City Council except where the City's governing documents or City Council actions vest responsibility in other City officials) has the duty to monitor these persons.