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Paul Olafson
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21 December 2011

Subject: Report to Council on Amendments to By-law No. 7869/2001

Dear Paul:

As per your request, which is on behalf of the interested parties[1], we are pleased to provide our report on the Amendments to:

- By-law No. 7869/2001; and
- Part A of By-law No. 7869/2001.

The amendments are those documented in Appendix A of the draft administrative report provided on December 1, 2011. It is our understanding that as per Section 17(4) of the By-law No. 7869/2001 (the "By-law"), no amendment, modification, variation, or termination of The City of Winnipeg Council Pension Plan (the "Plan") shall be made until the City Council (the "Council") has received a report thereon from a qualified actuary.

The purpose of this report and enclosures is to satisfy the requirements under existing Section 17(4) of the By-law and will be included in Appendix B to the Administrative Report on the Amendments to By-law No. 7869/2001 (the "Administrative Report"). Where appropriate, this report contains our commentary on the impact on contributions or amount of benefits payable under the Plan. In addition, we have included commentary that is supplemental to that provided in the "History" section of the Administrative Report.

As directed by the City of Winnipeg (the "City"), for the purpose of this report, an amendment is deemed to be material with respect to the:

[1] Governance Committee of Council, Executive Policy Committee and Council.

1. City's annual contributions if an amendment results in a material change to the City's annual contributions to the Plan in relation to the City's annual budget,

2. benefits payable under the Plan if an amendment results in:

   A. a reduction to members' pension benefit credits, individually or in aggregate, in respect of remuneration and service or membership in the Plan prior to the effective date of the amendment,

   B. an increase to members' pension benefit credits, individually or in aggregate, which is significant in relation to the aggregate benefits payable under the Plan.

Illustrations to demonstrate the effects of the amendments are not included in this report, but we will be pleased to do so upon request.

Commentary on the Amendments to By-law No. 7869/2001

	Amendment to By-law No. 7869/2001	Qualified Actuary's Commentary
1	By-law No. 7869/2001, being a By-law of The City of Winnipeg to establish a pension benefits program for members of Council of The City of Winnipeg, is amended by this By-law.	This amendment will not alter the contributions or amount of benefits payable under the Plan.
2	"City of Winnipeg Act" is replaced wherever it appears by "The City of Winnipeg Charter".	This amendment will not alter the contributions or amount of benefits payable under the Plan.
3	Subsection 6(2) is repealed.	Please refer to the enclosed memo, dated November 9, 2011, for our comments.
4	Section 16 is replaced by the following: Subject to Sections 17 and 18, but notwithstanding any other provision of this By-law or the Council Pension Benefits Program, Council may by By-law from time to time amend, modify, vary or terminate the terms, conditions or provisions of this By-law or the Council Pension Benefits Program (and any trust arising under this By-law or under the Plan) in such manner and on such terms as Council may determine appropriate, such determination to be conclusively deemed to be evidenced by the passage of such By-law, and such amendment, modification, variation or termination may be effective retroactive to a date prior to the date such By-law is passed.	This amendment will not alter the contributions or amount of benefits payable under the Plan.

Amendment to By-law No. 7869/2001	Qualified Actuary's Commentary
5(1) Subsection 17(1) is amended by striking out ", within two months of receipt thereof".	This amendment will not alter the contributions or amount of benefits payable under the Plan.
5(2) Subsection 17(2) is repealed.	This amendment will not alter the contributions or amount of benefits payable under the Plan.
5(3) Subsection 17(4) is replaced with the following: (4) If a proposed amendment, modification or variation of the terms, conditions or provisions of this By-law or the Council Pension Benefits Program would materially affect the contributions or benefits payable under the Plan, the Board shall have a written report thereon prepared by a qualified actuary and shall provide such report to Council, and Council shall not adopt such amendment, modification or variation until having received such written report.	In order for the Council Pension Benefits Board ("Board") to be satisfied that an amendment does not materially affect the contributions or benefits payable under the Plan, such an assessment should be made from a person who is qualified to make such assessment, which does not necessarily need to be a qualified actuary, and the Board may want to consider a process of documenting such assessments. In addition, the level of materiality may need to be defined.

Commentary on the Amendments to Part A of By-law No. 7869/2001

Amendment to Part A of By-law No. 7869/2001	Qualified Actuary's Commentary
6 Subsection 5(3) of Part A is amended by replacing "age 69" with "age 71".	This amendment will not materially alter the contributions or amount of benefits payable under the Plan.
7 Subsection 6(11) is replaced with the following: (11) If a Member's (a) annual pension determined in accordance with subsection (1) at the first of the month in which the Member attains the age of 65 is less than 4% of the YMPE for the year in which the Member retired, died, or terminated Employment with the City or the year in which the Member became divorced, separated or had their marriage annulled; or (b) Commuted Value of the pension is less than 20% of the YMPE for the year in which the Member retired, died, or terminated Employment with the City or the year in which the Member became divorced, separated or had their marriage annulled; the Member or, if the Member has died, the Member's Spouse, Beneficiary or estate, whichever is applicable, shall receive a lump sum payment equal to the Commuted Value of the pension otherwise payable in lieu of all benefits under the Plan.	This amendment will not materially alter the contributions or amount of benefits payable under the Plan.

Amendment to Part A of By-law No. 7869/2001	Qualified Actuary's Commentary
8(1) Subsection 10(1) is replaced with the following: (1) If a Member dies while an Employee but before completing 2 years of Eligibility Service, the Member's Spouse, Beneficiary or estate, whichever is applicable, shall receive in a lump sum the Commuted Value of a pension commencing on the first day of the month following or coinciding with the month in which the Member would have attained age 60. The amount of the pension shall be equal to the pension determined in accordance with Section 6.	This amendment will only affect plan members who die prior to completing two years of service, and will not materially alter the contributions or amount of benefits payable under the Plan.
8(2) Subsection 11(2) is amended by: (i) striking out the heading "More than 2 Year's Eligibility Service" and replacing it with "Eligibility Upon Termination"; and (ii) striking out "and after having completed at least 2 years of Eligibility Service," wherever it appears.	This amendment, in connection with the amendment to Subsection 11(1), will only affect plan members whose period of employment is less than two years, and will not materially alter the contributions or amount of benefits payable under the Plan.
8(3) Subsections 10(9) and 11(3) are amended by replacing "30 days" with "90 days" in both provisions.	This amendment will not materially alter the contributions or amount of benefits payable under the Plan.
8(4) Subsection 11(1) is repealed.	This amendment, in connection with the amendment to Subsection 11(2), will only affect plan members whose period of employment is less than two years, and will not materially alter the contributions or amount of benefits payable under the Plan.

Conditions of Material or Work Product

We are not expressing an opinion on the amendment itself nor are we expressing an opinion on the appropriateness of pension benefit levels or member contribution rates. In addition, the information contained herein should not be deemed to be advice on compensation levels.

Use of Material or Work Product

The information contained in this report has been prepared for the use of the Council Pension Benefits Board, the Governance Committee of Council, the Executive Policy Committee, and Council for the purpose stated in this report. This report is not intended or suitable for any other purpose. In addition, this report may be published on the condition that it is published in its entirety including the enclosed memo, dated November 9, 2011. In other words, it is not acceptable to publish selected extracts from this report or the enclosed memo.

We would be pleased to respond to any questions or comments you may have.

Sincerely,

Jared Mickall, FSA, FCIA
Senior Associate

Copy:
Julie Landin: Mercer

Enclosure

MERCER

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MEMO

TO:	Leonard Strijack: The City of Winnipeg
DATE:	09 November 2011
FROM:	Jared Mickall, FSA, FCIA
SUBJECT:	By-law 7869/2001 – October 12, 2011 Questions
COPY:	Krista Boryskavich, Paul Olafson: The City of Winnipeg
	Cynthia Walker: Mercer

We are pleased to respond to the questions posed in your email, dated October 12, 2011, with respect to By-Law No. 7869/2001 (the "By-law") and Parts A and B of By-Law No. 7869/2001 (the "Plan").

1. **Does the Plan require a change to reflect the change to the non-taxable portion of a Councillor's remuneration?**
   It depends on Council's intent. If Council's intent is to have all taxable earnings be pensionable, then a change to the Plan is not required. If this is not Council's intention, then a change to the Plan would be required to reflect Council's intent.

   The definition of "Earnings" under the Plan is:

   > *"Earnings" means the total taxable remuneration received by a Member from the City during a Taxation Year, plus, with respect to periods of Credited Service during which a Member does not actually receive remuneration from the City, an amount deemed to be received based on the rate of Earnings the Member was receiving immediately preceding that period. However, deemed Earnings shall not exceed the amount of compensation that is prescribed for this purpose by the Income Tax Act(Canada). A Member's Earnings shall be considered as having been earned in equal instalments throughout the Taxation Year.*

   As such, a change to the taxable remuneration structure received by an active Member from the City without an amendment to the definition of Earnings under the Plan will change the benefits payable from the Plan and the amount of member required contributions, without a change to the Plan itself.

2. **Possible Interpretation of Subsection 6(2)**
   We examined Subsection 6(2) of the By-law in the context of the By-law as a whole. For reference, Subsection 6(2) appears under the heading "Solvency of the Council Pension Benefits Program" and states the following:

> *"Any change to the benefits in the Civic Employees' Pension Plan or the Civic Employees' Early Retirement Benefits Arrangement shall require an identical amendment to the Council Pension Benefit Program under this By-law, subject to the approval of Council."*

Amending Provisions of the By-law

Sections 16 and 17 of the By-law provide amending power subject to either Board endorsement or approval by at least 2/3 of the members of the whole Council, and requiring an actuarial report in all cases. In addition, Section 18 precludes the amendment of the Plan to reduce accrued benefits. We note that Sections 16 and 17 of the By-law do not restrict Council to amending the Plan to the extent to which those amendments are parallel to changes in the Civic Employees' Pension Plan or the Civic Employees' Early Retirement Benefits Arrangement plans (collectively referred to as the "Civic Plans").

As such, it may be reasonable to conclude that Sections 16 and 17 of the By-law override Subsection 6(2). This interpretation has the effect of relegating Subsection 6(2) to a discretionary clause, in which Council is to be advised of the changes to benefits provided under the Civic Plans but is permitted to exercise its discretion on whether to make such identical amendments to the By-Law.

Placement of Subsection 6(2)

Subsection 6(2) is situated in the solvency section of the By-law, and we can only speculate as to the drafter's rationale for the location of Subsection 6(2). Subsection 6(1) of the By-law codifies that The City of Winnipeg *"shall at all times guarantee the solvency of the Council Pension Benefits Program."* However, we note that when the structure of the Civic Plans was altered from single-employer to a jointly-trusteed arrangement a parallel amendment to the By-law and Plan was not made.

October 12, 2011 Proposed Revision to Subsection 6(2)

The October 12, 2011 draft revision to Subsection 6(2) is:

> *"Where a change is made to the benefits in the Civic Employees' Pension Plan or the Civic Employees' Early Retirement Benefits Arrangement, Council shall consider whether a similar or identical change should be made to the Council Pension Benefits Program under this By-law."*

The proposed wording clarifies that any amendments that may arise pursuant to Subsection 6(2) are at the discretion of Council and Council is not bound to make any particular amendment to the Plan. The proposed wording also makes Subsection 6(2) more consistent with Sections 16–18 and makes it clear that Sections 16–18 override Subsection 6(2) with respect to the process to be satisfied in amending the Plan.

Further, if we view Subsection 6(2) as pertaining to solvency-related changes (e.g., cutbacks in benefits), we believe that the proposed wording would still be understood to be subordinate to Sections 16–18 in the By-law, requiring a Board report, for example, and an actuarial valuation, and requiring the approval of a super-majority of councillors if not endorsed by the Board.

However, if Subsection 6(2) is a discretionary clause, then the necessity of Subsection 6(2) should be considered. In other words, any change to Subsection 6(2) that clarifies Council's 'obligation', or lack thereof, to make similar or identical changes to its own plan makes Subsection 6(2) less meaningful.

Please contact us if you would like to discuss this in further detail.