**Minutes – Executive Policy Committee – May 22, 2020**

## REPORTS

**Item No. 5 Reversal of Amendments to Winnipeg Police Pension By-law**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and recommended to Council:

1. That the attached by-laws be enacted to:

    A. Retroactively repeal amending By-law No. 99/2019 (which amended the Winnipeg Police Pension By-law No. 126/2011 effective April 1, 2020) to leave the Winnipeg Police Pension By-law No 126/2011 unamended.

    B. Ratify any decisions made or actions taken subsequent to April 1, 2020 which were based on the Winnipeg Police Pension By-law (as it existed on March 31, 2020, immediately prior to the amendments taking effect).

2. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

DECISION MAKING HISTORY:

Moved by Councillor Gillingham,

That the recommendation of the Winnipeg Public Service be concurred in and forwarded to Council.

Carried

# ADMINISTRATIVE REPORT

**Title:** Reversal of Amendments to Winnipeg Police Pension By-law

**Critical Path:** Executive Policy Committee - Council

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| H. Dick | D. Brown | P. Olafson,<br>Interim CFO | M. Ruta,<br>Interim CAO |

## EXECUTIVE SUMMARY

On December 12, 2019, Council enacted amendments to the Winnipeg Police Pension By-law No. 126/2011. The amendments came into effect on April 1, 2020.

The amendments were the subject of a grievance filed by the Winnipeg Police Association and the Winnipeg Police Senior Officer's Association. External legal counsel was retained to represent the City. On March 27, 2020, the Arbitrator released his decision which allowed the grievance and declared that the City has breached the collective agreement by passing a By-Law amending the pension benefits of the members and in particular, excluding overtime from pensionable earnings. The Arbitrator further ordered the City from making modifications to the Pension Plan, except as negotiated by the parties.

The City is not challenging the Arbitrator's decision by seeking judicial review.

The attached By-law will comply with the order of the Arbitrator by repealing the amending By-law retroactively and ratifying any decisions made and actions taken on the basis of the original By-law No. 126/2011 as it existed prior to the amendments.

## RECOMMENDATIONS

1. That Council enact the attached by-law to
   A. retroactively repeal amending By-law No. 99/2019 (which amended the Winnipeg Police Pension By-law No. 126/2011 effective April 1, 2020) to leave the Winnipeg Police Pension By-law No 126/2011 unamended, and
   B. ratify any decisions made or actions taken subsequent to April 1, 2020 which were based on the Winnipeg Police Pension By-law (as it existed on March 31, 2020, immediately prior to the amendments taking effect).

2. That the proper officers of the City do all things necessary to implement the intent of the foregoing.

## REASON FOR THE REPORT

An arbitrator has ruled that the amendments to the Winnipeg Police Pension By-law that took effect on April 1, 2020 breached the collective agreements between the City and the Winnipeg Police Association and the Winnipeg Police Senior Officers Association. In order to comply with the Arbitrator's ruling and the collective agreements, it is necessary to reverse the effects of amendments that took effect on April 1, 2020. This report recommends doing so by retroactively repealing the amending By-law effective March 31, 2020 to reverse its effects on the Winnipeg Police Pension By-law and to ratify any actions and decisions based on the unamended Winnipeg Police Pension By-law.

## IMPLICATIONS OF THE RECOMMENDATIONS

Retroactively repealing the amending By-law No. 99/2019 to March 31, 2020 will have the legal effect of reversing the amendments made to the Winnipeg Police Pension By-law No. 126/2011 and restore that By-law to its unamended form.

Since the Arbitrator's decision was rendered prior to the amendments taking effect, no practical changes were made to the administration of the Police Pension Plan, including member deductions and accrued benefits, since April 1, 2020. That is, the pension plan has been administered since April 1 as if the by-law amendments had not taken place. The By-law proposed for enactment by this report will ratify these administrative decisions and actions since April 1, 2020 and will ensure that any benefits accrued since April 1, 2020 are valid.

The attached By-law will therefore comply with the order of an Arbitrator that was issued on March 27, 2020.

Cost savings that were planned and budgeted as a result of the previous amendments to the By-law will no longer be achieved. The 2020 financial impact will be addressed in-year together with regular financial forecasts. On April 3, 2020, City Council approved that in the event the General Revenue Fund reports a deficit at year-end, the Financial Stabilization Reserve Fund transfer to the General Revenue Fund, the amount required to avoid a deficit in the General Revenue Fund.

In approving the 2020 to 2023 multi-year budget, Council also approved a Multi-Year Budget policy. Council is required to adopt a budget annually. The Multi-Year Budget policy outlines a process by which Council may consider adjustments to years two through four of the multi-year budget. The financial impact of this will be considered through the 2021 budget process.

## HISTORY/DISCUSSION

On December 12, 2019, Council enacted amendments to the Winnipeg Police Pension By-law No. 126/2011. The amendments came into effect on April 1, 2020.

The amendments changed various provisions of the Police Pension Plan that would have affected benefits paid to Police Pension Plan members on a go-forward basis.

The amendments were the subject of a grievance filed by the Winnipeg Police Association and the Winnipeg Police Senior Officer's Association. External legal counsel was retained to represent the City. On March 27, 2020, the Arbitrator released his decision which allowed the grievance and declared that the City has breached the collective agreement by passing a By-Law amending the pension benefits of the members and in particular, excluding overtime from pensionable earnings. The Arbitrator further ordered the City from making modifications to the Pension Plan, except as negotiated by the parties.

The City is not seeking judicial review of the Arbitrator's decision.

In order to comply with the decision of the Arbitrator, it is necessary for Council to reverse the amendments that took effect on April 1, 2020. The most straightforward way to do this is to retroactively repeal the amending By-law with the repeal taking effect on March 31, 2020, just before the amending By-law took effect. Legally, this will reverse the amendments made to the Winnipeg Police Pension By-law No. 126/2011 and restore the Winnipeg Police Pension By-law to its unamended form.

In addition, the attached draft By-law ratifies the actions and decisions of pension plan administrators which were based on the Winnipeg Police Pension By-law as it existed prior to April 1 and were therefore compliant with the Arbitrator's decision. For greater certainty, the attached By-law also validates all benefits that would have accrued under the unamended Winnipeg Police Pension By-law since April 1, 2020.

## FINANCIAL IMPACT

# Financial Impact Statement

**Date:** May 5, 2020

**Project Name:**

Reversal of Amendments to Police Pension By-law

**First Year of Program** **2020**

| | 2020 | 2021 | 2022 | 2023 | 2024 |
|---|---|---|---|---|---|
| **Capital** | | | | | |
| Capital Expenditures Required | $ - | $ - | $ - | $ - | $ - |
| Less: Existing Budgeted Costs | - | - | - | - | - |
| Additional Capital Budget Required | $ - | $ - | $ - | $ - | $ - |
| **Funding Sources:** | | | | | |
| Debt - Internal | $ - | $ - | $ - | $ - | $ - |
| Debt - External | - | - | - | - | - |
| Grants (Enter Description Here) | - | - | - | - | - |
| Reserves, Equity, Surplus | - | - | - | - | - |
| Other - Enter Description Here | - | - | - | - | - |
| Total Funding | $ - | $ - | $ - | $ - | $ - |
| Total Additional Capital Budget Required | $ - | | | | |
| Total Additional Debt Required | $ - | | | | |
| **Current Expenditures/Revenues** | | | | | |
| Direct Costs | $ 6,602,000 | $ 9,200,000 | $ 10,300,000 | $ 11,400,000 | $ 12,500,000 |
| Less: Incremental Revenue/Recovery | - | - | - | - | - |
| Net Cost/(Benefit) | $ 6,602,000 | $ 9,200,000 | $ 10,300,000 | $ 11,400,000 | $ 12,500,000 |
| Less: Existing Budget Amounts | 602,000 | - | - | - | - |
| Net Budget Adjustment Required | $ 6,000,000 | $ 9,200,000 | $ 10,300,000 | $ 11,400,000 | $ 12,500,000 |

**Additional Comments:**

1. Direct costs reflects the reversal of the cost savings previously identified to the city contributions to the Winnipeg Police Pension Plan. In addition the 2020 value includes the total of damages awarded by the arbitrator to the officers of the Winnipeg Police Service, the Winnipeg Police Association and the Winnipeg Police Senior Officers Association which total $602,000.
2. Existing budget amounts reflects budget available for the damage payments available in the Corporate Accounts.
3. The net budget adjustment required for 2020 will be addressed in-year together with regular financial forecasts. On April 3, 2020, City Council approved that in the event the General Revenue Fund reports a deficit at year-end, the Financial Stabilization Reserve Fund transfer to the General Revenue Fund, the amount required to avoid a deficit in the General Revenue Fund. In addition, in approving the 2020 to 2023 multi-year budget, Council also approved a Multi-Year Budget policy. The Multi-Year Budget policy outlines a process by which Council may consider adjustments to years two through four of the multi-year budget. The financial impact of this will be considered through the 2021 budget process.

*electronically signed by T. Yanchishyn*

Tanis Yanchishyn, CPA, CA
Manager of Finance (Campus)
Corporate Finance Department

## CONSULTATION

This Report has been prepared in consultation with: N/A

## OURWINNIPEG POLICY ALIGNMENT

Not applicable.

## WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Not applicable.

## SUBMITTED BY

Department: Legal Services
Division:
Prepared by: H. Dick
Date: May 5, 2020

Attachments: