



RETIREMENT BOARD OF TRUSTEES AGENDA
Thursday, April 28, 2016 - 10:00 AM
169 SW Coast Highway, Newport Oregon 97365, Conference Room A

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER

2. PUBLIC COMMENT

3. CONSENT CALENDAR

3.A. Approval of Minutes from October 30, 2015

[Retirement Board minutes 10-30-15-k.pdf](#)

3.B. Approval of Minutes from December 4, 2016

[Retirement Board Minutes From December 4, 2015.pdf](#)

3.C. Approval of Minutes from April 4, 2016

[Retirement Trustees Minutes 04-04-16.pdf](#)

4. DISCUSSION/ ACTION ITEMS

- 4.A. Results of Actuary RFP
[Staff Report for Retirement.pdf](#)
- 4.B. IRS Receipt of City of Newport Employees Retirement Plan
[IRS Receipt.pdf](#)
- 4.C. Updates for The City of Newport Employees Retirement Plan Guide
[Retirement System Infor for Binder - draft.pdf](#)
- 4.D. Report on Status of City Council Action on Restatement
[Status Report on Council Action Restatement.pdf](#)
- 5. INVESTMENT MARKET REVIEW
- 6. REVIEW OF QUARTERLY REPORTS AND FORMAT CHANGES
- 7. LIQUIDITY REPORT AND HR REPORT UPCOMING RETIREMENT
- 8. DEVELOP NEXT AGENDA
- 9. CONFIRM NEXT MEETING DATE
- 9.A. July 28, 2016 10:00 A.M.
- 10. ADJOURNMENT

City Of Newport
Retirement Board of Trustees
October 30, 2015

CALL TO ORDER

The meeting was called to order at 9:30 A.M. Those in attendance were:

Retirement Trustees: Tim Johnson, Mike Schulz, Rick Wright, and Rebecca Cohen.

West Coast Trust representatives: Kali Jensen.

City Staff: City Manager Spencer Nebel, Finance Director Mike Murzynsky, Council Liaison Mark Saelens, and Financial Specialist Kay Keady

APPROVAL OF MINUTES - July 30, 2015

MOTION was made by Schulz, seconded by Cohen, to approve the minutes of July 30, 2015 meeting as amended by Schulz. The motion carried unanimously as in a voice vote.

INVESTMENT MARKET REVIEW

Jensen reviewed with the Trustees the last quarter performance through September 30, 2015.

She identified multiple global market concerns that drove the markets down:

- Financial difficulty and uncertainty with Greece restructuring;
- China's subsequent 30% retraction in three (3) weeks;
- Puerto Rico's potential default on debts;
- Price of oil is not rebounding;
- Capital investment in U.S. economy has ground to a halt due to excess capacity in production.

PERFORMANCE REVIEW OF QUARTERLY REPORTS

- **Defined Contribution Trust**
 - 0.81% down for the Quarter
 - 1.58% up for the Fiscal Year
 - 9.12% up for the Five Years
 - 4.08% up since inception

- **Defined Benefit Consolidated**
 - 0.37% down for the Quarter

1.80% up for the Fiscal Year
8.91% up for the Five Years
4.09% up since inception

- **Defined Benefit Trust**
-7.56% down for the quarter
- **Defined Benefit Capital Growth**
-0.40% down for the quarter
- **Defined Benefit Benchmark**
0.09% up for the quarter

INVESTMENT POLICY

Reichard distributed the last quarter Investment Policy Statement. She reviewed the cash account balance is after all monthly expenses are paid. The Committee requested a change in the report format for better monitoring.

Motion was made by Schulz, seconded by Johnson to approve changes for reporting. The motion carried unanimously in a voice vote. Reichard agreed to send the Investment Policy with changes to Johnson for review.

REPORT ON PRESENTATION TO THE COUNCIL ON ADMINISTRATION OF THE CITY PENSION PLAN

Nebel reported the plan was presented to Council on May 6, 2015 and was favorably received and approved. Saleans commented on the positive presentation by Nebel.

DISCUSSION ON ANNUAL REPORT TO CITY EMPLOYEES OCTOBER 30, 2015

Nebel reported that a handbook would be compiled for both retirement plans, Defined Benefits and Defined Contribution. The handbook will be distributed at the October 30, 2015 meeting for Committee review.

A schedule of the Annual Report to City Employees meeting was made and agreed on.

- John Baker will give an overview of the history of the Trustee Committee's role from inception.
- Howell and Reichard will present the investment report.
- Employees question and answer.

COMMITTEE COMMENTS

Discussion ensued regarding the retirement plan past and present. Murzynsky reported, that he was communicating with the actuarial companies to get the reports, and is considering an RFP for a new actuarial company.

James reported on a possible retirement. Committee suggested a 2 to 5 year estimate of retirements to project funding.

ESTABLISH NEXT MEETING DATE

The next meeting will be October 30, 2015 at 9:30 A.M.

ADJOURNMENT

Having no further business, the meeting adjourned at 11:00 A.M.

DRAFT

**City Of Newport
Retirement Board of Trustees
December 4, 2015**

CALL TO ORDER

Johnson called meeting to order at 9:06 A.M., in Conference Room A of the Newport City Hall.

Nebel briefed the Trustees on the need to review Amendments 1 & 3 to the Employees Retirement Plan and retroactive approval to 2011.

The 2016 Restatement of the Employees Retirement Plan needs to be reviewed by the IRS by the end of January 2016.

Review of Amendment No1. To the City Of Newport Employees' Retirement Plan (2009 Restatement)

Nebel reported that Amendment No.1 to the City of Newport Employees' Retirement Plan was never enacted by the City of Newport. He stated that this was a rather significant amendment in that it reflects changes that resulted from the IRS review of the 2009 Restatement of the Retirement Plan. He noted that this amendment should have been approved in 2011. He added that after conducting an extensive review and search for records, Amendment No. 1 could not be found in any city records or in the records of West Coast Trust or either of the actuarial services that are used for retirement purposes. He stated that a draft copy of Amendment No.1 was discovered when the city attorney contacted a law firm that had done previous work for the city on the retirement plan. He added that they had a copy of an unexecuted document in their files for the City. He noted that by voluntarily notifying the IRS of the oversight in not acting upon these changes, the city will be responsible for an additional fee to the IRS. He stated that upon approval of the amendment and payment of the fee, the City's retirement system will be in good stead with the IRS. He reported that several questions were raised by the Trustees:

1. Johnson asked if Amendment 1 might have been given to Actuarial; Nebel replied, that the actuaries were asked by the Finance Director and they did not have them.
2. A question was asked as to what the penalty is. Murzynsky replied it has not been determined.
3. This amendment would be approved retroactively. The City needs to review how it would handle any individual lump sum payments during the time affected by the retroactivity and would the City have to potentially address retroactively any payments. Is the City starting with a clean slate upon approval of the Amendment?

4. Section 1 - Questions as to the provisions regarding post-severance payments were raised. As an example, we have severance provisions in a number of Department Head, City Attorney and City Manager agreements that state "The City shall continue to pay salary for a period of four months following the effective date of termination, and continue to provide health insurance coverage for the same four month period"
 - a. How does this Section address this provision?
 - b. The City has paid settlement claims in the past for terminated employees or provided some sort of lump sum payment in the case of termination. How would this paragraph effect these scenarios?
 - c. For purposes of our post 2012 employees, retirement is based on base wage, not overtime call pay, etc. We do not payout unused sick leave on retirement for either post or pre employees as well. Does this paragraph impact those provisions?

Review of Amendment No 3. To the City Of Newport Employees' Retirement Plan (2009 Restatement

Amendment No. 3 retroactively addresses employees who are members of the Newport Employees' Association or employees that are part of the Newport Police Employees' Association who are nonsworn officers hired after October 15, 2012. Amendment No. 2 addressed the non-union employees. After these provisions were negotiated into the contracts, the city did not follow through with making the same changes to the retirement plan as should have been done in order to update the document. In both employee groups these provisions were included in the labor contracts. This amendment will result in a retroactive adjustment to the 2009 Restatement. This is consistent with how the retirement program has been administrated. A series of questions were developed for legal counsel.

1. Section 1 - In reading this, a pre-2012 employee would start over if they withdraw the Money Purchase portion of their retirement in terms of vesting. This would, in effect, make them a new post 2012 employee for purposes of retirement. How would this language impact a post 2012 employee who left after three years (50%) vested, who cashed out their retirement, as we want to require, and then returns to work for the City. It was the City Manager's interpretation that they would be immediately vested at 50% of new contributions.
 What happens to the previous 50% that was forfeited by the employee when they initially resigned?
 Would that be credited back to the employee? Should this be discussed in the restatement?
2. Section 2(b) - True-up. A question was raised at what true-ups are. It appears that if a contributions are made by a post 2012 employee throughout the "Allocation Period" into a 457(b) plan on an uneven basis but amounts to over 3% over the year that the City could adjust the monthly contributions (if less than 3% of income was put in for some months) up to the 3% to reflect the annual amount put in by the employee. Is that basically correct?
3. Section 4 - There appears to be an incorrect year 2/3rds the way down the paragraph. It says 2015, but I believe it should be 2012. (Also in the Restatement)

Review of City Of Newport Employees' Retirement Plan 2016 Restatement

Attached is a copy of the draft 2016 Retirement Restatement for your review. Please note that this restatement is required by the IRS and incorporates the provisions of the three amendments to the 2009 Restatement. Furthermore, it impacts federal legislative and regulatory changes that have occurred since the last restatement. These changes effect sections 5.03-1 and 7.01-4. Attorney Christine M. Moehl from Saalfeld Griggs PC of Salem Oregon has incorporated these changes into this Restatement. It is my suggestion that the Trust to review the Restatement and provide any recommendations to the City Council on this matter. There are several specific things that the Retirement Trust should discuss in reviewing the Restatement:

1. The Newport Retirement Trust was designated in the 2009 Restatement as the body that an individual would appeal a decision of the Finance Director on a determination regarding retirement benefits. There was some question by Trustees as to whether that was appropriate. In my mind, I believe that the Retirement Trust would have more background on the pension plan than any other group would and I believe it is appropriate for them to be the adjudicators of these issues. Please note that the city is required to indemnify and defend Trustees acting in their official capacities.
2. The current plan allows post 2012 employees to make contributions into the city's Retirement Plan. This is contrary to current practices. Christine Moehl has indicated that she has modified the 2016 Restatement to clearly indicate that employees can only contribute funds into a deferred compensation plan in order to leverage the match from the city which would go into the city's Money Purchase Plan.
3. We had some discussion about post 2012 employees who leave and then come back into city employment as to whether vesting should start over or continue were that employee left off. It is my general feeling that vesting should start were that employee left off.
4. In the handbook for 6 plus 3 Plan we indicted a mandatory payment of funds upon termination. This is not defined in the plan and there may be some advantages to both retired employees and the plan by allowing employees to not have to withdrawal their funds from the plan upon termination. It would still be appropriate that when funds are withdrawn in one total lump sum to avoid administrative expenses. This is something that we should discuss.

Overall as we are getting more employees in the Defined Contribution Plan it is necessary for us to be thinking how we are going to administer that plan going into the future. This is a good opportunity to help clean-up and define that process a little clearer. A number of questions or comments were raised by the Trustees for legal counsel.

1. Cover - Delete refer to 2009
2. The Trust inquired about the inclusion of definitions for key terms (i.e. Commissioner, Suspense Accounts, True-ups, Allocation periods, Limitation Year, money purchase, etc.) While some of these may be explained somewhere in the document, it is difficult to find those sections when the term is used somewhere else in the document. Is it possible to have a section on definitions as either part of the restatement or to accompany the restatement?

3. Sections 4.03, 4.04 - An explanation is needed as to how these sections on "Limits on Contributions" impact our retirement plan?
4. Sections 6.01 - 2015 is used instead of 2012.
5. Section 6.05-2 - It appears that Section 3, paragraph (d) of Amendment #1 is missing. Is this by design or was inadvertently omitted? What significance does this have on our plan?
6. Section 7.01-4 - Is this a new requirement? How would this work for purposes of our plan?
7. Section 8.01-1 - Does this mean that a post 2012 employee (DC only) would be 100% vested at age 62 regardless of years of service? Also if we hired an employee 62 or older would they be 100% vested immediately or after 6 months of service?
8. Section 8.02-5 (and maybe other sections) - This section indicates that a terminated employee may elect to withdraw the vested portion of the fund. In discussing this with the Trust, both the Trust and the City would like to have a limitation as to how long a terminated/retired employee can keep their funds in the retirement system per our earlier email exchange on 10-31. We would like to have terminated/retired post 2012 employees request payment of Money Purchase Accounts of funds within 180 days of termination or the funds will be paid out by the administrator. This would be for any Money Purchase Accounts, if not annuitized, for pre 2012 employees who retire as well unless they defer their retirement. Is this something that we can do? Can this be part of the restatement?
9. Section 12.09 (a) - Should assumptions used by the retirement plan be modified? Would there be legal issues in modifying the assumptions?
10. Signatory page - Can you take out "by a unanimous vote of the" from this sentence?

Committee Actions

MOTION was made by Schulz, seconded by Cohen, to have Nebel forward these questions to the attorney, write a draft of changes to the Employee Retirement Plan 2016 Restatement for any individual comments and if no objections are made by the Trustees forward them to the City Council Meeting, January 7, 2016, for approval. The motion carried unanimously in a voice vote.

MOTION was made by Schulz, seconded by Cohen, to recommend Amendments 1 & 2 of the 2009 Restatement of Retirement Plan retroactive to 2011, be approved by Council. The motion carried unanimously in a voice vote.

MOTION was made by Schulz, seconded by Cohen, to recommend Amendment 3 of the 2009 Restatement of the Retirement Plan be approved by Council retroactive to October 15, 2012. The motion carried unanimously in a voice vote.

Nebel will be putting together a binder for each Committee member. The binder will include all the information for the Employee Retirement Plan since conception.

Reappointments to the Retirement Trust

Attached is a letter from Mayor Roumagoux requesting Committee advice as to any reappointments of members for an additional term effective January 1st. There is one term that expires on the Trust on December 31st. This is an opportunity for the committee to make a recommendation going forward on this reappointment.

Schulz confirmed he would not be renewing his term on the committee. His term will expire December 2015.

Johnson submitted his letter of resignation from the committee. He stated distance and bank duties as reason.

Nebel requested Trustees to submit recommendations for replacement Trustees. Nebel will give them to the Mayor for review and appointment.

Adjournment

Having no further business, the meeting adjourned at 10:36 a.m.

Reappointment to the Retirement Trust

Although a letter from Mayor Hironaka requesting Committee advice as to any reappointments of members for an additional term effective January 1st, there is one item that expires on the Trust on December 31st. This is an opportunity for the trustee to make a recommendation forwarded to the reappointment.

Shultz continued to work for the Trust on the committee. His term will expire December 31st.

Johnson submitted a letter of resignation from the committee. He stated the same and his duties as a trustee.

Johnson requested that the Trust be reappointed for a replacement. The Trust will give him the right to review and appointment.

Adjournment

Having no further business, the meeting adjourned at 10:35 a.m.

City of Newport
Retirement Board of Trustees
April 4, 2016

Present:

Retirement Trustee: John Baker, Rick Wright, Braulio Escobar and David Heater

City Staff: Finance Director Mike Murzynsky, City Attorney Steve Rich, Human Resources Barbara James, Council Representative Mark Saelens and Finance Staff Kay Keady

CALL TO ORDER

The meeting was called to order at 10:05 a.m. by Finance Director, Mike Murzynsky.

ELECTION OF CHAIR AND VICE CHAIR OF COMMITTEE

Wright nominated Rebecca Cohen for chair, Escobar seconded, unanimous approval.
Baker Volunteered for Vice-Chair, unanimous approval.

COMMITTEE COMMENTS

Murzynsky welcomed new committee member, Escobar and Heater.
Murzynsky Explained the reason for a Chair and Vice-Chair position.

Baker adjourned the meeting at 10:11 a.m.



**STAFF REPORT
RETIREMENT BOARD OF
TRUSTEES AGENDA ITEM**

To: Retirement Board of Trustee

From: Mike Murzynsky, Director of Finance

Title: Actuary RFP Results - Agenda item IV

Information:

The Actuary RFP was issued on February 24, 2016 and closed March 18, 2016. We received one set of questions from Milliam and subsequently issued an addendum for their set of questions. On March 18th, 2016 we received two responses, one from Milliman and the other from Silverstone Group. Milliman's response was thanks but we are not interested in responding which left us with one responder. We will review and grade the response from Silverstone, Monday April 25th and complete it before May 1st. The review committee will have the results available for the July 28th meeting.

Recommended Motion:

None, information only



Department of the Treasury
Internal Revenue Service

P.O. BOX 2508
CINCINNATI OH 45201

In reply refer to: 9999999999
Mar. 01, 2016 LTR 3336C S0
93-600222 000000 00 001
00022599
BODC: TE

CITY OF NEWPORT
169 SW COAST HWY
NEWPORT OR 97365



033377

Employer Identification Number: 93-600222
Plan Number: 001
Plan Name: CITY OF NEWPORT EMPLOYEES
RETIREMENT PLAN
Application Form: 5300
Document Locator Number: 17007-034-09300-6
User Fee Paid: \$2500.00
For assistance, call: 1-877-829-5500

Dear Applicant,

Acknowledgement of Your Request

We received your application for a determination, notification, or advisory letter concerning the qualification of your plan and have assigned it the document locator number listed above. You should refer to this number in any communications with us concerning your application.

What Happens Next?

After data entry for your application is completed at the Processing Center in Covington, Kentucky, the application is sent to our Cincinnati office for review by one of our Employee Plans Specialists. Applications are processed in the order they are received.

Some applications are approved based on the information submitted. If this is the case, you will receive your favorable determination letter without further contact from us.

If additional information is required, or if other changes or plan amendments are needed, an Employee Plans Specialist will fax, telephone, or write you. The specialist may be from the Cincinnati office or from another office. You may typically expect to receive a determination letter after additional information and/or amendments are submitted. If we decide your plan is not qualified, we will discuss the findings with you. Furthermore, if an agreement cannot be reached, we will provide you with a complete explanation of your appeal rights.

THE CITY OF NEWPORT EMPLOYEE RETIREMENT PLAN

The City of Newport Employees' Retirement Plan Guide has been developed for the Retirement Trust and staff to assist in the administration of the City's retirement system. The guide includes various governing documents, agreements and summaries of the Retirement Program offered to qualified employees of the City of Newport.

The City of Newport utilizes two separate systems to provide retirement benefits to city employees. The Public Employees Retirement System of Oregon (PERS) provides retirement benefits to full-time firefighters and sworn police officers employed by the City of Newport. PERS is administered by a twelve member Board of Trustees appointed by the Governor.

The City of Newport Employees' Retirement Plan provides retirement benefits to all other qualified employees within the City of Newport. The summary plan description which follows outlines the retirement benefits for those employees who are covered by the city administrated retirement plan.

In addition to the primary retirement benefits offered by PERS and the City of Newport Employees' Retirement Plan, the City of Newport also makes available an employee funded 457(b) Deferred Compensation plan through Nationwide.

City of Newport Employees' Retirement Plan

The City Retirement Plan provisions are governed by the City of Newport Employees' Retirement Plan 2016 Restatement. This document provides the details of which employees are qualified for coverage under the plan, the benefits provided by the plan, vesting, and how the plan is administered. The plan will be restated from time to time and can be amended by the City Council.

Under the City of Newport Employees' Retirement Plan there are two separate benefit levels in place depending on the date of hire of a qualified employee to a position under the plan. For nonunion employees hired after March 5, 2012, and for Newport Employees' Association and Newport Police Association, other than police officers hired into a qualified position after October 15, 2012, a Defined Contribution Program is provided under the plan. For employees hired before these dates, a defined benefit with a money purchase program is provided (see Plan Summaries).

History

The City's first retirement plan apparently dates back to July 1, 1963. Prior to 1983, the city retirement plan was funded through a group annuity contract issued by an insurance company. In 1983, the city and trustee established a trust effective January 1, 1983 to hold title to all assets of the plan. At the same time, the 1983 Restatement of the Retirement Plan transferred police and fire employees, and a portion of the related retirement assets from the city plan to the Public Employees Retirement System of Oregon, with the remainder of the city employees being provided retirement benefits through the City of Newport Employees' Retirement System.

City of Newport Retirement Trust

As part of the 1993 Restatement of the City of Newport Retirement Trust, the City of Newport designated Vicki Spencer, Ken Doerfler, Sr., and Marvin Uhlenhake as trustees for the City of Newport Retirement Trust. Section 1.02-1 of the Trust provides: “The trust is maintained for the exclusive benefit of eligible employees and is intended to comply with section 501 and related provisions of the internal revenue code and applicable regulations.” Section 3.01-1 provides: “The trustee shall have general ability for administering this trust, appointing investment managers, and directing investments. The board has responsibility for administering the plan”. Section 3.06 provides: “Trustee may employ one or more banks or other suitable institutions to serve as custodian for all or part of the trust assets. The trust document divides the responsibilities for the retirement system as follows in section 3.01-1: “The trustee shall have general responsibilities for administering this trust, appointing an investment manager and directing investments”. The [retirement] board has responsibility for administering the plan. Furthermore, section 3.01-2 indicates that “... instructions to the trustee shall be signed by the [retirement] board Chair or such other person as the board may designate.

Section 6.01-1 indicates that the trustee initially consists of the persons named in this trust agreement and in section 6.01-2 the city may enlarge or reduce the number of separate trustees at any time by appointment or removal under this article.

Section 2.05.020 of the Newport Municipal Code modified the structure of the retirement trustee responsible for the investment of retirement funds for the City of Newport. Section B of the ordinance code “that the retirement trustee shall be comprised of five members. One member of the retirement trustee shall be a city employee in the position below a department head.” Under the general city code provisions section 2.05.002 boards, committees, and commissions, paragraph G. provides: “that board, committee, or commission vacancies are filled by appointment of the Mayor with confirmation by the Council. A council confirmation shall be by approval by a motion. Appointments are made for terms not to exceed 4 years and will expired that last day of the calendar year, if a replacement appointment has been made. “ ... If no replacement is appointed to replacement a member whose term is expiring, the member shall remain in office until replace is appointed.”

The City of Newport Employees’ Retirement Plan 2009 Restatement

Significant changes were made to the Employees’ Retirement Plan from the 1993 Restatement in the 2009 Restatement. Article 8 of the 1993 Restatement provided that: “the plan shall be administered by a retirement board (the board) of three persons appointed by the city.” The board was charged with interpreting and administering the plan. The board was also charged with retaining the enrolled actuary and appointing any independent public accountant required for the plan. The plan provided that the City Council shall have no administrative or investment authority for these functions. The 2009 Restatement of the City of Newport Employees’ Retirement Plan significantly changed the administration of the retirement plan. Article 9 Plan Administration provides: ‘the city’s Finance Director shall be the administrator of the plan. The administrator shall interpret the plan and decide any questions about rights of participates and the beneficiaries. The administrator’s decision shall be final and binding

on all parties. The administrator shall retain the enrolled actuary and appoint any independent public accountant required for the plan.

Section 10.03 Trust Fund states: “the plan shall be funded through the City of Newport Retirement Trust, which is administered by a trustee appointed by the City Council. The trustee shall receive employer contributions, hold the fund in accordance with the trust agreement, and distribute the benefits under this plan as directed by the administrator. Benefits under the trust shall be paid solely from the trust fund to the extent the fund is sufficient. If the fund are not sufficient, the trustee shall not be liable for the unfunded benefits.”

The 2009 Restatement of the Employee’s Retirement Plan eliminates any reference to a Retirement Board with the Finance Director now being designated as the administrator for the retirement system.

Amendment No. 2 to the City of Newport Employees’ Retirement Plan

Amendment No. 2 to the City of Newport Employees’ Retirement Plan made significant changes to the benefits provided to employees hired after March 5, 2012. In order to control future retirement costs, the City Council approved Resolution No. 3580 which was characterized as a “soft freeze” of the cities defined benefit plan for non-collectively bargained employees hired after March 5, 2012. Employees hired prior to the date continue to receive both a money purchase contribution of 6% compensation as well as a defined benefit equal to benefit years times 1.2% of average monthly earnings in the three consecutive plan years of highest compensation. Employees hired after March 5, 2012, receive the money purchase contribution of 6% in lieu of the defined benefit provision. The employee can participate in an additional contribution of 3% of the employees qualified elective deferrals. This same provision was negotiated in the collective bargaining agreement for the Newport Employees’ Association for employees hired after October 15, 2012. The 3% bump is not available for employees hired before the above dates.

Amendments No 1 and 3 to the City of Newport Employees’ Retirement Plan 2009 Restatement

On January 4, 2016, the Newport City Council approved two retroactive amendments to the 2009 Restatement of the retirement plan. Amendment No. 1 had an effective date of January 1, 2009, to address issues requested by the Internal Revenue Service after review of the 2009 Restatement. This request was made by the IRS in a letter dated May 17, 2011, but was not acted upon by the City. Amendment No. 3 was approved to modify the retirement plan retroactively to October 15, 2012, to make the plan consistent with the approved labor agreements. Again, the plan was not amended at that time. A Voluntary Compliance Program Submission Form 8951 was completed by the City with the payment of \$5,000 to address the late approvals of these required amendments. The City worked with Attorney Christine Moehl of Saalfeld Griggs P.C. in Salem, Oregon to address these amendments.

Approval of the 2016 Restatement of the Retirement Plans

On January 4, 2016, the Newport City Council authorized the City Manager to submit the City of Newport Employees' Retirement Plan 2016 Restatement to the Internal Revenue Service.

Restatement of pension plans are required from time to time to reflect any changes with Federal laws impacting provisions of pension programs. The 2016 Restatement incorporated previous Amendments No. 1, 2, and 3 of the 2009 Restatement and addressed any changes required by the IRS to the Retirement Plan. The 2016 Restatement was filed on a timely basis by attorney Christine Moehl of Saalfeld Griggs P.C. of Salem, Oregon on behalf of the City of Newport and has been received by the I.R.S. The I.R.S. will review the restatement and will issue a compliance letter in 6 to 18 months. Any non-compliant issues would be addressed by amendment following the review.

Background Information Compiled by
Spencer R. Nebel, City Manager
January 28, 2016
Updated April 28, 2016

Distribution List for Future Update of Guide:

5 Retirement Trustees
1 City Council Liaison
1 City Attorney
1 Finance Director
1 Human Resources
1 City Recorder
1 City Manager
1 Columbia Trust Company

PLAN INFORMATION Plan

Name and Type

City of Newport Employees' Retirement Plan
Plan Year end: June 30

Plan Sponsor and Adopting Employer

City of Newport
169 SW Coast Highway
Newport, OR 97365
Employer ID No. 93-6002222

Plan Administrator

Mike Murzynsky, Finance Director
City of Newport Employees' Retirement Plan
169 SW Coast Highway
Newport, OR 97365
Telephone: 541 574-0610

Retirement Trust (As of April 2016)

		Term Expires
Chair	Rebecca Cohen	(December 31, 2017)
Trustee	David Heater	(December 31, 2016)
Trustee	Braulio Escobar	(December 31, 2019)
Vice-Chair	John Baker	(December 31, 2018)
Trustee	Rick Wright	(December 31, 2018)

Trust Manager

Representatives: Rob Howell and Kali Jensen
Columbia Trust Company
1000 SW Broadway, Suite 1100
Portland, OR 97205

Actuarial Services for Defined Retirement Benefits

AKT Retirement Plan Services
7676 Hazard Center, Suite 1300
San Diego, CA 92108

Actuarial Services for the Retirement Money Purchase Accounts

The Standard Services
1100 SW 6th Ave.
Portland, OR 97204



Spencer Nebel
 City Manager
 CITY OF NEWPORT
 169 S.W. Coast Hwy.
 Newport, OR 97365
s.nebel@newportoregon.gov

MEMO

DATE: January 26, 2016
 TO: The City of Newport Retirement Trust
 FROM: Spencer Nebel, City Manager
 SUBJECT: Retirement Trust Meeting of January 28, 2016

Background:

On December 4, 2015 a special meeting of the Newport Retirement Trust, was held for the Trustees to review proposed Amendment No. 1, and Amendment No. 3 to the 2009 Retirement Plan Restatement as well as the proposed 2016 Retirement Plan Restatement for the City of Newport. The Retirement Trust approved a motion recommending, that the City Council take action on the amendments and restatement at the City Councils January 4 meeting, subject to a final review of responses to the questions in the Trust documents by individual members of the Trust prior to that time. At the special meeting there were various question posed by the Trustees which were forwarded on to Christine Moehl of Saalfeld Griggs. The responses to those questions along with a draft report to the City Council were forwarded to the Trustees on Wednesday, December 23 for review by the Trustees. There were no more additional questions or comments concerns expressed by the any of the Trustees prior to the January 4, 2016, City Council meeting.

On January 4, 2016, the City Council unanimously adopted the two amendments to the 2009 Restatement as well as the 2016 Restatement of the Newport Employees' Retirement Plan Restatement.

Please note that the amendments to 2009 restatement have been submit with form 8951 and a check for \$5,000 to the IRS's Voluntary Compliance Program. In addition the Favorable Determination Letter submission to the IRS for the Restatement has been filed with form 8717 including a check in the amount of \$2,500 for this fee. In accordance with the IRS requirements, notice to interested parties has been posted as required.

I appreciate the effort that the Trustees put in to the reviewing these various technical and complicated documents. I do believe that the documents will accurately reflect the current status of the retirement plan going forward. We will compile all of the significant documents in binders for city staff and the Trustees future reference.

Respectfully submitted,



Spencer R. Nebel
City Manager

Cc: Mike Murzynsky
Kay Keady

MEMO

DATE: January 28, 2016

TO: The City of Newport Retirement Trust

FROM: Spencer Nebel, City Manager

SUBJECT: Retirement Trust Meeting of January 28, 2016

Background:
On December 4, 2015 a special meeting of the Newport Retirement Trust was held for the Trustees to review proposed Amendment No. 7 and Amendment No. 8 to the 2009 Retirement Plan. The Trustees approved a motion recommending that the City Council take action on the amendments and ratification at the City Council's January 4 meeting, subject to a final review of responses to the questions in the Trust documents by individual members of the Trust prior to that time. At the special meeting there were various questions posed by the Trustees which were forwarded on to Christian Miller, Esq. The responses to those questions along with a draft report to the City Council were forwarded to the Trustees on Wednesday, December 23 for review by the Trustees. There were no more additional questions or comments expressed by any of the Trustees prior to the January 4, 2016, City Council meeting.

On January 4, 2016, the City Council unanimously adopted the two amendments to the 2009 Retirement Plan as well as the 2016 Retirement Plan.

Please note that the amendments to 2009 Retirement Plan have been signed with form 5521 and a check for \$2,000 to the IRS's Voluntary Contribution Program. In addition the Retirement Determination Letter submission to the IRS for the Retirement Plan has been filed with form 8717 including a check in the amount of \$2,800 for the fee in accordance with the IRS requirements, notice to forwarded father has been posted as required.

Spencer R. Nebel

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From: Christine M. Moehl [mailto:CMoehl@sglaw.com]
Sent: Wednesday, December 16, 2015 11:52 AM
To: Spencer Nebel <S.Nebel@NewportOregon.gov>
Cc: Steven Rich <S.Rich@NewportOregon.gov>; Barbara James <B.James@NewportOregon.gov>; Michael Murzynsky <M.Murzynsky@NewportOregon.gov>
Subject: RE: Retirement Summaries for the City of Newport

Hi, Spencer: Thanks for your patience. Year-end is a busy time around here. Please see my responses below in **red**. And I've attached a revised copy of the redlined restatement and Amendment 3. Thanks!

Christine M. Moehl | Lawyer

Employee Benefits & Executive Compensation



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From: Spencer Nebel [mailto:S.Nebel@NewportOregon.gov]
Sent: Saturday, December 05, 2015 3:59 PM
To: Christine M. Moehl
Cc: Steven Rich; Barbara James; Michael Murzynsky
Subject: RE: Retirement Summaries for the City of Newport

Hi Christine:

We had a meeting with the Newport Retirement Trust and Staff has had a chance to review the documents. We have a number of questions and a couple of corrections:

- 1) Amendment #1 – This amendment is approved retroactively. Do we need to review how we handled any individual lump sum payments during the time effected by the retroactivity and would we have to potentially address retroactively any payments, or are we ok starting with a clean slate upon approval of the Amendment? **We are OK starting with a clean slate. The actuary would have applied any necessary code section 415 limits to payments that occurred in the interim so there are no qualification errors to worry about.**
- 2) Amendment #1 Section 1 – We aren't sure what this means regarding post-severance payments. As an example, we have severance provisions in a number of Department Head, City Attorney and City Manager agreements that state "The City shall continue to pay salary for a

period of four months following the effective date of termination, and continue to provide health insurance coverage for the same four month period” a) How does this Section address this provision? **The 4 months of salary payments after termination of employment will not be included in the definition of post-severance compensation because these payments are not for “compensation for services.” Instead, the payments are most similar to “severance pay” which is excluded from the definition of post-severance compensation.** B) The City has paid settlement claims in the past for terminated employees or provided some sort of lump sum payment in the case of termination. How would this paragraph effect these scenarios? **Any amount paid for back wages or accrued leave to the terminated employees would be considered as post-severance compensation and included for purposes of determining a participant’s benefit under the plan. However, any other amounts would not be included.** C) For purposes of our post 2012 employees, retirement is based on base wage, not overtime call pay, etc. We do not payout unused sick leave on retirement for either post or pre employees as well. Does this paragraph impact those provisions? **It does not. You can continue to administer the plan this way. However, if you ever start to payout unused sick leave on retirement, then you will need to included it as compensation for purposes of determining benefits due under the plan.**

- 3) Amendment #3 Section 1 – In reading this, a pre-2012 employee would start over if they withdraw the Money Purchase portion of their retirement in terms of vesting. This would, in effect, make them a new post 2012 employee for purposes of retirement. (This is ok with us) How would this language impact a post 2012 employee who left after three years (50%) vested, who cashed out their retirement, as we want to require, and then returns to work for the City. It is my interpretation that they would be immediately vested at 50% of new contributions. **Under this scenario, they would immediately participate in the plan upon their rehire and all of their years of service with the City would count towards vesting in future contributions. What happens to the previous 50% that was forfeited by the employee when they initially resigned? Would that be credited back to the employee? Should this be discussed in the restatement? As the plan reads now, the forfeited amount would not be restored to the rehired participant. Because you are a governmental plan, this is perfectly acceptable. In the private sector, plans must give participants the option to repay the amount that was distributed from the plan upon their termination. Then, if the participant elects to repay the distributed amount, the employer must restore their forfeited benefit. If you’d like to add a provision like this to the plan restatement, please let me know.**
- 4) Amendment #3 Section 2(b) – True-up. We aren’t sure what they are. It appears that if a contributions are made by a post 2012 employee throughout the “Allocation Period” into a 457(b) plan on an uneven basis but amounts to over 3% over the year that the City could adjust the monthly contributions (if less than 3% of income was put in for some months) up to the 3% to reflect the annual amount put in by the employee. Is that basically correct? **That is correct. The City has the option to adjust the 3% matching contribution to the annual deferrals made by the employee, but you do not have to.**
- 5) Amendment #3 Section 4 – There appears to be an incorrect year 2/3rds the way down the paragraph. It says 2015, but I believe it should be 2012. (Also in the Restatement) **Thank you for catching this!**
- 6) Restatement Cover – Delete 2009 **My copy doesn’t have 2009 on the cover.**
- 7) Restatement - The Trust inquired about the inclusion of definitions for key terms (i.e. Commissioner, Suspense Accounts, True-ups, Allocation periods, Limitation Year, money purchase, etc.) While some of these may be explained somewhere in the document, it is difficult to find those sections when the term is used somewhere else in the document. Is it possible to have a section on definitions as either part of the restatement or to accompany the restatement? **Yes. These can be added upon restatement. Please provide me with a list of terms that you would like defined and I will incorporate them.**

- 8) Restatement Sections 4.03, 4.04 – Can you explain how these sections on “Limits on Contributions” impact our retirement plan? These sections are here to make sure that the Plan does not exceed the Code section 415 limit for any participant in any given year and, if the limit is exceeded, to provide ordering rules regarding the refund or forfeiting of excess contributions. Code section 415 limits are the maximum amounts that the IRS will allow a participant to receive each year in a qualified retirement plan. This provision basically serves as a “fail-safe” to provide that the plan will never lose its qualified status because there is a mechanism to correct annual contributions in excess of the 415 limit.
- 9) Restatement Sections 6.01 – 2015 is used instead of 2012. Done. Thanks for catching this.
- 10) Restatement Section 6.05-2 – It appears that Section 3, paragraph (d) of Amendment #1 is missing. Is this by design or was inadvertently omitted? What significance does this have on our plan? Thanks, again, for catching this. I added the provision. This provision has no effect on the administration of the plan because it is only applicable to benefits paid in 2004 and the actuary would have applied the required transition rule. However, the IRS wanted this language in the plan document so we had to add it.
- 11) Restatement Section 7.01-4 – Is this a new requirement? How would this work for purposes of our plan? This is a new requirement. It comes from the HEART Act which was a piece of legislation that was aimed at providing survivor benefits to the beneficiaries of people who die in active service in the military. In your plan, if an employee was to die in active service in the military, then they would be considered 100% vested and their survivor benefit under 7.01 would go to their beneficiary. This provisions basically prohibits the City from considering an active duty employee who dies while in active service as terminated, instead of deceased.
- 12) Restatement Section 8.01-1 – Does this mean that a post 2012 employee (DC only) would be 100% vested at age 62 regardless of years of service? Yes. Also if we hired an employee 62 or older would they be 100% vested immediately or after 6 months of service? Immediately. This is the way the prior plan document worked, as well. If this is not the intent, we can add a service requirement on restatement. For example, the plan could provide that an employee is immediately vested upon reaching age 62 and completing 5 years of service. Then, an employee who has hired at age 62 would need to work for 5 years to become 100% vested). However, this provision could only apply to new hires after the effective date of the restatement.
- 13) Restatement Section 8.02-5 (and maybe other sections) – This section indicates that a terminated employee may elect to withdraw the vested portion of the fund. In discussing this with the Trust, both the Trust and the City would like to have a limitation as to how long a terminated/retired employee can keep their funds in the retirement system per our earlier email exchange on 10-31. We would like to have terminated/retired post 2012 employees request payment of Money Purchase Accounts of funds within 180 days of termination or the funds will paid out by the administrator. This would be for any Money Purchase Accounts, if not annuitized, for pre 2012 employees who retire as well unless they defer their retirement. Is this something that we can do? Can this be part of the restatement? We can draft the restatement this way. However, based on the research that my associate attorney completed, I am not entirely positive that the IRS will approve this provision. In the private sector, the IRS does not allow amounts over \$5,000 to be distributed without a participant’s consent. The regulations are not entirely clear how this provision applies to governmental plans and many governmental plans have incorporated this provision into their documents. After reviewing the restatement, the IRS may come back to us and require us to apply a \$5,000 cap. Or, they may let it go through, in which case we have the blessing from the IRS to administer the plan the way you wish. My suggestion is that we draft the restatement in the manner outlined above, but the City should hold off on processing distributions in this manner until the IRS approves the restatement.

- 14) Restatement Section 12.09 (a) – Should these assumptions be modified? Would there be legal issues in modifying the assumptions? **We should loop the actuary in on the discussion regarding the best assumptions to use. It is possible to change assumptions on a prospective basis only.**
- 15) Restatement Signatory page – Can you take out “by an unanimous vote of the” from this sentence? **Done.**

After reviewing these questions/requests let me know your thoughts on how to proceed.

Spencer R. Nebel

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