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Career Service Board Meeting #2383
Special Session

Minutes
Tuesday, June 9, 2020, 4:45pm

Conference Call

Karen DuWaldt (Co-Chair)
Neil Peck (Co-Chair)
David Hayes
LaNee Reynolds
Patricia Barela Rivera

I. Opening: *Meeting was called to order at 4:45pm. Board Co-Chair Neil Peck asked for a roll call of those present for the record.*

All members of the Career Service Board were present. Other attendees were:

Karen Niparko, Executive Director, Office of Human Resources
Karla Pierce, Assistant Director, Employment Section, City Attorney's Office
Bob Wolf, Sr. Asst. City Attorney to the Board
Heather Britton, Director, Benefits & Wellness
George Branchaud, Office of Human Resources
Steve Bohn, Budget & Management Office
David Hughes, Budget & Management Office

II. Special Incentive Retirement Program - Draft Proposed Ordinance

Karen Niparko, Executive Director, Office of Human Resources ("OHR"), noted the City & County of Denver is proposing a special incentive program be offered to city employees who are eligible to retire as of September 1, 2020.

Ms. Niparko noted the incentive is being offered in response to the budget challenges presented by the revenue loss being experienced by the city as a result of COVID-19, necessitating a reduction in costs.

Board Co-Chair Neil Peck asked if the incentive was being offered to career service employees only. Karla Pierce of the City Attorney's Office ("CAO") responded the incentive is being made available to all employees in the city who are eligible for retirement under the Denver Employees Retirement Plan ("DERP"), including appointees. Steve Bohn of the Budget & Management Office ("BMO") noted the Deputy Sheriffs are eligible, but not the Fire and Police Departments as they have a separate pension plan.

Ms. Niparko noted the purpose for today's meeting is to seek approval from the Career Service Board for filing a proposed ordinance for consideration of the City Council.

Heather Britton, Director of Benefits & Wellness, stated the reasoning behind offering a retirement incentive to eligible employees was to reduce the likelihood of layoffs in response to the budget crisis. Ms. Britton noted that under the layoff rule, career service employees with the least amount of seniority in a particular job classification are laid off first.

Ms. Britton noted the proposed program does not change when an employee is eligible to retire and simply offers an additional incentive to do so by a certain date. If the maximum participation rate (308 employees accept) is reached, the program will save the city an estimated $36 million annually by 2022, and avoid a layoff of 576 full-time employees.

Board Co-Chair Karen DuWaldt asked for clarification on eligibility, noting she heard earlier the Deputy Sheriffs were eligible for the incentive, yet the presentation states collective bargaining uniformed services are excluded.

Ms. Britton responded all civilian employees covered under DERP, including non-career service employees at the Denver County Courts, the District Attorney's Office, the Library, and the Auditor's Office, are eligible, but noted the Sheriffs are under a collective bargaining agreement. Steve Bohn noted they were investigating whether an additional agreement would be necessary to include the Deputy Sheriffs in the program.

Bob Wolf, City Attorney to the Board, asked what exactly was being presented to the City Council tomorrow for consideration.

Karla Pierce responded the proposed ordinance language applies to all city employees who are eligible to retire and does not make any distinction between collective bargaining covered uniformed and civilians. Ms. Britton stated the Sheriffs are likely to be included in the program, which Ms. Pierce confirmed their eligibility later in the meeting.

Eligible employees include those, as of September 1, 2020, who are 65 years old with a minimum of five years of service, or are under the Rule of 75 (if hired before July 2011), or the Rule of 85 (if hired after that date). The Rule of 75 states an employee who has reached the age of 55 with 20 years of service is eligible to retire with their full pension benefit. The Rule of 85 states an employee must have reached the age of 60 and have 35 years of service to retire with their full pension.

Ms. DuWaldt asked if DERP needed to approve the incentive program in order for the city to offer it, to which Ms. Britton replied in the negative, but noting they have been included in all discussions. There is a financial impact to DERP in terms of the unfunded liability calculation, which is beyond today's discussion.

Board Member LaNee Reynolds asked if there was an analysis of eligible employees who may decline the incentive due to the need to maintain their city-provided health insurance if they are not yet 65 years old. Ms. Britton responded she did analyze this issue, as employees who are age 55 through 64 will have to pay for their own health coverage.

The city includes the retirees when bidding out health insurance for all active employees, which lowers the cost for continuing coverage, however, the city pays about 90% of the cost for active employees.

Retired employees who choose to continue their city-provided health insurance are eligible to receive a subsidy from DERP of $12.50 per year of service towards their monthly premium cost. Ms. Britton estimated if retirees had to go into the marketplace to obtain similar coverage, it would cost about 150% more than what they would pay through the city.

Ms. Reynolds asked if the city will need to move to additional furlough days or layoffs to achieve the savings if not enough employees accept the incentive. Ms. Britton replied they are more concerned about the cost to accept more eligible employees than the maximum 308 allowed under the program.

Board Member David Hayes asked what the rationale was in setting an eligibility date of September 1st. Ms. Britton stated cost was the main driver, as the city is losing the opportunity to save approximately $2 million per month with the retirement of eligible employees.

Ms. Niparko asked Ms. Britton to compare the current retirement incentive with the program offered in 2009 during the Great Recession. Ms. Britton noted the 2009 incentive was for a maximum of $15,000, which was paid over 30 months at $500 per week.

357 employees, or 38% of those eligible, accepted the incentive in 2009, compared to the cap of 40% in place for the current proposed incentive. Ms. Britton noted the 2020 incentive is much more generous and there is concern about the number of employees who will apply versus the cap.

The proposed incentive will pay each employee $5,000, plus one week for every year of service up to a maximum of $40,000, if they elect to retire. The $5,000 will be split into two payments; the first payable 30 days after separation, with the remainder paid 130 days after. The years-of-service payment is payable in three increments; one-third within 30 days, one-third in 130 days, and the final one-third in 275 days (June 2021).

Ms. DuWaldt asked what the average years of service is for the eligible population of employees, to which David Hughes of BMO stated was 22 years. Mr. Hayes asked if the incentive payment is included in the employee's pension benefit calculation, to which Ms. Britton replied in the negative, although employees who are eligible to receive a lump-sum payout of sick and vacation accruals are able to include that sum.

Ms. Reynolds asked how the risk of adverse impact to employees who are not active on e-mail or other electronic forms of communication will be managed, given that there is a cap on acceptance. Ms. Britton noted a task force is currently considering options, which will likely include a letter sent through the mail, in addition to text and e-mail.

Steve Bohn of BMO reviewed the impact by agency if the full 40% of eligible employees is reached. The largest impact would affect the Department of Transportation, DEN, Denver Human Services, Parks & Rec, and the Sheriff's Department. Mr. Bohn noted BMO had begun meeting with the agency leaders of the impacted areas to discuss the incentive and its impact to their operations.

David Hughes reviewed the financial impact of the incentive program, noting the total cost across all funds in 2020 was estimated at $12 million, which will be offset by not filling any of the affected positions.

In 2021, the cost of the program will be approximately $14.4 million (including the remaining payments due, an unfunded liability payment to DERP, and estimated backfill cost), offset by compensation savings of $38 million. In 2022, the net savings realized is approximately $22 million, net of the unfunded liability and backfill costs.

Ms. DuWaldt asked why there are different funds referenced on the presentation and whether the financial savings is net of the cost had these employees retired of their own accord.

Mr. Bohn noted there are different types of funds that receive and allocate money to agency budgets, including the general fund, which receives most of the sales and use taxes, and enterprise funds, such as the airport or Denver Human Services, which have their own dedicated revenues or funds received. Mr. Bohn stated they did not estimate how many employees were predicted to retire in 2020.

Ms. DuWaldt commented the projected savings may be slightly inflated, given there is an expectation a certain number of employees retire every month. Mr. Bohn replied BMO could perform an analysis and provide an update to the Board. Ms. Niparko stated the trend over the past four to five years is most employees retire within two years of becoming eligible.

Ms. Pierce commented there is additional savings realized through an incentive program since agencies will only be allowed to backfill a certain number of positions versus regular retirement. Ms. DuWaldt replied she is concerned about the impact of losing certain individuals, especially if there is limited backfill.

Ms. DuWaldt asked why the city is choosing to offer a retirement incentive versus a layoff being initiated in areas where programs or services may be cut in light of the budget crisis.

Ms. Niparko responded most of the eligible employees are at the higher end of the pay grade, making the savings more effective, and the layoff rules for career service employees are based on seniority, making it very difficult to target low-performing individuals for separation. In addition, the impact to agencies with a large number of senior career service employees who are eligible to bump other employees in different classifications under the Rules is hugely disruptive.

Ms. Reynolds asked if employees who retire are eligible to return to the city in another position. Ms. Britton stated they could, however, they would have to suspend their pension payments. Ms. Pierce noted the agreement will state they are not eligible for rehire. Ms. Britton noted the ordinance limits employees to 1,000 hours of work annually if they are receiving a pension payment.

Board Co-Chair Neil Peck asked if the Board felt prepared to approve the proposed ordinance and special incentive or did they wish to hear more information from those present. Board Members Patricia Barela Rivera and Karen DuWaldt stated they needed more time to actually review the language of the proposed ordinance as today's meeting was scheduled very quickly.

Mr. Peck asked if the Board could take a day to review the proposed ordinance and respond via e-mail with their approval. Ms. Niparko asked Mr. Wolf if this was permissible, to which he replied in the affirmative provided the Board agreed.

Ms. DuWaldt asked for clarification as to why the Career Service Board is required to sponsor a draft ordinance. Ms. Pierce replied the City Charter and related ordinance is written to require the Career Service Board to vote on and propose generally prevailing wages and benefits to the City Council and the Mayor for approval.

Ms. Pierce noted this requirement also impacts non-career service employees under ordinance since pay plan and benefit provisions apply to all city employees, thus making it necessary for the Board to formally approve any proposed changes.

Ms. DuWaldt asked if the city had considered offering a voluntary separation incentive, along with a possible change in the Career Service Rules, in order to appropriately target areas where programs and services will be reduced or cut. Ms. DuWaldt stated she remains concerned about the inability to control acceptance of the retirement incentive and the limited backfill of positions.

Ms. Niparko replied OHR has been working with agency leaders diligently over the last few years to implement workforce planning given the data showing a large number of employees are becoming eligible to retire. HR leaders will assist agencies with identifying an internal candidate for backfill wherever possible.

Ms. Pierce stated the CAO has made it clear that agency leaders and managers must follow strict criteria and cannot discuss nor encourage any employee to retire. Employees will have 45 days to consider acceptance and there will be a seven-day period to rescind.

While the career service rules do allow exceptions in the layoff process for ranking employees by skills, any government structure provides protections to the classified workforce that must be adhered to.

Ms. Niparko noted changes to the Career Service rules regarding layoffs have been implemented over the last two years, however, additional changes are a long conversation with various stakeholders in the future.

Board Member David Hayes commented his only concern is the cap may be problematic, but otherwise the proposed incentive is not unusual to reduce costs and should be effective, even though there is mitigation when losing certain individuals. Mr. Hayes stated he believed the city would benefit from offering the program and realize savings.

Board Co-Chair Neil Peck proposed the Board review the ordinance language and provide George Branchaud with their decision via e-mail no later than Noon tomorrow. Board Member Patricia Barela Rivera stated she is in favor of the proposal.

A motion was made by Patricia Barela Rivera to adjourn the meeting, seconded by Karen DuWaldt and approved unanimously by the Board, to review the ordinance language and notify George Branchaud by e-mail of their decision by Noon tomorrow.

The Career Service Board subsequently unanimously approved by email the proposed ordinance for the special retirement incentive on June 10, 2020.

III. Adjournment: *Adjournment was at 6:03pm.*