MINUTES OF WEST HARTFORD PUBLIC HEARING
FEBRUARY 24, 2009 LEGISLATIVE CHAMBER
ORDINANCE CREATING THE TOWN OF WEST HARTFORD OTHER POST-EMPLOYMENT BENEFITS TRUST

President Scott Slifka called the Hearing to order at 7:30 p.m.

President Slifka: Okay, we are going to call the 7:20 Public Hearing to order. Can we have a role call please, Ms. Labrot?

Present were Councilors Steven Adler, Chuck Coursey, Tim Brennan, Shari Cantor, Leon Davidoff, Scott Slifka, and Joe Visconti.

Councilors Dr. Carolyn Thornberry, and Joe Verrengia were absent.

Persident Slifka: Thank you, Ms. Labrot. Mr. Coursey may walk in at any moment but we are going to proceed. Subject matter is Ordinance creating the Town of West Hartford Other Post-Employment Benefits Trust. And we have a presentation from Mr. Van Winkle.

Mr. Van Winkle: Good evening. What you have before you is somewhat of a technical issue. It deals with FASB, which is a Financial Accounting Standards Board, Issues 43 and 45. For years, communities didn't account for the cost of post-employment benefits, which in this case is the health benefit. Although we paid those benefits out of the general fund, no one did an accounting to determine what the actual costs of those benefits were and whether they were funded or not funded. So, FASB adopted new rules to say that the community should make an accounting of those. West Hartford, on the other hand, since 1985, has been publishing an accounting for its health benefits and in that same time period has set up a fund to set aside money for the cost of those benefits into the future. In 2003, we were negotiating employment contracts with our unions and changed the retirement date for employees hired after 2003 through 2006, depending on when we adopted that new negotiation. That allowed us to have a two-tiered program. One for those employees hired before 2003, which came out of that original fund that we set up and the opportunity for employees whose new contract required that in some instances they not retire at full eligibility until they reached age 65, to begin to set up those new employees in a separate trust fund. That's what this document does. It sets up a separate trust fund for the post-employment benefits, in this case health care benefits for employees hired after 2003. And remarkably, that's about 25% of our employment at this time. Those employees will retire well into the future now. This is not a benefit that any of them would receive anywhere in the near term. Well into the future, they would retire and this fund would then pay for those benefits. We will put into this fund this year in our budget less than $20,000.00. That will come out of our allocation that we make to our regular health care fund. And that $20,000.00, with contributions going on into the future, will fully fund this benefit so that we won't have an under-funded benefit, that along with interest earned over the years. And again, this is a long into the future benefit that we get received. So, we have two systems now. One for those employees who are hired pre-2003, which is funded through that mechanism we have used for years, set aside money for years, and paid those benefits out of that fund, and a new trust fund, which will begin to be funded this year with your adoption of this that will set aside money in small amounts, so that we will be ready when those employees retire. We will have a fund, which will have sufficient funds in it to pay those benefits and we won't have to take them out of the general fund at that time. The purpose of the resolution before you is to adopt that trust fund. We've have this discussion in Budget and Finance and if there are any questions, I'd be happy to take them.

President Slifka: Thank you, Mr. Van Winkle, and thank you to Mr. Johnson, our Finance Director, and Liz Hewitt for their work in briefing us on it in committee and putting it together. Mrs. Cantor?

Councilor Cantor: Thank you. This is a real positive step that the town has taken to really protect us into the future. We've obviously have, I think we've talked about the fact that this reserve fund that was set up in 1985 was well ahead of the curve and when the GASBI requirements came up to restate that liability, we already understood it. We evaluated it. We were doing things to meet that obligation and we knew what kind of moves we needed to make to fix that liability going forward. So we took that opportunity in 2003 and moved on it when other towns were kind of really trying to quantify what their liabilities are and we are in a very, very good position. The fact that we have set up the reserve has worked for us in so many ways. And now that we have set up a trust and those parallel, it just makes so much sense to do it the way we've done it and I know that the rating agencies have applauded that behavior for the reserve for a long time and they will also do that on the trust side because we did discuss it with them. So, it's a very responsible way to do it. And I thank you for all the detailed information that you provided us in Finance and Budget and over the years on this.

President Slifka: Thank you. Mr. Visconti.

Councilor Visconti: Yeah, Mr. Van Winkle, can you briefly go over the amended version? Are there a few things you could just highlight? I looked at the one at the house, but we...just list the differences between what we have and what this is.

Mr. Van Winkle: There is an amended version in your packet that was given to you tonight. If you look on that first page, there is a small asterisk in Item B. And it says the OPEB, this is this Health Trust Fund Board, shall perform the duties set forth in the OPEB Trust Agreement, as amended from time to time, relating to the administration of the OPEB Trust. We had an outside lawyer actually help us set up this fund. He was away on vacation last week and he just recommended, it sounds like from a legal perspective, a belt and suspenders kind of addition, just to be clear about their responsibilities with this trust. So it was an addition he asked us to stick in when we got a hold of him this week.

Councilor Visconti: Thank you.

President Slifka: Okay. Anybody else? Mr. Brennan.

Councilor Brennan: So, as I understand this, presently we are paying out of the general fund to fund these liabilities as they come. And now, what we are trying to do is just to form a trust. Is that right?

Mr. Van Winkle: No. In the late 1980s, we set up a reserve. And it was a reserve for these benefits for employees. And we put millions of dollars into that reserve to pay for those benefits as they came due. And we have been drawing down on that reserve over the past few years and putting additional funds into it to make sure we stayed up to speed. That reserve that I'm talking about is for those employees hired prior to 2003. We will continue to have that reserve and we will continue to draw from that reserve to pay for benefits and we will need to make additions to that reserve from the general fund because there is not sufficient money in that reserve to pay for all those benefits. But employees hired after 2003, which is about 25% of our workforce, we are setting up a trust, which is different than a reserve. A trust is held in trust. It's separate. We can't reach into that trust and take that money out for other purposes. You can reach into a reserve and take the money out for other purposes, although we've only done that once and it's not a good practice. The trust is set up so that we now put money in for benefits which will be received well into the future. And so, by putting small amounts of money in now over a period of time, we will build up a fund, which will be sufficient to pay those benefits and won't have to come out of the general fund when those benefits are received. When they are actually received, we won't be paying those from the general fund. We will be paying them from the trust.

Councilor Brennan: That is the distinction I was trying to draw. The reserve is essentially an account, not in a trust, not legally separate from the general fund, but the trust of course is. Is there a plan to fund this at a certain rate? What percentage are we planning on funding? What is the proposal?

Mr. Van Winkle: We've had an actuary look at this and determine how much we need to put into this trust in order to accumulate sufficient monies for that, and in our resolution there is some information about that. But at this time, the investment that we need to make is only $20,000.00. And we are going to take that $20,000.00 out of the portion of money we are already allocating to the reserve. So we are going to take that $20,000.00 out of the reserve and put it into the trust. And that number stays at about $20,000.00 for the foreseeable future.

Again, these are benefits that occur well into the future. An employee hired in 2003, if they were 30 years old, will be 65 in 35 years, and that is when they would draw on these benefits. So by funding this benefit early, like saving early for college or saving early for retirement, this will build up a fund that we will then be able to draw on when the payments are due.

President Slifke: Mrs. Cantor. Thank you, Mr. Van Winkle.

Councilor Cantor: This was, I think a good way of demonstrating with the way the reserve works. We pay into the reserve for our actuarily determined liabilities in the future are measured, and there is a recommended payment into that, a contribution into that fund, that reserve fund. Our contribution for 2008 was 3.6 million dollars. Retiree claims, we are self-funded, retiree claims over that same period of time was 8.5 million dollars. If we didn't have that reserve fund set up and if we didn't contribute to that, we would have to pay 8.5 million dollars out of our general fund. So that would be the general fund impact rather than the 3.6 million dollars. We are increasing that in a couple of years because the rate of medical expenses have gone up faster than the interest rates have gone up on that fund and we didn't fund it, in past years, like 10 years ago, a period of time while it was flat, so we need to kind of make up for that. We are increasing it at a decreasing rate over the next 10 years and it will be fully funded, I think, in 10 or 15 years.

President Slifke: Thank you both. Mr. Adler.

Councilor Adler: Thank you, Mr. Mayor, through you. Mr. Van Winkle, could you just talk to us about the management structure or the oversight of this trust and the trustee and a little bit around the fiduciary responsibility in terms of what the authority of that trustee is and getting kind of an understanding as to the powers to transfer or to amend the charter of this trust?

Mr. Van Winkle: Our Director of Finance, Chris Johnson, is our trustee. He is responsible for our pension funds. He is responsible for our checks, our payments, so he has a significant financial fiduciary responsibility in the community. He would be the trustee of this. We would have outside auditors to keep an eye on this, obviously, just our normal process through all those things. So, Mr. Johnson would be in charge and responsible for the day-to-day operation, as he is with many of our other operations.

Councilor Adler: So, from a successionary planning standpoint, if we use kind of the beer truck scenario, if you were to get hit by the beer truck, who would be responsible for picking up those responsibilities and how would that successionary planning work, just in the event that he was not available to make those decisions?

Mr. Van Winkle: Succession planning is the whole part of the administration's efforts to make sure that we do worry about the beer truck issue. And although we don't have an identified successor to Mr. Johnson, we are training individuals inside the department to be able to fill that job. I don't want to give you a name because 5 years from now, when he gets hit by that beer truck, that may not be where we end up. But we are certainly training, knock on wood, we are certainly training individuals to be able to fill in for that job and we would expect that whether Mr. Johnson retires or gets hit by a beer truck, we would have a backup there that would fill in, at minimum on an interim basis, but hopefully on a full-time basis.

Councilor Adler: I apologize for the analogy. So, say if Mr. Johnson wins the Powerball and decides to move to Ohio, we have a risk there that we need to address.

Mr. Van Winkle: My legal counsel points out to me I should be saying that the trustee is by position, not by person, so it is not Mr. Johnson, it is the Director of Finance, just to clarify.

Councilor Adler: Okay. Thank you then.

President Slifka: Mr. Adler? Anyone else? Mr. Davidoff.

Councilor Davidoff: Thank you, Mr. Mayor. I just want to make certain that when we vote to adopt later in the meeting, that Section 3.2, the word at, the sixth word should be "any," not just "a-y." Just a typographical error there. It's my understanding that the reason we are going with the trust fund, the reason we are doing the trust fund instead of the reserve fund was so that these funds would be solely dedicated for this specific purpose and this purpose only and would prevent future town councils from raiding this reserve fund for other purposes. And I guess that's been the case in other municipalities, when you start looking for other revenue sources to fill budget holes, then this really isn't one that we should be looking at since we have already made the commitment to fully fund this obligation. Correct?

Mr. Van Winkle: Raiding is a hard word there, but yes, certainly. Again, I would refer to your college fund. If you decide to take a vacation with your college fund, you know that when your son or daughter turns 18, you are going to run into a problem out there that you may not be ready for. So the purpose of a trust is to ensure that you can't use this for another purpose and to make sure that we cover those expenses.

President Slifka: Thank you, Mr. Davidoff. Mr. Coursey has joined us. Welcome. Mr. Van Winkle, unless somebody else had a question right now. Go ahead, Joe.

Councilor Visconti: Ron, I left you a little note here, but I didn't get the information. I missed Finance and Budget yesterday. I think at the last meeting I requested to know where we're invested as a Councilor. I think we all should know where we are invested in the market and funds and Chris Johnson was going to provide us with that. I'm sure he is working on it, but in these crazy times on Wall Street, it would be nice to know where we are invested. And if it's confidential, that's fine too. But hopefully, we get it soon.

Mr. Van Winkle: Through you, Mr. Mayor, it is certainly not confidential. We have an Annual Report that identifies how we invest our funds. So, we were going to do that at your next Finance and Budget meeting. You asked for it at the last, and we have that data on hand. It is certainly no controversial. It's unfortunately doing as well as everyone else's in the market. This fund actually does better because it is more invested in bonds because of a law of how you can allocate how you invest. It actually has sustained its value better than our pension fund. In hindsight, we would have changed it.

President Slifka: I was wondering if you could just expand on that, Mr. Van Winkle that Mr. Davidoff is correct that one of the motives for creating the trust is that it protects the money. It puts in, I use the phrase from several years ago, the lockbox. I don't want to repeat that one too much, but that is what it would be. But the other part is that there are investment restrictions that go along with that, vis-á-vis the reserve, so there are two pieces to that. I just wonder if you could put that on the record.

Mr. Van Winkle: Yes. Certainly with a trust, there are more restrictive ways that you can invest. You are required to invest more in longer term securities, and again, this is a longer term obligation. So we are looking at 30 years. You are required to not invest as much in equities as we are allowed to do with our pension fund. And I would just note, we aren't moving our reserve fund into a trust fund because our reserve fund is seen by the rating agencies for our bonds as a belt and suspenders. We have a fund balance that we carry that is reserve in the event that some catastrophe befell the community, that we would have funds to be able to deal with that issue. Our reserve fund for our pension plan could also be drawn on in the event of a double catastrophe. Unlikely as that might seem that we would need two substantial funds, but that reserve fund is something that our rating agencies look at and compliment us on having that additional reserve fund.

And they also will look at this trust fund and see that we have begun to set up that trust fund and fund it early and will compliment us on that also in the analysis of our risk in this community.

President Slifka: Thank you for that. I was wondering also if you could, you touched on this in, I think, response to Mrs. Cantor's comments, but if you could go in a little more depth on what allowed us to get here. It's a triumph that we are establishing this trust today. We are going to be, if not the first community to do this, one of the first and that's across the country. But what allowed us to do it, as you already alluded to, is one, we had the health care reserve for all the years, but second was the contracts that went into that. We had a very good memorandum from the Director of Finance who had indicated, he actually broke it out into very good detail of the evolution of the public contracts, employee contracts, where you have the pre-'86 group. You have another group from '86 to '97 and then '97 to like '03. And the trend is that for each one, the retirement age has gone up, the years of service to qualify for the retirement benefits has gone up, and their required contribution toward this has gone up. So, we had a gentlemen who spoke at our forum a couple of weeks ago who asked us about all these things and few of us, you know, it bored the heck out of the audience. Few of us were happy to be able to talk about it because you always hope you'll get asked this. And again, a lot is to demonstrate that the trend has been to bring those contracts more in line with what you would see in the private sector. I wonder if you could just into a little bit of what Mr. Johnson talked about in that memo.

Mr. Van Winkle: Absolutely. I'll actually read from the memo here, some of that. But you need to understand that we are unique in having this reserve fund in the first place. This is 1985. No one was evaluating their benefits and looking at, you know, what potentially will we owe into the future. No one was doing that. We were doing that in 1985. That is a requirement in 2009, that communities evaluate that question and that is not a requirement that they fund it. So, communities are now beginning to be forced to evaluate it. We were doing that back in '85. They were not being forced to fund it, and we were doing that back in the late 80s. Employees hired prior to 1986 are eligible for free health care benefits upon early or normal retirement for themselves and their dependents. Employees hired between 1986 and 1987 are eligible for health care benefits upon normal retirement only and to pay 7% of the cost. Employees hired between 1997 and 2003 are eligible for health care benefits on normal retirement and pay 15% if they have 25 years and age 55 and 30% if they are age 60, with 10 years of service. Employees hired post June 30, 2003 are eligible to retire at age 62 and 65 for nonpublic safety employees and 25 years of service for public safety employees. Upon retirement, they pay 25% of the cost of health care benefits. So over the years, we have ratcheted up the portion of those benefits that employees pay. And again, as you set this fund up, those employees will be paying 25% of this fund. When those employees retire at age 65, this fund will be sitting there to pay those benefits and it won't come out of the general fund at that time.

President Slifka: And the other piece that we've often mentioned in our discussion, but I don't think I've heard us mention it for the record tonight, is the Medicare piece. That where we have a large liability that we are starting to control but, one, historically, that it had been, in large, because we had employees who retired at an age under 65, some of them significantly under 65, and then the town was on the hook for their health benefits, and for the people pre '86, 100% of those benefits, until they reached Medicare eligibility at age 65. And what we now have put into place is that for nonpublic safety employees, for whom working until age 65 is probably difficult, if not impossible, and maybe not good public policy, for everyone else, though, when you get them up to retirement age of 65 or however you combine it with the years of service required, you would have largely eliminated the problem for the town because as soon as they retire, they are already on the Medicare. They are already the responsibility of Medicare.

Mr. Van Winkle: A retired employee at age 65 is required to go on Medicare and it offsets our obligations on that. And this last change that we had in 2003 reduced our liability for these benefits by 24%. So it was a significant change to the contracts that we saw in 2003 to 2006. It significantly reduced our benefits and we are setting ourselves up now to be able to pay those benefits by putting away a little bit each year.

President Slifka: Thank you. Anybody else? Okay. Did anybody sign up for the public forum? All right. We have John Hardy. Welcome, John.

Mr. John Hardy: Good evening. John Hardy, 133 Pioneer Drive. I come before you tonight in my role as Chairman of the West Hartford Risk Management Advisory Board. Assuming that the Council enacts this proposed ordinance, our Board would also serve concurrently as the other Post-Employment Benefits Board. As per your discussion, West Hartford has long been a leader amongst Connecticut municipalities in addressing the financial liabilities associated with non-pension post-employment benefits, notably retiree health care. The foresight leading to the creation 20+ years ago of the existing retiree health reserve fund and its continued funding is a credit to our town staff, to this council, and to your predecessors. Over the past 2 years or so, as the idea of a trust percolated, Financial Services Director Johnson has kept the Risk Management Advisory Board apprised of the progress made by town staff as they explored the suitability, the options, and the actuarial evaluations involved in planning the vehicle contemplated by the draft ordinance before you. The Board just had the opportunity to vet the idea in several discussions with Mr. Johnson and staff, and we specifically reviewed this proposal during our February meeting. While we've not taken a formal vote, my sense is that there is consensus amongst the members of the Risk Management Advisory Board to recommend your approval of this ordinance. And to that, I'll add to Mr. Visconti's question. On our Board, we include people who are not only experts in Risk Management Insurance, such as me, we have some folks who are investment professionals. And the Town Investment Advisor reports to us on a quarterly basis about the progress of the investments in the reserve fund, so we are watching that. Thank you.

President Slifka: Thank you, John. And I would add, along with John, the folks that serve in those roles are all volunteers of our community and we rely very much on their expertise. That concluded the sign-up sheet. Is there anybody that did not sign that wishes to speak to the subject matter of this public hearing? Okay, seeing none. Anything else from the council? Okay, we will close the public hearing.

Hearing adjourned at 7:57 p.m.

Essie S. Labrot

Essie S. Labrot
Town Clerk/Council Clerk

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