

*Robert J. Pash*

TOWN COUNCIL MAJORITY OFFICE

2018 SEP -4 A 9:21

ORDINANCE COMMITTEE

TOWN CLERK  
EAST HARTFORD

AUGUST 28, 2018

PRESENT Rich Kehoe, Chair; Councillors Linda Russo and Esther Clarke

ALSO Marcia Leclerc, Mayor

PRESENT Mike Walsh, Finance Director

Rich Gentile, Assistant Corporation Counsel

Gregg Grew, Director, Inspections & Permits Department

### CALL TO ORDER

Chair Kehoe called the meeting to order at 5:38 p.m.

### APPROVAL OF MINUTES

#### May 10, 2018 Meeting

MOTION By Linda Russo  
seconded by Esther Clarke  
to **approve** the May 10, 2018 meeting minutes.  
Motion carried 3/0.

### OPPORTUNITY FOR RESIDENTS TO SPEAK

None

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### OLD BUSINESS

#### Sections 10-41, 42 and 52: Reserve Funds – OPEB

The Chair explained the July 24<sup>th</sup> draft of the "Fiscally Responsible Funding of Long Term Liabilities" ordinance. The draft was based on previous discussion by the Committee with regard to establishing a fair incremental process for adequately funding our long-term liabilities. The long-term liabilities include heart and hypertension benefits, and the retiree's health benefits. In addition we have liabilities that occur every year in workers' compensation, current health benefits expenses and the general and automobile liability expenses. The draft ordinances would require a standard for making sure that these funds have adequate reserves for current expenses as well as future liabilities. The draft would establish that the Workers' Compensation fund shall have at least fifty percent of the five-year average expense in reserve and that the heart and hypertension claims shall start off with a reserve of ten percent of the long-term liability for those claims and that the funding

level will increase by five percentage points each year so that eventually, over time, the town will achieve a reserve of 100% of the long-term liabilities.

The proposed ordinance does allow for the Council to not budget the full amount as required by ordinance, but only if (1) the Council votes by a two-thirds margin; (2) there's language in the motion that reads that this failure to set aside funds for future liabilities could actually require significantly higher funding in future years; and (3) the Council shall not be able to forego such payments unless the tax rate is going to increase higher than the Consumer Price Index for the past calendar year.

In reviewing the actual financial implications of the five percentage point increase, the Finance Director suggested that a more reasonable increase would be two percentage points, such that the increase would not be so significant as to make it difficult for future Councillors to absorb that amount. Because these liabilities are liabilities over a thirty year period, starting off at ten percent and increasing by two percent would still allow for the amortization of that liability over a period of twenty years so that you would still address the long-term liability in a fair fashion.

The automobile and general liability reserve fund is adequately funded at this point and would certainly meet the standard in the draft ordinance for having the reserve funded at least the town's current deductible.

The OPEB trust fund under the draft ordinance would require a set-aside of one-quarter of one percent of the unfunded actuarial accrued liability. That liability is very significant and as a result, under this provision the town would have to come up with \$330,000 in additional funding every year. The thought is that will be difficult in many years to absorb. Therefore, the recommendation was to start off at .1% and increase that by .1 percentage points. Again, creating a minimum standard by which if there are some funding future Councils and Mayors can provide additional funding into those funds.

The Committee reviewed the amendments to Section 10-41, new subsection (c) and suggested deleting the last two sentences since while this section of the ordinance deals with reserve funds, those sentences talked about the non-reserve funds liability, which includes infrastructure repair and maintenance. There was also a clarification made to delete "...the ability of the town to improve the quality of life for its residents is dependent on setting aside funds..." in lieu thereof change to "... because the town's fiscal stability is dependent on setting aside funds...". Those changes shall comprise the August 28<sup>th</sup> draft of the "Fiscally Responsible Funding of Long Term Liabilities" ordinance.

**MOTION** By Linda Russo  
seconded by Esther Clarke  
to **send** the August 28, 2018 draft of the "Fiscally Responsible Funding of Long Term Liabilities" ordinance (see below) to the Town Council for the purposes of setting a public hearing date.  
Motion carried 3/0.

**Fiscally Responsible Funding of Long Term Liabilities Ordinance  
(August 28, 2018)**

Section 1. Section 10-41 of the East Hartford Code of Ordinances is hereby repealed and the following is substituted in lieu thereof:

Sec. 10-41. Creation.

- (a) The following reserve funds are hereby established:
  - 1. A reserve fund for self-insured workers' compensation benefits and heart and hypertension benefits in accordance with Connecticut General Statutes as same may be amended from time to time.
  - 2. A reserve fund for self-insured employee health benefits.
  - 3. A reserve fund for self-insured general and automobile liability.
- (b) The purpose of the establishment of said reserve funds -is to provide protection against expenses which, in the aggregate during any fiscal year, could significantly affect the budget.
- (c) These reserve funds shall be adequately funded in accordance with the provisions of sections 10-41 through 10-52, inclusive because the town's fiscal stability is dependent on setting aside funds annually to meet the long term obligations for employee pensions, workers compensation liabilities, health benefits and legal liabilities of the town.

Section 2. Section 10-42 of the East Hartford Code of Ordinances is hereby repealed and the following is substituted in lieu thereof:

Sec. 10-42. Income and Expenses of Funds.

- (a) Income to said funds shall include: in the reserve fund for self-insured workers' compensation and heart and hypertension benefits, the amount budgeted by the Town Council and the Board of Education for each fiscal year for such workers' compensation and heart and hypertension benefits reserve funds; in the reserve fund for self-insured employee health benefits, the amount budgeted by the Town Council and the Board of Education for each fiscal year for such employee health benefits reserve fund, subject to transfers to or from budget accounts for alternative health plans; in the reserve fund for general liability and automobile liability, the amount budgeted by the Town Council and the Board of Education for each fiscal year for such general and automobile liability reserve fund; and, in each fund, investment return accrued with respect to retained reserves, retrospective and experience-rated premium refunds and other recoveries as may from time to time be received in conjunction with each of these programs. The amount budgeted for each reserve fund set forth in this subsection shall be in an amount at least equal to the amount calculated pursuant to subsection (d).
- (b) Expenses of each fund shall include those expenses necessary for the maintenance and administration of that fund, including, but not limited to, insurance premiums, actuary/consulting legal fees and cost control programs. Fund expenses shall not include compensation of any Town employee or other general office-related expenses unless approved by the Town Council.
- (c) The Town Council, upon recommendation of the mayor, may approve a transfer of any portion of a surplus of one of said funds to another of said funds. Such transfer shall be approved only after the Town Council has received the recommendations from the person contracted by the Town to provide actuarial services for the reserve funds for the annual appropriation to each reserve fund and the reserve funds affected by such transfer will receive sufficient funding to maintain minimum reserves as recommended by the person contracted by the Town to provide actuarial services for the reserve funds. The provisions of this subsection shall not apply to the Self-Insured Employee Health Benefits Reserve Fund.
- (d) The reserve funds set forth in subsection (a) shall be budgeted in an amount at least equal to the following:
  - 1. The workers' compensation reserve fund shall be funded in an amount at least equal to fifty percent of the five year operating expense average, as shown on the Town's most recent year-end audited statement. Operating expense shall include claims other than heart and hypertension, premiums and expenses. Beginning in fiscal year 2020, heart and hypertension claims shall be funded in an amount at least equal to ten percent of the heart and hypertension accepted claims as calculated by the Town's external Workers' Compensation Trust Administrator. The percentage funding level shall increase at a rate of two percentage points annually, for each successive fiscal year. Notwithstanding the foregoing, the Town Council may elect to forego budgeting for that component of the cost of the reserve for heart and hypertension accepted claims that is categorized as long- term liability, for the upcoming budget year, provided: (i) the tax rate adopted

by the Town Council increases by a percentage greater than the Consumer Price Index for Urban consumers for the preceding full calendar year; (ii) the Town Council votes to forego the payment by a two-third vote; and (iii) the vote and explanation is noted in the budget adoption motions and contains the following language: "The adopted budget does not adequately set aside funds for future liabilities which could result in significantly higher funding requirements in future budget years".

2. The self-insured employee health benefits reserve fund shall be funded in an amount at least equal to two months of the most recent two year operating expense average, as shown on the Town's most recent year end audited statements, where operating expense shall include claims, premiums and expenses.

3. The automobile and general liability reserve fund shall be funded in an amount at least equal to the Town's then current self-insured retention.

Section 3. Section 10-43 of the East Hartford Code of Ordinances is hereby repealed and the following is substituted in lieu thereof:

Sec. 10-43. Appropriation and Maintenance of Funds.

(a) Sixty days before the end of the fiscal year or on the date the Mayor shall present to the Council a budget whichever date is earlier, the Director of Finance, in consultation with the Risk Manager, shall recommend to the Town Council the amount of appropriation necessary to keep each fund actuarially sound, which appropriation shall be in an amount at least equal to the amount calculated pursuant to section 10-42 (d) above. Said funds shall be subject to normal budgetary procedures and appropriation action provided that due consideration be given to the recommendations of the Director of Finance and any actuary/consultant hired by the Town to review the fund.

(b) The Director of Finance shall maintain each fund in accordance with generally accepted accounting principles and shall include complete financial statements for each fund in the Town's annual financial report.

[(a)][(c)] The Director of Finance shall provide the town council with (1) a quarterly report on the expenses paid from the reserve funds established pursuant to section 10-41; and (2) a report of any actuarial, consulting or legal expense from such reserve fund in excess of ten thousand dollars within fourteen days of such expense. As used in this section, "expense" means any request for payment from the town for an actuarial, consulting or legal service regardless of how such request is paid by the town.

[Section 10-43 (c) effective 09-19-02]

Section 4. Section 10-52 of the East Hartford Code of Ordinances is hereby repealed and the following is substituted in lieu thereof:

Section 10-52. Retiree Benefit Trust Fund.

(a) There is established a Retiree Benefit Trust Fund: The purpose of the fund is to provide funds to meet long-term obligations of the town of East Hartford regarding health benefits provided to retired town employees in accordance with provisions for such benefits contained in any agreement between town employees and the town of East Hartford.

(b) Income to such fund shall include any amounts appropriated to such fund by the town council or as provided in this subsection and any return on investments of such funds. If, at the close of any fiscal year, the undesignated reserve fund for the town exceeds ten percent of the total budget appropriation for such fiscal year, the budget surplus in such fiscal year, as verified by the town auditors, shall be appropriated to the Retiree Benefit Trust Fund

(effective 01-31-17)

(c) Expenses of such fund shall include those expenses necessary for the maintenance and administration of the fund, including but not limited to actuary and consulting fees. Fund expenses shall not include compensation of any town employee or other general office-related expenses unless approved by the Town Council.

(effective 06-03-08)

(d) Beginning in fiscal year 2020, the budget contribution to the Retiree Benefit Trust Fund shall be equal to or greater than the five-year average of the paid claims issued from the Retiree Benefit Trust Fund. The budget contribution shall include amounts from the Town and Board of Education including their annual budget

contribution, employee contributions, retiree and spouse premium shares, and any investment income which includes interest and dividends. Additionally, included in the budget contribution shall be an additional amount equal to or greater than .10% of the unfunded actuarial accrued liability for other post-employment benefits as calculated by the external actuaries and displayed in the most recent valuation. The funding level shall increase by .10 percentage points annually, for each successive fiscal year. Notwithstanding the foregoing, the Town Council may elect to forego budgeting for the unfunded actuarial liability for other post-employment benefits for the upcoming budget year, provided: (i) the tax rate adopted by the Council increases by a percentage greater than the Consumer Price Index for Urban consumers for the last full calendar year; (ii) the Town Council votes to forego the payment by a two thirds vote; and (iii) the vote and explanation is noted in the budget adoption motions and contains the following language: "The adopted budget does not adequately set aside funds for future liabilities which could result in significantly higher funding requirements in future budget years".

## NEW BUSINESS

### Section 5-2, Filing time for Outdoor Amusement Permit Applications

Mayor Leclerc indicated that adjustments will be made to the current administrative system for handling such amusement permits and that a revision to the Ordinance was not necessary. No action taken at this time.

### Revisions to Chapter 7

Assistant Corporation Counsel Rich Gentile reviewed his latest draft of Chapter 7 with the Committee. The goal is to provide a broader, all-encompassing definition of blight, which will include the Property Maintenance Code revisions of 2015 plus a general definition of blight. The procedure for issuing citations would be streamlined so that enforcement can begin sooner rather than later with regard to a blight situation. Many residents are frustrated by the fact that they have to look at a blighted property while the owner appeals and goes through the hearing process. The Committee wants to ensure that an expedited process contains proper due process provisions and the right to challenge the finding of blight if appropriate. Attorney Gentile will review the citation and fine process and look for ways that the town can expedite particularly egregious blight situations where it is obvious that the property does not meet town standards while also providing for an appeal process for the less clear forms of blight.

Attorney Gentile will continue his review in conjunction with other administrative departments and will return to the Committee with some additional recommendations.

## ADJOURNMENT

MOTION      By Linda Russo  
                  seconded by Esther Clarke  
                  to **adjourn** (7:13 p.m.)  
                  Motion carried 3/0.

cc: Mayor Leclerc  
     Mike Walsh, Finance Director  
     Rich Gentile, Assistant Corporation Counsel  
     Gregg Grew, Director, Inspections & Permits Department