

To: Mayor Mark D. Boughton and Members of the Common Council

Re: Minutes of the Common Council Committee Meeting held on April 23, 2007.

The meeting was called to order upon the close of the Public Hearings. The members were recorded as:

Present- McMahon, Nagarsheth, Johnson, Trombetta, Calandrino, Perkins, Visconti, Esposito, Chianese, Saadi, Cavo, Basso, Rotello, Diggs, Riley, Saracino, Seabury, Stanley and Taborsak

Absent: Teicholz (Undergoing medical treatment).

19 PRESENT - 1 ABSENT – 1 VACANT SEAT

Also present were Mayor Mark Boughton, Corporation Counsel Robert Yamin, Deputy Corporation Counsel Laszlo Pinter, Asst. Corporation Counsel Eric Gottschalk, Asst. Corporation Counsel Dianne Rosemark, Asst. Finance Director Daniel Garrick, Deputy Personnel Director Virginia Alosco, Dir. of Public Works Antonio Iadarola, UNIT Coordinator Rich Antous, Deputy Police Chief Terrence Shanahan and Attorney Saranne Murray.

1) Police Pension Revisions – Secs. 14-49, 14-52, 14-54 & 14-55

Mayor Boughton said he wanted it correct for the record, that he was not sure where Mr. Foley got notion that they would not compensate retirees. Mr. Sellner was correct in what he stated. Mayor Boughton said he did NOT sit in on negotiations. The changes being proposed are the result of the Chief's reorganization of the Police Dept. Since the active duty personnel is being impacted by promotional opportunities being gone, their salary will be increased. Past practice is that retirees are not compensated in these types of situations. He referred to a 1985 signed affidavit that states this. He then commended the entire Police Union for working with the City to better the Dept.

Attorney Saranne Murray, spokesperson for the City in these "impact negotiations". Not all changes come from negotiations.

She said there are two changes in Sec. 14-49: the first relates to employee contributions and the second is a new paragraph which expressly permits the City to charge for administering the pension fund. She added that this is common practice in the private sector and most public sector pension plans. She said these are editorial and ministerial changes which were not part of these negotiations. Both result from the previously negotiated agreement of 3/15/06. She said Sec. 14-52 is the exact language as 2006 award, except for a new paragraph for post-retirement adjustments. Sec. 14-54 provides for those with 25 years or more retiring under this agreement, since some of the clerical and light duty type work will be turned over to civilians under the reorganization. She added that now the older officers will have to go out and do patrol and things that they didn't have to do previously, so they will be compensated. They are hoping to reduce the rate of disability retirements so officers will work out their careers and not retire early. She said the changes in Sec. 14-55 were expressly negotiated in March 2007. Since this Council already approved the 2007 agreement as well as the 2006 arbitration award, approving these is a ministerial and administrative act. She then said she would like to address Mr. Foley's comments. The Ordinance will still provide that pensions shall be increased to correspond to any increase in salary to same grade and rank of someone in active service. She said Mr. Foley is arguing about a grade that did not exist when he retired. No widows or retirees will lose their benefits; all retirees will receive the same adjustment. Nobody is losing anything to which they are entitled under existing or proposed ordinance. This is being done to address the people who are performing different duties now than before the reorganization of the dept., they are being compensated for the reduction in opportunities for promotion. The parties bargained in good faith and reached this agreement.

Mr. Visconti asked if all of this was included when they voted on the Police contract. Attorney Murray said it was except the part that was not renegotiated. Mr. Visconti asked who gave the Police negotiating team right to open the pension to negotiations. Attorney Murray explained the process; saying the Union took the agreement back to the membership and it was ratified by them by a 115 to 3 vote. The agreement was then presented to this Council, who approved it. Mr. Visconti again asked who gave the Police Union the right to open pension as an issue. Mr. Sellner said past retiree's pensions were not affected in any way, all they did was look at pension for current employees. He added that they actually gave something to the post '83 pension plan; nothing was taken from post '67 plan. Mr. Visconti asked if the retiree's checks will change. Mr. Sellner said their benefits will not change at all.

Mr. Rotello referred to Sec. 14-59, where it states "all costs" and questioned the use of the word "all". He asked if there is a cap on this word and if the Union is comfortable with it. Attorney Murray said this is one of those provisions that came out of 2006 arbitration award so it was not part of recent negotiations. One control that is in place is that there is a pension board for each plan. Mr. Sellner said negotiations are give and their Union is happy enough with this. He added that they agreed to language in this package which significantly limits the ability of someone to take advantage of the City. Mr. Rotello questioned the member participation in the vote on this. Mr. Sellner said a significant majority of members voted. Attorney Murray added that only 13 people voted against the agreement.

Mr. Riley asked Mr. Sellner if the Union Officers are voted in by their peers. Mr. Sellner explained how the negotiating committee is put together and said these changes were given overwhelming acceptance by the Union members.

Mr. Seabury asked for an explanation of why they are spending time on this if it is a done deal. Attorney Murray said it is her opinion that they are bound to accept these changes, but even if they were not put in the Ordinances, they would still become effective.

Mr. Saadi said the main issue is confusion over what the impact of this will be. He added that he disagrees with Attorney Murray. She has put the cart before the horse by making them vote on the agreement before tonight's vote. He asked if there are any cross references that will affect any of the previous plans. Attorney Murray said there are none. Mr. Saadi asked if there is any compensation made to current Policemen that is not tracked. Attorney Murray said this new grade was agreed upon in order to compensate the active duty officers for losing promotional opportunities. She added that the 1985 pension negotiations, which Mr. Foley was a part of, had a similar provision in them which also only benefited active duty personnel. Mr. Saadi asked if there were copies of the affidavit available and Attorney Murray then distributed copies to all Council members. She added that they must remember this is not just about years of seniority; it is about compensating people for duties.

Mr. Perkins asked where cost of living increase is addressed. Attorney Murray said it is in Sec. 14-52.

Mr. Saadi asked if there is any language in this that would cross reference to the collective bargaining agreement. Attorney Murray said there is not.

Attorney Murray spoke in response to Mr. Saadi's comment saying she did not intend to denigrate the power of this body. Once a collective bargaining agreement is approved, you can't take it away. She then apologized if they feel they did not have complete information at the first hearing.

Mr. Perkins said this must be a complex issue with five attorneys sitting in the front row. Attorney Murray said this ordinance will not in any way take any benefits away from individuals who have already retired.

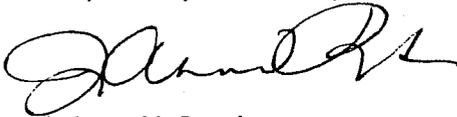
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Mr. Sellner said nothing was taken away; their pension benefit remains significantly more lucrative than the current one. He added that Post 67 is better than post 85. Attorney Murray agreed with that statement.

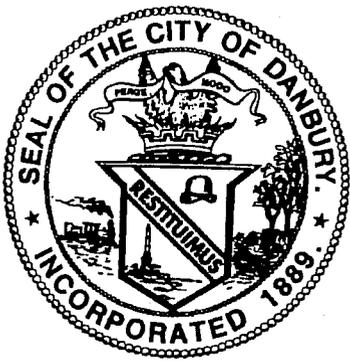
Mr. Nagarsheth made a motion to adopt this ordinance at the next regular Council meeting. Mrs. Saracino seconded the motion.

Mr. Cavo then called the vote on the motion and it was passed with thirteen AYES (McMahon, Nagarsheth, Johnson, Trombetta, Calandrino, Chianese, Cavo, Basso, Diggs, Riley, Saracino, Seabury & Stanley) and five NAYS (Perkins, Visconti, Esposito, Saadi & Rotello). Mrs. Taborsak abstained from the vote.

Respectfully submitted,



JoAnne V. Read
Secretary



ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT

COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury:

THAT Subsection 14-49 of the Code of Ordinances of Danbury, Connecticut is hereby amended to read as follows:

Sec. 14-49. Funds created; assets; assessments; appropriation by the city.

- (a) There shall be in the city three (3) pension funds to be known as "The Pre-1967 Police Pension Fund of Danbury," "The 1967 Police Pension Fund of Danbury" and "The 1983 Police Pension Fund of Danbury," to consist of such sums of money as shall be appropriated or designated to such funds by the city, and such sums of money as are assessed against the salaries of the members of the police department.
- (b) Assessments required under said funds shall be made by the Boards of Directors of said funds on the salaries of members of said Police Department, said assessments to be payable weekly or biweekly and to be deducted from the members' salaries. The assessments of the salaries of members of the Pre-1967 Police Pension Fund and the 1967 Pension Fund shall be at the rate of four (4) percent per annum. The assessments of the salaries of members of the 1983 Pension Fund shall be at the rate of four (4) percent per annum prior to July 1, 2006 and at the rate of four and one-half (4½) percent per annum on and after July 1, 2006.
- (c) There shall be appropriated by the city each year for the funds amounts equal to the total amount of assessments of the salaries of such members of the police department during the preceding fiscal year.
- (d) There shall also be appropriated annually by the city such additional sums of money as are necessary to keep these funds operating on a funded, actuarial basis.
- (e) All costs associated with the administration of the three pension funds shall be charged to the pension funds. Such costs include but are not limited to: fees for actuarial, investment advisory, legal or other services; expenses associated with medical evaluations for disability pension applications; costs for producing and providing summary plan descriptions, pension estimates and/or other information to plan participants.



ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT

COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury:

THAT Subsection 14-52 (c) of the Code of Ordinances of Danbury, Connecticut is hereby amended to read as follows:

Sec. 14-52. Personnel covered; effect of military service; definition of pay; changes in pensions; duration, applications for retirement.

(c) With respect to The Pre-1967 Police Pension Fund of Danbury and to The 1967 Police Pension Fund of Danbury and to the pension benefits of their respective members, the term "pay," as used in any applicable section of this article, shall be defined as the highest salary or compensation received by any regular member of either fund during the years in which such member served the city; and such pension when determined by the appropriate board of directors shall not thereafter be reduced, but shall be increased to correspond to any increase in salary received by members of the same grade and rank of such member while in active service of the department.

Any regular member of the 1983 Pension Fund who retires on or after March 15, 2006 and who has twenty-five (25) years of service or is age 55 at the time of retirement shall be eligible for annual post-retirement adjustments to the member's pension benefit of two (2) percent per annum, payable starting the first of the month following the completion of five (5) years of retirement, except that adjustment to an eligible retiree's pension shall be two (2) percent per annum, payable starting the first of the month following the completion of one (1) year of retirement in the case of a retirement for disability incurred in the line of duty pursuant to Section 14-55, subsection (b).

With respect to The 1983 Police Pension Fund of Danbury and to the pension benefits of the membership of such fund, the term "pay," as used in any applicable section of this article, shall be defined as the average of the annual straight-time earnings received by any regular member of the fund during the three (3) years of highest compensation.



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ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT

COMMON COUNCIL

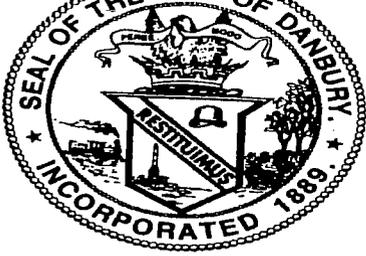
Be it ordained by the Common Council of the City of Danbury:

THAT Subsection 14-54 of the Code of Ordinances of Danbury, Connecticut is hereby amended to read as follows

Sec. 14-54. Optional retirement.

(a) When a regular member of either The Pre-1967 Police Pension Fund of Danbury or The 1967 Police Pension Fund of Danbury has completed twenty-seven (27) years of service, regardless of age, such member shall upon written application be retired on an annual pension, payable monthly, equal in amount to not less than one-half pay plus an additional two (2) percent of pay for each year of service in excess of twenty-five (25) years, but in no case shall such member's annual pension be greater than sixty-eight (68) percent of pay.

When a regular member of The 1983 Police Pension Fund of Danbury has completed twenty-five (25) years of service, regardless of age, such member shall upon written application be retired on an annual pension payable monthly, equal in amount to three percent (3%) of pay per year of service for the final five (5) years of service, and two percent (2%) of pay per year of service for years prior to the final five (5) years, but in no case greater than sixty-eight percent (68%) of pay.



ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT

COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury:

THAT Subsection 14-55 of the Code of Ordinances of Danbury, Connecticut is hereby amended to read as follows

Sec. 14-55. Retirement for disability incurred in line of duty.

- (a) When a regular member of either The Pre-1967 Police Pension Fund of Danbury or of The 1967 Police Pension Fund of Danbury shall become permanently disabled so as to be unable to perform active service in the police department by reason of mental or physical disability resulting from injury received or exposure endured in the performance of such member's duty, such member may make application for retirement to the appropriate board of directors and the board of directors shall retire such employee on an annual pension, payable monthly, equal in amount to sixty-six and two-thirds (66 2/3) percent of pay, or in an amount computed in accordance with the provisions of subsection 14-54(b), whichever is greater; provided such member has been examined by two (2) physicians and such member has been found by these physicians to be unable to perform active service in the department.
- (b) When a regular member of the 1983 Police Pension Fund of Danbury shall become permanently disabled so as to be unable to perform active service in the Danbury Police Department by reason of mental or physical disability resulting from injury received or exposure endured in the performance of such member's duty, such member may make application for retirement to the Board of Directors of said fund and said Board of Directors shall retire such employee on an annual pension, payable monthly, equal in amount to fifty percent (50%) of the compensation being paid to said member at the time of disablement or in an amount computed in accordance with the provisions of subsection 14-54(b), whichever is greater; provided such member has been examined by two (2) physicians and such member has been found by such physicians to be unable to perform active service in said department, and the member's disability is not the result of refusal to obtain reasonable medical treatment* that would permit the member to return to duty; and provided further that:
- (i) said benefits shall terminate after a period of two (2) years unless said member is then permanently and totally disabled so as to be unable to perform any suitable and comparable work; or
 - (ii) said benefits shall terminate if the member refuses recall to work within five (5) years of the granting of the disability pension.

For a period of five years following the granting of a disability retirement:

- (i) The Board shall require a disability retiree to submit to an annual medical examination by an examiner, selected by the Board, who is Board Certified in the specialty related to the retiree's disability. The Board shall give the retiree a minimum of two (2) weeks notice of the scheduled medical examination. If the retiree has relocated and the new residence is more than two hundred fifty (250) miles from Danbury, the Board shall arrange to have the examination conducted at a location closer to the retiree's new residence or shall pay for the reasonable cost of transportation to the Danbury area for the examination.
- (ii) If the medical examination reveals that the retiree's disability has abated to a sufficient degree that he/she may return to work, the retiree shall be recalled to an available position in the department.

- (iii) The retiree who accepts recall shall be given years of credited service for time spent on disability pension provided he/she shall make contributions for those years within the same number of years as the period of disability. If the retiree refuses to return to work, the Board shall terminate his/her disability pension and the retiree may apply for a non-disability pension based on years of service prior to the period of the disability pension.

*Whether medical treatment is "reasonable" shall be determined in accordance with the standards applied in workers' compensation cases. In the event of a dispute, the determination of whether the member is refusing "reasonable medical treatment shall be made by an arbitrator who has experience in cases involving medical or disability issues. The arbitrator shall be selected by mutual agreement of the Danbury Police Union and the Mayor or his/her designee if the member/retiree is/was represented by the Union, or by mutual agreement of the member/retiree and the Mayor or his/her designee if not represented by the Union.

In no event shall workers' compensation when combined with the pension benefits provided for herein exceed 100% of the compensation being paid to the member at the time of disablement.

This amended Section 14-55(b) is effective and applicable to all applications for service connected disability pensions on and after April 1, 2007. Prior to the effective date, the provisions of the ordinance in effect prior to the amendment shall apply.