

**Pension Study Commission  
May 30, 2013  
Minutes of the Meeting**

A Study Commission meeting was held in the Department of Administration, Conference Room A, 2<sup>nd</sup> floor, One Capitol Hill, Providence, Rhode Island on Thursday, May 30, 2013.

Rosemary Booth Gallogly, Director of Revenue and Chairperson of the Pension Study Commission called the meeting to order at 6:12 PM.

**Commission members present:** Rosemary Booth Gallogly, Jean Bouchard, Paul Doughty, Dennis Hoyle, Richard Licht, Antonio Pires, Joseph Polisenena, Mark Dingley representing Gina Raimondo, John Simmons

**Members absent:** Allan Fung, Bruce Keiser, J. Michael Lenihan, Steven St. Pierre, Angel Taveras

**Others present:** Susanne Greschner, Chief of the Division of Municipal Finance, Daniel Sherman, Actuary for the Pension Study Commission and members of the public

**Members for the Town of Coventry:** Thomas Hoover, Town Manager; Ted Przybyla, Finance Director; David Ward, Actuary, Angell Pension Group; Gary Cote, Council President; Kerry McGee, Council Vice President; Greg Laboissonniere, Council Member; Ted Jendzejec, Council Member; Karen Carlson, Council Member; Vincent Ragosta, Esq., Law Office of Vincent F. Ragosta, Jr.; William O’Gara, Esq., Pannone Lopes Devereaux & West; Dr. Michael Almeida, Superintendent of Coventry Public Schools; Robin Pelletier, Director of Administration and Finance; Katherine Duncanson, Esq., Director of Compliance; Katherine Patenaude, Committee Chairperson; Judith Liner, Committee Vice-Chairperson; Frank Hyde, Committee Member; Dr. Ann Dickson, Committee; Warren West, Administrator, Board of Trustees – Coventry School Employees’ Pension Plan; Gary Moore, Chairman, Board of Trustees – Coventry School Employees’ Pension Plan

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Chairperson Booth Gallogly said that the members of the Pension Study Commission have been working in accordance with the statute that had been passed as part of the pension reform to address issues concerning locally administered pension plans. She said that the focus has been on those locally administered pension plans that are under 60% funded. Furthermore, that all plans below 60% funded were required to submit an actuarial valuation, an updated experience study and then submit a funding improvement plan (FIP) to the Commission. The Pension Study Commission had issued guidelines for the FIP, which was to achieve 60% funded in no later than 20 years, and 100% funded in no later than 30 years. Also, there were other various requirements. The Commission is in the process of reviewing the pension plans of those communities that have come before them. The Chair indicated that the Commission’s goal is to make recommendations to the General Assembly to ensure that the locally administered pension plans get healthy and stay healthy.

The Chair indicated that the Town of Coventry has three plans that are under 60% funded. She pointed out that the police, municipal and school employee plans are approximately 13%, 27.9% and 30.5% funded respectively. She explained that the purpose of the informational meeting was to discuss the

school plan, which has 349 participants, and the plan to resolve its funded status. The Chair said that it had come to the Commission's attention that the Town Council and the School Committee have determined that it is not their responsibility to submit a FIP, and she wanted to confirm that the Commission's interpretation was correct.

Gary Cote, Town Council President said that the town believes they have no responsibility for the underfunded school plan that the town never administered and never had any control of. He indicated that the original trust plan document clearly states that the administrator, the employer nor the union in any way guarantees the plan funds from lost for depreciation, nor guarantees any payment to any person. Thomas Hoover, Town Manager clarified that the trust document was put into place in 2008, and explained that Mr. Cote mentioned the information from the original pension plan document from 1977. Mr. Cote expressed that the town has a moral obligation to the 36,000 taxpayers and he asked the Commission "to please not force the town to take responsibility for the school plan without a judge's ruling, in doing so it will force the Town of Coventry down the road to receivership and bankruptcy." The Chair pointed out that there is language that relates to provisions for a defined benefit plan. Mr. Cote said that the reference language was amended in 2004 and not in the original plan. In addition, he said that the collective bargaining agreement (CBA) calls for a 12.75% per pay period contribution that both the town and school department have made. Paul Doughty, President of the Providence Firefighters' Union Local 799, asked what the town's position will be when the plan runs dry, and if they will continue to withhold funds and take no responsibility. Mr. Cote replied that if the plan is defunct and done away with then the employees can start a 401K or a private retirement plan. Mr. Doughty presented a document titled Coventry School Employees' Pension Plan – Participant Election and Certification form where an employee executes his/her designation on how their benefit is paid upon retirement. Mr. Doughty read from the document: Life Annuity – this type of pension pays you level monthly payment for as long as you live, payments stop when you die. He asked if anyone on the council had seen the document and if it was part of the legal opinion that was offered to the council. Mr. Cote replied that he had not seen the document and said that it was obviously contrary to the no guarantee clause that is in the original plan document. Vincent Ragosta, Esq. from the Law Office of Vincent F. Ragosta, Jr. said the document presented by Mr. Doughty was not one of the documents that the town examined to formulate a legal opinion and he was not sure of the source of the document. He explained that part of the frustration is that the town has a variety of documents that comprise of the school employees pension plan beginning in 1977, in the 1991 restatement of the plan (document not located), and in the 2008 restatement. Mr. Ragosta indicated that the source documents have a variety of provisions which do not necessarily mesh with the current document that may have been prepared by an administrator. Mr. Rogosta believes that the way to address this problem is to get a determination from the Superior Court by an action for declaratory relief. The Chair asked if anyone in the audience had a copy of the 1991 document. An audience member, Warren West, indicated he had a copy and would provide a copy to the Commission.

Mayor Polisena from the Town of Johnston asked Mr. Hoover if the Town has a pension board. Mr. Hoover replied that they have a pension board consisting of the Town Manager, Finance Director and Union President for the police plan and an AFSCME representative on the non-uniform employees. Mr. Hoover explained that the board is only responsible for the investment monitoring, and the responsibility for administration of the pension plans lies with the town council who delegates it to the Town Manager.

Mark Dingley, representing Gina Raimondo from the General Treasurer's Office does not believe that the provision that Mr. Cote quoted from the 1977 document is in the restatement of the plan. Mr.

Hoover said it is not because the restatement of the plan was an amendment to the 1977 document. Mr. Dingley said that it is clearly a defined benefit pension plan. Furthermore, he said that one of the injustices here is that people are contributing money to the plan now will not receive anything because the fund is going to run out of money. In addition, he indicated that the town is relying on a provision in a 1977 document when the plan was amended and restated in its entirety and that provision was deleted. He said there is nothing in the plan document that says that the employer is not responsible and he didn't see anything in the documents where a court would say other than the school committee is the employer under the plan and is responsible for those benefits.

Richard Licht, Director of the Department of Administration said that the town's position not to offer a way to make up the shortfall in the non-teacher school employees' pension plan is unconscionable. Mr. Licht expressed that the town is not looking for a solution and he finds that unacceptable. Mr. Hoover expressed that it is not a legal responsibility of the town to take total responsibility and he said the town would be glad to find a solution, but one has not been found.

Katherine Duncanson, Director of Compliance, School Committee Attorney indicated that the school committee has fulfilled their legal responsibility for continually making the pension contributions since 1981. John Simmon, Executive Director for the R.I. Public Expenditure Council said it seems clear that the school committee is the employer and have agreed to a set of conditions for the employees; however Ms. Duncanson is turning it into a contribution amount as opposed to what the school committee document indicates. Ms. Duncanson replied that the school committee does not administer it. Mr. Simmons asked if she knew that the contributions were not sufficient enough to pay for what the school committee had agreed to in the document. Ms. Duncanson could not recall. Mr. Simmons finds it fascinating that the school committee has a document that they adhere to and accepted the terms and conditions for employment for employees that is offered today and they should have known that there is not enough funding to pay for it. Mr. Simmons said a course of action has to be a legal action and it should have been done a long time ago to resolve the issue.

Mr. Dingley expressed that from a legal perspective, the CBA can be followed by making the required contribution; however it does not absolve them from the legal liabilities that exist under the plan documents. He said that ultimately the employer will be responsible and by not funding it now they are prolonging the problem. Ms. Duncanson said the document indicates a fixed contribution percentage and there is no provision that indicated that more needed to be contributed. Dan Sherman, Actuary of the Pension Study Commission disagreed and referred to the documents which stated that the employer shall retain an actuary to assist in determining the amount of contributions to be made under the plan. An actuary is supposed to be providing information to the school committee and the pension board on how much money needs to be contributed. Mr. Sherman said that the actuary has been saying this for many years; however it has been ignored.

Mr. Cote indicated that the trustees should have known of the underfunding of the school plan, and should have done something about it. Mr. Cote said "don't sit here and try to lay it on the backs of the taxpayers, because that is not where it is going to end up – let the court make a decision." The Chair said that the Commission has not taken a position on what the solution is; however they are asking for a resolution to the problem as determined by the town so that there is a plan on a go-forward basis. The Chair inquired if the town council approves the CBAs of the school department. Mr. Cote replied yes, as of one year ago. The council members expressed that during negotiations, there were no discussions to increase the pension contributions.

Antonio Pires, Director of Administration for the City of Pawtucket said that the best approach is to negotiate something that is reasonable and to do the right thing for the community.

Mr. Doughty referred to the police pension plan that is 13% funded, and pointed out that it is the worst funded pension plan in the State and the Town has no one else to blame. In addition, he noted that the non-uniform municipal plan is 27% funded; therefore it seems to him that there has been a lack of leadership with respect to the police, municipal and school plans. Therefore, Mr. Doughty expressed that the council's argument is that nobody said anything, rings a little hollow with him.

Gary Moore, Chairman, Board of Trustees for the Coventry School Employees' Pension Plan expressed that the trustees would be happy to get together and try and resolve this, however the trustees cannot try to resolve it when the town and the school department will not make any monetary contribution. Mr. Moore indicated that the school department has administered the plan for over twenty years. The Chair asked what attorney was hired when the trust agreement was amended. Mr. Moore said that it was Edwards Angell Palmer & Dodge. He mentioned that the trustees met with the members of the school committee to present them with an outlined status of the plan and if no action was taken, it could run out of money.

The Chair expressed that if the school plan is not resolved collaboratively it could end up in a court action which would result in a lot of money spent on legal fees that could have otherwise gone into the school pension plan.

Chairperson Booth Gallogly asked for clarification from the town council as to their position on the funding improvement plan (FIP) that had been submitted for the police and municipal pension plans. She indicated that it appeared from the minutes that it was approved, but then was rescinded. Mr. Hoover indicated that the town had selected option 1. Mr. Cote said that option 1 was voted on; however he believes that it is going to come up for another vote to consider a different alternative. The Chair indicated that the Commission expects that there may be tweaks to the plan as negotiations take place with active and retiree members, but warned that if the alternative proposal was to treat the municipal and police plans the way they were treating the school plan that it would not be acceptable to her.

### **Agenda Item #2 – Public comments**

Three members of the school employees' pension plan addressed the Commission. Denise Gibbons commented that in addition to being a participant in the pension plan, she is also a Coventry resident. She asked that this not be forgotten. Residents Norma O'Neil and Stan Eden echoed similar sentiments and referenced how unfortunate things have become in the community. The school employees have made concessions.

**Agenda Item #3 – Adjourn**

Mayor Polisenia made a motion to adjourn which was seconded by Paul Doughty. The meeting adjourned at 7:50 PM.

Rosemary Booth Sallou  
Chairperson

6/10/13  
Date

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