November 12, 2010

News Release

For Immediate Release

Attorney General Clarification on Police-Fire Pension COLA

In a letter received this week, the Missouri Attorney General’s office has informed the City of Springfield that the City was within its rights to pay a cost of living adjustment (COLA) to its Police and Fire retirees for the current fiscal year.

The City sought clarification on the COLA payments from a judge in June after requests for clarification from the Attorney General’s Office and the Missouri Joint Committee on Public Employee Retirement Systems did not resolve the City’s legal questions.

At issue were seemingly conflicting city and state laws and legal opinions. City ordinances require the Pension Board to pay a three percent COLA increase annually to retirees beginning each new fiscal year (July 1). However, a state law passed in 2007 prohibits benefit increases if a public pension fund is not “actuarially sound.” This term is not defined in the state statute. Springfield’s Police/Fire Pension Fund is at an approximately 48 percent funding level.

The City of Springfield has maintained that it is not only within its rights to pay the COLA, but required to do so, which is why the COLA increase was paid as scheduled beginning July 1. All 432 retirees and disability COLA recipients were named in the lawsuit because of a requirement that a person must be a party to a lawsuit in order to be bound by the court’s decision. This led some retirees to misperceive that they were being sued by the City when, in fact, they were not.

While taxpayers, the City, and current Police/Fire employees have made several significant commitments during the past year to shore up the fund — including passage of a ¾-cent dedicated sales tax — concern remained about whether the COLA could be considered a benefit increase or a new benefit, and therefore be prohibited by state law. The Attorney General’s office cited the migration of all Tier II employees to the Missouri Local Government Employee Retirement System (LAGERS) and the closure of the City’s pension plan to new hires as reasons for its new analysis of the situation.

Closing the Police-Fire Pension Plan to new hires was one of eight commitments City Council made to voters before the November 2009 pension sales tax referendum. Five of those are completed, and three are in progress.

“We are very pleased to see this issue resolved. It’s another milepost on the road out of the pension cloud,” said City Manager Greg Burris. “Our intent in filing the suit was to go to bat for our retirees and eliminate any uncertainty about paying the COLA. We felt we could not take any chances given all we’ve been through with our pension plan these past few years, and especially after voters approved the sales tax last year.”

Download a copy of the letter to the City from the Attorney General’s Office.

For more information, contact: City Attorney Dan Wichmer, (417) 864-1558; or Mike Brothers, Department of Public Information, (417) 864-1119.