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News Release

For Immediate Release

Clarification of Police/Fire Pension COLA Lawsuit

Due to media inquiries and public misperception, the City of Springfield would like to clarify the issue of a recent court action related to the Police/Fire Pension Fund.

On June 3, the City filed a declaratory judgment action seeking a judicial determination as to whether the City may pay a cost of living adjustment (COLA) to its Police and Fire retirees in light of the pension fund’s actuarial funding level. The suit names as parties all 432 retirees and disability COLA recipients due to the requirement that a person must be a party to a lawsuit in order to be bound by the court’s decision. Any decision made by a court could affect their ability to continue receiving the COLA portion of their retirement plan on a temporary going-forward basis.

This action does not seek any money damages from anyone, only a judge’s independent declaration on two sections of Missouri law.

The suit was filed because the City is seeking clarification between seemingly conflicting laws and legal opinions. City ordinances require the Pension Board to pay a three percent COLA increase annually to retirees. 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.

While taxpayers, the City, and current Police/Fire employees have made several significant commitments during the past eight months to shore up the fund — including passage of a ¾-cent dedicated sales tax — concern remains about whether the COLA could be considered a benefit increase or a new benefit, and therefore be prohibited by state law.

This action was not filed because the City and the Pension Board wish to suspend the COLA increase. While the suit is pending, the Pension Board and City both agree that City ordinances require the Board to pay the COLA. The City is attempting to be proactive by seeking declaratory judgment by the Greene County Circuit Court due to the conflicting advisory opinions issued by both the Missouri Joint Committee on Public Employee Retirement Systems and the Missouri Attorney General’s Office. Both entities issued opinions in January and February 2010 stating that if the Pension Fund was not “actuarially sound” then the Pension Board could not pay the COLA without violating state law. Again, neither the Attorney General’s Office, nor the Joint Committee offered guidance on what “actuarially sound” means.

Without guidance from the Courts, the City and Pension Board face a dilemma on both ends. Paying the COLA could result in the Attorney General or Joint Committee taking action against the Board for making the payment, thus violating state law. Refusing to pay the COLA could lead recipients to make a claim against the Board for failing to carry out the requirements of the City’s pension ordinances.
Copies of the relevant opinions from the Missouri Attorney General and Joint Committee are available at [http://mo-springfield.civicplus.com/](http://mo-springfield.civicplus.com/).

Unless a judgment is entered ordering the Pension Board to cease paying the COLA, the 2010-2011 COLA will be granted as normal.

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