



CITY OF BETHLEHEM
OFFICE OF THE CITY SOLICITOR

INTEROFFICE MEMORANDUM

To: Robert Vidoni, Esquire, City Clerk

CC: The Honorable Robert J. Donchez, Mayor
W. Alexander Karras, Chief of Staff
Mark Sivak, Director of Budget and Finance

From: Edmund J. Healy, Esquire, First Assistant City Solicitor

Re: proposed ordinance to remove the O&E Pension Board and Funds from jurisdiction of the Pension Fund Board of Managers

Date: October 8, 2019

The Administration and Pension Fund Board of Managers under Article 156 requests Council to consider enacting the attached ordinance. This ordinance proposes to remove management of the Officers' and Employees' Retirement Board *and* all funds of the Officers' and Employees' Retirement and Pension System under Article 155 from the jurisdiction of the Pension Fund Board of Managers.

There is no benefit from continuing to include the funds from the City's O&E pension system under Article 155 as part of the aggregated investments managed by the Pension Fund Board of Managers under Article 156. Several reasons support this conclusion. First, there have been no new participants eligible to participate in the City's O&E pension system since August 1, 1978. Qualifying employees hired after that date became participants in the Pennsylvania Municipal Retirement System (PMRS). Second, all qualified participants hired prior to August 1, 1978 are presently receiving their retirement benefits pursuant to a group annuity contract dated August 7, 2017 executed by the Pension Fund Board of Managers. Thirdly, all residual funds not required to purchase the annuity were transferred to PMRS on October 17, 2018 pursuant to a motion of the Board dated October 5, 2018. In other words, there are no remaining O&E funds to be managed for existing or future O&E retirees and eligible spouses. Until all annuitants and eligible spouses shall have passed away, however, the Officers' and Employees' Retirement Board shall still be required to meet, albeit infrequently, since members of the O&E board still remain pro forma fiduciaries to existing participants under the closed O&E pension system.

Questions concerning any economic issues are best directed to the Director of Budget and Finance, Mark W. Sivak.

Edmund J. Healy
Edmund J. Healy, Esquire
First Assistant City Solicitor

BILL NO. 41 – 2019

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, AMENDING
ARTICLE 156 OF THE CODIFIED ORDINANCES OF
THE CITY OF BETHLEHEM TITLED
CITY OF BETHLEHEM PENSION FUND**

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That Article 156 of the Codified Ordinances of the City Of Bethlehem titled City of Bethlehem Pension Fund is hereby amended to read as follows (underlined text denotes additions to existing Article 156, whereas strikeouts denote deletions from existing Article 156):

156.01 ESTABLISHMENT.

There is hereby re-established and reconstituted the City of Bethlehem Pension Fund under authority of Act 205 of 1984, Municipal Pension Plan Funding Standard and Recovery Act, and any other statutes now or hereafter pertaining or applicable hereto, and any Ordinance that may be lawfully enacted for the purposes hereof.

156.02 PURPOSE OF FUND.

The City of Bethlehem Pension Fund is established for the purpose of managing designated ~~all~~ Municipal Pension Funds of the City of Bethlehem in order to qualify for aid from the Commonwealth of Pennsylvania under Act 205 of 1984, Municipal Pension Plan Funding Standard and Recovery Act.

156.03 BOARD OF MANAGERS.

(a) Establishment and Composition. There is created a City of Bethlehem Pension Fund Board of Managers, to be comprised of the Mayor; the Business Administrator; the City Treasurer; the City Controller; and all members of the Firemen's Pension Fund Board of Managers; and the Police Pension Fund Association, ~~and the Officers' and Employees' Retirement Board,~~ as they may exist at any time.

(b) Officers. The Mayor shall be Chairman of the Board of Managers, the Business Administrator shall be Vice-Chairman, and the City Treasurer shall be Treasurer of the City of Bethlehem Pension Fund Board of Managers. The officers and members of the Board of Managers shall not receive any compensation for their services to the City of Bethlehem Pension Fund. (Ord. 3393. Passed 2/19/91.)

(c) Minute Book and Records. The City of Bethlehem Pension Fund shall keep minutes,

setting forth full and accurate accounts of all its transactions in a Minute Book provided for that purpose, which shall be known as the "Minutes of the City of Bethlehem Pension Fund Board of Managers." The books and records of the Board of Managers shall be open for inspection by any interested party and its accounts shall be audited by the City Controller.

(d) Meetings. The Board of Managers shall meet once every calendar quarter at 9:30 A.M. Eastern Standard Time or Eastern Daylight Time, according to which Standard Time is prevailing, on the first Friday of the following months: February, May, August, and November, and at such other times as the Board of Managers may designate, for the transaction of such business as may properly come before it. All meetings shall be open to the public.

(e) Quorum. A majority of the Board of Managers shall constitute a quorum and shall have the power to transact such business as may properly come before it. In the case of a tie vote, the decision of the Chairman shall be final, notwithstanding any previous vote cast by him as a member of the Board of Managers.

156.04 DUTIES OF BOARD OF MANAGERS.

It shall be the duty of the City of Bethlehem Pension Fund Board of Managers to aggregate the Funds of the Bethlehem Firemen's Pension Fund; and the Bethlehem Police Pension Fund Association; ~~and the Bethlehem Officers' and Employees' Retirement Fund~~ and to manage those Funds in a consolidated manner, in order to qualify for aid from the Commonwealth of Pennsylvania, under the terms of Act 205 of 1984, Municipal Pension Plan Funding Standard and Recovery Act.

156.05 AGGREGATION OF FUNDS; ACCOUNTING.

The City of Bethlehem's Pension Fund Board of Managers may aggregate the assets to the credit of the Bethlehem Firemen's Pension Fund; and the Bethlehem Police Pension Fund Association ~~and the Bethlehem Officers' and Employees' Retirement Fund~~ into a single Pension Trust Fund, to be known as the City of Bethlehem Pension Fund. Following this aggregation, the City of Bethlehem's Pension Fund shall be the funding mechanism for both ~~all three~~ Pension Plans.

Both of the ~~Each of the three~~ individual Pension Plans shall have an undivided participation in the assets of the City of Bethlehem's Pension Fund. For accounting purposes, the value of the participation by each Plan shall be calculated annually. The value for the first fiscal year following aggregation shall be that portion of the total value of the Pension Trust Fund which bears the same relationship that the value of the assets of the Pension Plan, as of the date of the aggregation plus the contributions received by the Pension Trust Fund with respect to that Pension Plan since the date of aggregation and reduced by the amount of retirement annuities and benefits paid from the Pension Trust Fund for annuitants and benefit recipients of that Pension Plan since the date of aggregation, bears to the total value of all assets transferred to the Pension Trust Fund as of the date of aggregation plus the total contributions received by the Pension Trust Fund since the date of aggregation and reduced by the total amount of retirement annuities and benefits paid for all annuitants and benefits recipients since the date of aggregation.

The value of the participation for each year subsequent to the initial year following aggregation shall be that portion of the total value of the Pension Trust Fund which bears the same relationship that the value of the participation of the Pension Plan, as of the close of the preceding year plus the contributions received by the Pension Trust Fund with respect to that Pension Plan during the year and reduced by the amount of retirement annuities and benefits paid from the Pension Trust Fund for annuitants and benefit recipients of that Pension Plan during the year, bears to the total value of all participation in the Pension Trust Fund as of the close of the preceding year plus the total contributions received by the Pension Trust Fund during the year and reduced by the total amount of retirement annuities and benefits paid for all annuitants and benefit recipients during the year.

156.06 EFFECTIVE DATE OF AGGREGATION OF FUNDS;
EFFECTIVE DATE OF INITIAL YEAR FOLLOWING AGGREGATION.

~~As of September 30, 1987, The Funds of the Bethlehem Firemen's Pension Fund, and the Bethlehem Police Pension Fund Association and the Bethlehem Officers' and Employees' Retirement Fund shall be aggregated under the control of the City of Bethlehem Pension Fund Board of Managers. The City of Bethlehem Pension Fund Board of Managers shall assume control of the aggregated fund as of October 1, 1987, and legal title to assets in the aggregated Fund shall be in the City of Bethlehem as Trustee, or its nominees as Trustee.~~

The "initial year following aggregation" of the City of Bethlehem Pension Fund shall end on December 31, 1987.

156.07 APPOINTMENT OF PENSION FUND TRUSTEES.

The City of Bethlehem Pension Fund Board of Managers may appoint a Trustee or Trustees to invest and manage the aggregated funds under the control of the City of Bethlehem Pension Fund Board of Managers, in such a manner as the Board of Managers shall direct. The Pension Fund Trustee shall report to the Board of Managers at each quarterly meeting, and provide detailed and accurate records of the investment and management of the Funds under the control of the City of Bethlehem Pension Fund Board of Managers.

156.08 ADMINISTRATIVE EXPENSES.

Administrative expenses associated with the Pension Fund may be paid from the Fund, providing the following three conditions are satisfied:

- (1) The administrative expense must be directly associated with the Pension Plan.
- (2) The members of the Pension Board must be informed and satisfied that the expenses are necessary, reasonable and have been incurred for the benefit of the Pension Plan.
- (3) The expenses must be detailed and itemized.

156.09 TERMINATION.

When all the individual pension funds under the aggregate control of the City of Bethlehem Pension Fund Board of Managers shall become actuarially~~actuarily~~ sound, all Funds under the control of the City of Bethlehem Pension Fund Board of Managers and its Trustees shall be transferred back to the individual control of the Bethlehem Firemen's Pension Fund; and the Bethlehem Police Pension Fund Association ~~and the Bethlehem Officers' and Employees' Retirement Fund~~, in accordance with the annual accounting procedures set forth in Section 156.05. (Ord. 3138. Passed 9/15/87.)

SECTION 2. All ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by:

PASSED finally in Council on the _____ day of _____, 20____.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 20____.

Mayor