

COUNCIL COMMUNICATION

From: The City Manager

Subject: Waiving Confidentiality of a Legal Opinion

Manager's Recommendation:

I recommend that the Council waive the confidentiality of a December 4, 2009 written legal opinion from Dennis DuBay of the law firm of Keller Thoma on issues involving firefighter pension benefits and contributions.

Justification:

The City and the Police and Fire Pension Board have investigated the issue of the proper application of the 2.8% multiplier for firefighter pensions. This arose out of a June 7, 1999 stipulated Act 312 Award in MERC Case No. L97 B-3058. The specific issue involved was whether the Firefighters Association Local 312 had fully complied with the Act 312 Award provision or whether they should provide further contributions to the City. The City retained attorney Dennis DuBay of the law firm of Keller Thoma to provide a legal opinion on this topic, which he did on December 4, 2009.

The City proposes to use this opinion as a basis for further action in this area and it would be difficult to do so as long as the opinion remained confidential and could not be distributed to other parties. The City Manager and City Attorney do not foresee any damage resulting to the City from the release of this written opinion and recommend that the City Council waive attorney-client privilege so that it may be released.

Council Action

Council _____ moved that the recommendation of the City Manager be approved.