

**AGENDA
CITY COUNCIL WORKSHOP
CITY OF ARCADIA
23 N. POLK AVENUE
TUESDAY FEBRUARY 19, 2013
5:30 PM**

CALL TO ORDER, ROLL CALL

NEW BUSINESS:

1. Retiree Health Insurance

PUBLIC COMMENTS

COUNCIL MEMBER COMMENTS

ADJOURN

NOTE: Any party desiring a verbatim record of the proceedings of this hearing for the purpose of appeal is advised to make private arrangements therefore.

PLEASE TURN OFF OR SILENCE ALL CELL PHONES



MEMORANDUM

TO: Arcadia City Council

FROM: Judi Jankosky, City Administrator

DATE: January 24, 2013

SUBJECT: Retiree Health Insurance

DISCUSSION: During the several council meetings that health insurance was discussed several questions and concerns regarding the retiree's health insurance were brought up. Staff has been researching city records and consulting with our employment law attorney and their benefit specialist attorney over the past four months and have come to the following conclusions:

POLICY ADOPTION ISSUES

After an extensive research of city records, it has been found that the health insurance premium payment continuation policy (retiree health insurance) was never formally approved or adopted by the city council in 2006. No record of a motion or vote regarding the policy could be located except that the cost for budget year 06-07 was included in the budget and subsequently approved as an expense for that budget year.

VESTING QUESTION ANSWERED

Including a cost in the budget does not form a contract or vested interest nor does it create a policy. Consider if it is argued that a contract, vested interest or policy is formed by placing a cost in the budget – when a 3% raise or bonus is budgeted does that give an employee the contractual and vested right and expectation that they will get a 3% raise or bonus every year because council approved it once in a budget – no. When the police department is budgeted to purchase two patrol vehicles does that contract, vest or provide a policy that they get to purchase two patrol vehicles every year because council approved it once in a budget – no. There are procedures in policy and rule making that must be followed for that policy to be considered legally sufficient and binding. The procedure to implement the premium payment continuation policy in 2006 was not followed.

HOW IT HAPPENED

Attached you will find a memo dated August 30, 2006 requesting council approve the policy as section 14.25 of the personnel manual; minutes from the September 5, 2006 regular council meeting; a memo to staff dated October 23, 2006 stating "On September 11, 2006, the City Council approved the following health insurance premium payment continuation plan to be added to the city's personnel manual as section 14.25"; and the minutes from the September 11, 2006 budget hearing.

You will note that the next regular council meeting after the memo dated August 30, 2006 in which a policy could have been adopted was September 5, 2006 and there is no discussion, motion or vote on the policy. It was not until the budget hearing on September 11, 2006 that

the cost was in the budget, but again, there was no motion or vote on the policy except to adopt the budget.

In early 2011, while staff was making revisions to the personnel manual it was found that the above health insurance premium payment continuation policy was never incorporated into the personnel manual as a policy in full force and effect and was adopted through the budget process (however, this process of adoption was not investigated at the time of revisions). The revised manual initially included a change setting the upper limit to age 65 when eligibility for Medicare was available; however, several retirees approached council to express their concerns that there was a contract and vested interest formed by the adoption of the policy in 2006 and that state law required they be allowed to remain on the city policy. Rather than consulting with our employment law and benefit specialist attorneys regarding the fact that the policy was not properly adopted in 2006, the claim of a contract or vesting was formed by a policy, and if state law required they be allowed to remain on the city policy, administration included the original policy in the revised personnel manual stating it had to remain and it was subsequently approved by council. Unfortunately, council was misinformed. That was not correct.

STRUBE CONTRACT

Former administrator Strube is a *slightly* different case. He has a contract with the city which states “Mr. Strube and his current spouse shall be entitled to participate in the City’s post-retirement group health insurance plan as a retirement benefit in accordance with section 14.25 of the City Personnel Manual with one hundred percent (100%) of the premiums for said insurance paid by the city.” However, the referenced section 14.25 is the premium payment continuation policy that was never properly approved and adopted by council in 2006.

MEDICARE PAYMENTS AND COSTS

The City has been paying for retiree Medicare supplements and RX plans. Legal was questioned regarding the continued payment of these plans while we worked through these questions and it was recommended by legal that payments continue and Strube receive 100% reimbursement for his entire Medicare premiums until case law was researched and legal could obtain answers that council could base a decision on. In looking at all the documents the employment law and benefit specialist attorneys saw nothing in any of the records indicating that the city intended to pay for any type Medicare premiums for any retiree.

There are a total of fourteen (14) retirees – seven (7) under 65 that remain on the city group plan and seven (7) 65 or over that have switched to Medicare. What is in question with the seven (7) retirees 65 and over is the city paying for Medicare supplements and RX plans.

The annual cost for the seven (7) retirees on Medicare and supplements is \$21,500.

MUST THE CITY OFFER CONTINUED GROUP HEALTH INSURANCE TO RETIREES

Although it may appear the city has to allow retirees and their dependents the option to remain on the city provided insurance this is not true:

Florida Statute 112.0801 Group insurance; participation by retired employees.—

(1) Any state agency, county, municipality, special district, community college, or district school board that provides life, health, accident, hospitalization, or annuity insurance, or all of any kinds of such insurance, for its officers and employees and their dependents upon a group insurance plan or self-insurance plan shall allow all former personnel who retired before October 1, 1987, as well as those who retire on or after such date, and their eligible dependents,

the option of continuing to participate in the group insurance plan or self-insurance plan. Retirees and their eligible dependents shall be offered the same health and hospitalization insurance coverage as is offered to active employees at a premium cost of no more than the premium cost applicable to active employees. For retired employees and their eligible dependents, the cost of continued participation may be paid by the employer or by the retired employees...

(2) For purposes of this section, "retiree" means any officer or employee who retires under a *state retirement system or a state optional annuity or retirement program or is placed on disability retirement and who begins receiving retirement benefits immediately after retirement from employment.*

The city is not part of the state retirement system or a state optional annuity or retirement program so this section does not apply. However, retirement is a qualifying event for COBRA, so COBRA benefits would apply.

OPTIONS

The annual cost for the seven (7) retirees under 65 is \$32,060. Currently the city pays out over \$53,500 annually for retiree health coverage. In better economic days this was a nice benefit but, like many cities and private businesses, Arcadia cannot sustain this. Council has several options regarding this policy such as complete termination of the program, revisions to, or adopt as is. Whatever council decides on current retirees it is strongly suggested by administration and legal that the policy be revised for all retirees from this date forward. Some options include:

Not allow a retiree to continue on the group health plan beyond COBRA in which the retiree pays 100%.

Not allow a retiree to continue on the group health plan beyond COBRA but the city pays a portion based on length of service (stipend).

Require any retirees from this date forward pay 100% of their coverage if they choose to remain on the city group policy, that they must go on Medicare when they are eligible and no Medicare, Medicare supplements or RX will be paid or reimbursed by the city.

Allow a retiree to continue on the group health plan and provide a stipend based on length of service but still require that they must go on Medicare when they are eligible and the stipend will continue.

Allow a retiree to continue on the group health plan and provide a stipend based on length of service until they are eligible to go on Medicare in which no stipend will be provided as the medical coverage is better and cheaper.

(A suggested stipend plan is attached)

QUESTIONS TO BE ANSWERED

Because of Strube's contract, does the city wish to continue to pay all or a portion of his Medicare costs (Medicare, Medicare supplement and RX)?

Does the city wish to continue to pay for the supplements and RX plans for the remaining six (6) retirees on Medicare?

What changes does Council wish to make the retiree health insurance policy?

Do these changes include requiring current retirees who are under 65 and on the city group plan to convert to Medicare upon their eligibility?

If they must convert, is the city going to pay anything, provide a stipend or pay nothing toward their Medicare (align this with new stipend policy)

Staff will be looking for discussion and direction from the council as to how we will proceed.

15.25 COBRA INSURANCE STIPEND

City employees who leave the City's employment in good standing and who have at least 20 years of continuous full-time service are provided a monthly health insurance stipend based on their length of service as follows for the length of time that the retiree is enrolled in COBRA:

- 1) 20 continuous full-time years of service \$100
25 continuous full-time years of service \$125
30+ continuous full-time years of service \$150
- 2) This policy applies to all full-time employees that have been continuously employed with the city as of the date this policy is approved and into the future, that qualify and enroll in COBRA upon separation from the City. Employees who have retired, left services with the City, are not employed by the city or do not qualify for COBRA as of the date this policy is approved are not eligible.
- 3) All retirees must convert from the COBRA group health insurance to Medicare if Medicare eligibility occurs during COBRA event. (not sure we can do this??)
- 4) Retiree spouses and children may continue to participate in COBRA as well with 100% of the premiums paid by the retiree. The city will pay no part of dependent coverage.
- 5) All previous health insurance premium payment continuation policies (formerly referred to as sections 14.25 and 15.20 of the City of Arcadia Personnel Manual dated 9/11/2006 and 9/20/2011) are hereby revised as follows:
 - a) No further enrollments under the previous policy will be allowed.
 - b) All Medicare payments to current retirees, except Strube's, will stop.
 - c) All current retirees on the group health insurance plan must convert to Medicare upon eligibility.
 - d) Group health insurance will not be available to retirees that qualify for Medicare.
 - e) No premium payment continuation will be made once retiree is eligible for Medicare.

The Arcadia City Council reserves the right to revise this policy at any time without notice unless required by law.