

RESOLUTION No. 36772 As Amended

Declare that it is the policy of the City of Portland to defend the 2006 voter-approved reforms to the Fire and Police Disability, Retirement, and Death Benefit Plan (Resolution).

WHEREAS, in November of 2006 Portland voters overwhelmingly approved substantial reforms to both the disability and pension systems of the Fire and Police Disability, Retirement, and Death Benefit Plan (FPD&R); and

WHEREAS, since the 2006 voter-approved reforms ten separate lawsuits, union grievances or unfair labor practices (Legal Challenges) have been filed which threaten to undermine the 2006 voter-approved reforms to the FPD&R system; and

WHEREAS, these Legal Challenges either contest individual disability decisions or decisions of the Board of Trustees implementing rules consistent with the terms of the City of Portland Charter; and

WHEREAS, the voter-approved reforms were referred by the Portland City Council to ensure the future stability of the City's finances in fairness to future generations of taxpayers in the City; and

WHEREAS, the voter-approved reforms ensured that disability decisions are to be made by qualified independent experts, and not a board made up of beneficiaries of the system; and

WHEREAS, the composition and role of the Board of Trustees was substantially changed in the 2006 voter-approved reforms and instead of an eleven member board with a majority of the board being comprised by beneficiaries of the FPD&R system, there is now a five member board that is no longer made up of a majority beneficiaries, and

WHEREAS, the voter-approved reforms were designed to ensure greater accountability to the residents of the City of Portland in regards to the FPD&R System, requiring audits of the system by outside independent auditors with expertise in disability system; and

WHEREAS, the voter-approved reforms included an elaborate appeals process which mirrors and exceeds the state workers' compensation appeals process for members to challenge the decisions that adversely affect them; and

WHEREAS, two of the above mentioned Legal Challenges have been filed by or on behalf of former-fire fighter Thomas Hurley, one of these legal challenges has resulted in an decision by an arbitrator interpreting the firefighters union contract and ordering the City of Portland to pay Mr. Hurley disability benefits he would have received under the FPD&R system; and

WHEREAS, FPD&R terminated Thomas Hurley's continuing disability benefits because he was no longer disabled, failed to comply with FPD&R procedures, failed to return to work, and he did not avail himself of the voter-approved disability appeals process; and

NOW, THEREFORE, BE IT RESOLVED, it is established and shall be policy of the City of Portland to defend the 2006 voter-approved reforms to the Fire and Police Disability, Retirement, and Death Benefit Plan; and

BE IT FURTHER RESOLVED, that, in order to protect the 2006 voter-approved reforms to the Fire and Police Disability, Retirement, and Death Benefit Plan, the City Council authorizes the City Attorney to defend such Legal Challenges without further authorization by the City Council; and

BE IT FURTHER RESOLVED, that the City Council directs that the decision of the arbitrator regarding former-firefighter Hurley shall not be implemented in order to move the union's grievance forward to a court for final determination.

BE IT FURTHER RESOLVED, nothing in this resolution shall prevent the Commissioner-in-Charge of the Police or Fire Bureaus, upon consultation with the City Attorney, from taking action to mitigate damages in these matters.

BE IT FURTHER RESOLVED, this resolution is binding city policy.

Passed by the Council: MAR 17 2010

Commissioner Saltzman
Prepared by: S. Callahan
Date Prepared: March 3, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland

By 
Deputy

~~345~~ 383

v140

Agenda No. **36772** As Amended
RESOLUTION NO. 36772
Title

Declare that it is the policy of the City of Portland to defend the 2006 voter-approved reforms to the Fire and Police Disability, Retirement, and Death Benefit Plan (Resolution).

INTRODUCED BY Commissioner/Auditor:	CLERK USE: DATE FILED <u>MAR 05 2010</u>
COMMISSIONER APPROVAL	<p>LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u>[Signature]</u> Deputy</p> <p>ACTION TAKEN: MAR 10 2010 CONTINUED TO MAR 17 2010 9:30 A.M.</p>
Mayor—Finance and Administration - Adams	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman <u>[Signature]</u>	
Position 4/Safety - Leonard	
BUREAU APPROVAL	
Bureau: Bureau Head:	
Prepared by: S Callahan Date Prepared: March 3, 2010	
Financial Impact Statement	
Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input checked="" type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> PPD	
Council Meeting Date March 10, 2009	
City Attorney Approval	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____
Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 15 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Leonard	4. Leonard	<input checked="" type="checkbox"/>
Adams	Adams <input checked="" type="checkbox"/>	