

RESOLUTION NO. 2 FOR 2003

A RESOLUTION AUTHORIZING THE LEAGUE OF OREGON CITIES TO COORDINATE THE FILING OF AN APPEAL ON THE CITY OF SWEET HOME'S BEHALF

WHEREAS, eight public employers brought suit against the Oregon Public Employee Retirement System in Marion County Circuit Court; and

WHEREAS, those employers claimed they were being overcharged in the calculation of employer contribution rates; and

WHEREAS, Judge Paul Lipscomb has returned the case to the Oregon Public Employee Retirement System Board with instructions to update employee mortality tables, issue new employer rate orders for 1998 and 2000 and make a new earnings allocation order for the 1999 investment year; and

WHEREAS, the Oregon Public Employee Retirement System Board is expected to adopt proposed employer rate increases at its January 2003 regular meeting; and

WHEREAS, the proposed employer rate increase would be less if the Board had complied with Judge Lipscomb's instructions;

NOW, THEREFORE, the Sweet Home City Council authorizes the League of Oregon Cities to coordinate the filing of an appeal on the City's behalf, through outside counsel, from the rate increase received from PERS.

This resolution shall be effective immediately upon its passage.

PASSED by the Council and approved by the Mayor this 28th day of January, 2003.

Mayor

ATTEST:

City Manager – Ex Officio City Recorder



CITY OF SWEET HOME
1140 12th AVENUE
SWEET HOME, OREGON 97386
541-367-5128
FAX 541-367-5113

January 28, 2003

John W. Osburn, of Counsel
Peter W. Mersereau
Mersereau & Shannon, LLP
1600 Benj. Franklin Plaza
One SW Columbia
Portland, OR 97258

SUBJECT: Representation of City in Appeal from PERS Order

Gentlemen:

This letter will confirm your availability and willingness to provide legal services to the City of Sweet Home in filing an appeal to the Circuit Court of the State of Oregon for Marion County from the decision of the Oregon Public Employees Retirement Board dated January 14, 2002, and prosecuting that appeal to conclusion in the circuit court. The January 14, 2002 PERB order is expected to increase the contribution rate for PERS employers effective July 1, 2003.

The Oregon Administrative Procedures Act provides that an appeal from such an order must be filed within 60 days of the order from which the appeal is taken.

On October 7, 1001, in the case of the City of Eugene v. PERB, which is referred to as PERS I, Marion County Circuit Judge Lipscomb ruled that PERB violated its statutory duties in administering the Public Employees Retirement Fund by improperly calculating employer obligation for payment of benefits to retirees with investment in variable accounts who choose the money match option, by distributing earnings to employee accounts without maintaining proper reserves, and by using outdated mortality tables which prescribe higher monthly retirement payments than are actuarially justified.

PERB's proposed employer rates for 2003 do not reflect corrective calculation in accordance with Judge Lipscomb's order. In order to maintain the benefit to employers from Judge Lipscomb's order, and to avoid the loss of that benefit in the 2003 rate calculation, we authorize you to file and appeal on behalf of the City. A copy of the notice from PERS as to the property employer contribution rate is attached to this letter.

Mersereau & Shannon, LLP
SUBJECT: Representation of City in Appeal from PERS Order
January 28, 2003

The City has designated Patricia Gray as the City's contact person for information regarding the City's participation as a PERS employer.

We enclose the City's check in the amount of \$150, which you agree to accept in full payment for your services in the circuit court.

In accepting this engagement, you certify that you know of no conflicts of interest on the part of either July W. Osburn or Mersereau & Shannon LLP, and agree that you will not acquire any such conflicts related to the subject of this litigation. The City acknowledges that you have been engaged to represent the participating members of the Oregon School Boards Association, and the Special Districts Association of Oregon and the Association of Oregon Counties. The City does not consider the representation of similarly situated employers to constitute a conflict of interest.

If the terms of this arrangement are satisfactory, would you please so indicate by endorsement below and return a copy to the City.

The City of Sweet Home

By _____

Title: _____

The terms of this engagement are accepted and agreed to.

Date: _____

John W. Osburn, on behalf of John W. Osburn,
PC and Mersereau & Shannon, LLP

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

ACTUARIAL VALUATION EXHIBIT AS OF DECEMBER 31, 2001

ENCLOSED WITH LETTER DATED DECEMBER 20, 2002

Primary Employer: 2129 City Of Sweet Home

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Table 5 Recommended Employer Contribution Rates		
	Current Schedule	Proposed Schedule
Rate as a percentage of salaries with pickup-up, if any		
Rate as of December 31, 2001	6.00%	
Rate as of July 1, 2002	6.00%	
Rate as of July 1, 2003	6.00%	
Rate as a percentage of salaries without pickup-up		
Rate effective July 1, 2003	6.00%	6.72%
<i>Note: This proposed employer contribution rate schedule is subject to final adoption by the Retirement Board.</i>		

Table 6 Summary of GASB Information						
Actuarial Valuation Date	Actuarial Value of Assets	Actuarial Liability	Unfunded Actuarial Liability	Funded Ratio	Covered Payroll	UAL / Payroll
1995	\$ 1,830,788	\$ 1,239,817	\$ (590,971)	148%	\$ 761,730	-78%
1997	2,969,995	1,840,816	(1,129,179)	161%	749,171	-151%
1999	4,337,544	3,105,085	(1,232,459)	140%	847,082	-145%
2001	4,444,317	3,922,358	(521,959)	113%	573,832	-91%