

# TOWN OF PALM BEACH

Information for Town Council Meeting on: April 9, 2019

---

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Jane Le Clainche, Finance Director and Danielle Olson, Director of Human Resources

Re: Defined Contribution Plan Liability Coverage and Oversight

Date: March 29, 2019

---

## **STAFF RECOMMENDATION**

Staff requests that the Town Council provide direction and guidance regarding the oversight of the Town's defined contribution (DC) plan.

## **GENERAL INFORMATION**

Since the formation of the current Retirement Board in 2012, the Board had oversight duties and responsibilities with respect to the Town's defined contribution (DC) retirement plans. The attorney for the Retirement Board was requested to provide a history and details of the Board's role and responsibilities with respect to the DC plans. At the March 15, 2019, Retirement Board meeting, the Board attorney Jim Linn provided information regarding the duties and responsibilities of the Board with respect to the Town's defined contribution (DC) retirement plans. The attorney's letter that was provided to the Board is attached. The Retirement Board voted to ask the Town Council to clarify the Ordinance, remove the responsibility of the health savings accounts and defined contribution retirement plans from the Retirement Board, and have the Retirement Board mandate be the defined benefit plans only. The Board members were concerned about the potential liability risk associated with responsibility for defined contribution plans.

If the Town Council approves the Retirement Board's request, the following steps would need to be taken:

1. The Town Council would need to approve and establish a new committee to oversee the investment selections for the DC plans.
  - a. This new committee could include employees, citizens and/or financial professionals from the area or employees only.
2. The Town's Code of Ordinances would need to be amended to reflect this change.

3. The DC plan documents will need to be amended to clearly reflect the committee responsible for exercising discretionary authority over the DC plan investments and the lineup of DC plan investment options.
4. Following the change in plan documentation and establishment of the new committee, the committee would need to take the following steps:
  - a. The new committee would need to contract with a consultant. The current Pension and OPEB consultant AndCo has provided a proposal for these services at an additional cost of \$25,000. These costs could be paid by the Town directly or through the income produced from the mutual funds offered by the plan. A copy of the AndCo proposal is provided.
  - b. The new committee would need to purchase fiduciary liability insurance. The current estimated cost for this coverage is \$5,977.
  - c. The new committee would need to adopt an investment policy for the DC plans. A draft investment policy has been prepared by AndCo.
  - d. AndCo has renegotiated the contract with ICMA-RC, our DC plan Administrator and Recordkeeper. This contract would need to be signed by the Town Manager.

If Council decides to modify the Code as requested by the Pension Board and establish a new committee, the members of the new committee would be fiduciaries of the DC plan with respect to all responsibilities allocated to them. The members of the committee would discharge their duties solely on behalf of the participants and their beneficiaries. The committee also has general oversight of the investments, administrative responsibilities and contracted vendors with respect to the plan.

The rolls and responsibilities of the Committee would include:

A. Investment oversight

1. Understanding the sponsoring organization's investment goals and how this supports the goal of retirement readiness for participants
2. Adopting, periodically reviewing and revising an Investment Policy Statement
3. Monitoring the performance of the investment funds in accordance with the Investment Policy Statement
4. Retaining or replacing investment funds for the Plan

B. Administrative Duties

1. Understanding the sponsoring organization's communication and education goals and how this supports the goal of retirement readiness for participants
2. Approving communication and education strategy consistent with best practices and in line with guidance provided by ERISA 404(c)
3. Reviewing all fees incurred by or on behalf of the participants for reasonableness
4. Adopting, periodically reviewing and revising the Plan Documents.
5. Adopting, periodically reviewing and revising the Committee's Charter
6. Furnishing all notices to participants as required by IRC and DOL
7. Creating Meeting Agendas
8. Documentation of meeting and committee decision through meeting minutes
9. Select, monitor and periodically review the service providers of the Plan

The committee has the ability to allocate duties to service providers, such as third-party administrators, record-keepers, investment consultants and auditors, but is responsible for prudently selecting and monitoring the performance and costs associated with the service providers. Currently ICMA-RC is the third party administrator and record-keeper for the Town's DC plans.

### **SPECIAL CONSIDERATION**

Since there are few employees with a financial or investment background, having a committee made up of all employees may be a concern, so having one or more individuals from the community with a financial background on the committee would be beneficial to oversee these DC plans.

### **FISCAL IMPACT /FUNDING SOURCE**

Based on the new plan administration requirements and changes to the Town's contracted Pension Administration provided to the Retirement Board, a administrative support 0.5 FTE currently slotted for elimination in FY20 will need to be retained and reallocated to provide administrative support for the DC plan and the pension plan, if and as needed.

As of December 31, 2018, the total amount held with ICMA-RC for the Town employee's DC plans was \$51,394,396.

Currently the Consultant's fees for the Retirement Plan and the review of the DC plans are paid through the Retirement Fund. The Consultant fees, as indicated above can be paid either directly by the Town or paid with mutual fund fees received by the plan. AndCo believes that there should be sufficient revenue from mutual fund fees to cover this expense.

The Fiduciary Liability coverage is \$5,977 and a funding source would need to be identified. Attorney fees to revise the code and contracts would need to be calculated and a funding source would need to be identified. If there is sufficient revenue from mutual fund fees, these expenses may be able to be covered through this revenue source.

If the mutual fund fees were not used for these expenses, the income would help to offset the plan administration and recordkeeping fees that are charged by ICMA to the participants of the plan.

jll

cc: Jay Boodheshwar, Deputy Town Manager  
Department Directors  
John C. Randolph, Town Attorney