



Legislation Text

File #: 22-2931, Version: 1

TO: Mayor and Members of City Council

THRU: Kelly Olivera, Interim Assistant City Manager

FROM: Jerry Clipp, Human Resource Development Director

DATE: September 26, 2022

RE:
Retirement for City Council

COUNCIL DISTRICT(S):
All

Relationship To Strategic Plan:

Goal V: Financially Sound City Providing Exemplary City Services.

Executive Summary:

Staff was requested to review and research the feasibility of creating a retirement plan for City Council members. After discussions with legal experts and faculty at the UNC School of Government, it is concluded that there are no options for a retroactive retirement plan; however, there are some options moving forward that are discussed below.

Background:

At the August City Council work session, Council directed staff to conduct research on retirement and deferred compensation packages for elected officials in other municipalities, counties, and state, and report back on what options are available.

Issues/Analysis:

After research and discussion with legal experts and other faculty at the UNC School of Government, we have found the following:

- Counties ARE expressly permitted to grant retiree benefits to elected officials with the assumption that some positions with the County (such as sheriff and register of deeds) are both full-time employees AND elected officials.
- The City cannot “retroactively” pay for retirement benefits as the NC Constitution does not permit the granting of any financial benefit to a person except in return for services rendered and a NC Supreme Court case makes it clear that a retroactive grant of a payment is not “in

return for services rendered” (Leete v. Warren County).

- It appears that the NC General Statutes do expressly allow a city to offer a deferred compensation plan going forward as it would be for current service.
- If City Council wants to create a deferred compensation plan, it has to be written into the annual budget ordinance and passed.
- In the meantime, City Council can create their own individualized retirement plan (457, etc.) but members would have to contribute their own money with matching funds from the City.

Budget Impact:

If City Council chooses to create their own individualized retirement plan, there would be no impact to the budget. However, if there is a desire for a deferred compensation plan going forward and it is passed when the budget is submitted next year, the budget amount would need to be considered based on specific plan details such as any amounts matched by the City.

Options:

Option 1: Council members could create their own individualized retirement account now but with no contributions from the City.

Option 2: Council could create their own deferred compensation plan by writing it into the next annual budget ordinance. At that point, any criteria for the plan could be outlined.

Recommended Action:

Staff recommends that City Council move to receive the report.

Attachments:

N/A