Big Bear Fire Authority

BIG BEAR FIRE AUTHORITY
SPECIAL WORKSHOP MEETING NOTICE
OCTOBER 1, 2013

To: Chairman David Caretto
Vice Chairman John Green
Director Rick Herrick
Director Bob Jackowski
Director Bill Jahn
Director Jeff Newsome
Director Jay Obernolte
Director Karyn Oxandaboure
Director Paul Terry
Director Larry Walsh

Fire Chief
Assistant Fire Chief
City Manager
Treasurer-Auditor/Controller
Authority Counsel
Division Managers
Local Media

NOTICE IS HEREBY GIVEN, that the Fire Authority Board of Directors will conduct a Special Workshop Meeting on Tuesday, October 1, 2013 at 3:00 p.m., in the City of Big Bear Lake Training Room located at 39707 Big Bear Boulevard, Big Bear Lake, CA. Said meeting is being called pursuant to Section 54956 of the Government Code of the State of California for the purpose of considering the following matters:

PUBLIC FORUM

INFORMATIONAL AND DISCUSSION PURPOSES ONLY

1. Address Issues Related to the Employee Retirement Plans and Other Benefits.

ADJOURNMENT

I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Dated this 26th day of September, 2013.

Corinne E. Flores

Corinne E. Flores, Board Secretary

Big Bear Fire Authority

BIG BEAR FIRE AUTHORITY
SPECIAL WORKSHOP MEETING AGENDA
OCTOBER 1, 2013

Special Session - 3:00 p.m. – Training Room, 39707 Big Bear Blvd., Big Bear Lake, CA 92315

BOARD OF DIRECTORS

CHAIRMAN DAVID CARETTO
VICE CHAIRMAN JOHN GREEN
DIRECTOR RICK HERRICK
DIRECTOR BOB JACKOWSKI
DIRECTOR BILL JAHN
DIRECTOR JEFF NEWSOME
DIRECTOR JAY OBERNOLTE
DIRECTOR KARYN OXANDABOURE
DIRECTOR PAUL TERRY
DIRECTOR LARRY WALSH

OPEN SESSION

PUBLIC COMMUNICATIONS - Any member of the public is entitled to speak only on items listed on the agenda.

INFORMATIONAL AND DISCUSSION PURPOSES ONLY

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Corinne E. Flores, Board Secretary

The Big Bear Fire Authority wishes to make all of its public meetings accessible to the public. If you need special assistance to participate in this meeting, please contact Board Secretary Corinne Flores at 909/866-7566. Notification 48 hours prior to the meeting will enable the Fire Authority to make reasonable arrangements to ensure accessibility to this meeting.

BIG BEAR FIRE AUTHORITY
AGENDA REPORT

Item No. 1

MEETING DATE: October 1, 2013

TO: Honorable Chairman and Members of the Big Bear Fire Authority

FROM: Jeff Willis, Fire Chief
Jeff Ferre, General Counsel, Best Best & Krieger LLP
Isabel C. Safie, Senior Associate, Best Best & Krieger LLP

SUBJECT: **INFORMATIONAL AND DISCUSSION PURPOSES ONLY - ADDRESSING ISSUES RELATED TO THE EMPLOYEE RETIREMENT PLANS AND OTHER BENEFITS**

A. BACKGROUND

The Joint Exercise of Powers Agreement ("JPA Agreement"), which created the Authority, provides that the powers of the Authority include the power to consolidate, combine, share, employ, hire, retain, release, manage, and administer fire and medical administrative services personnel, fire and medical operations personnel, and any other fire and medical personnel necessary or appropriate to the full service of the Authority's powers. (Section 4.5(b)) Section 4.5(c) further provides that the Authority has the power to employ professional staff, personnel and all other employees who may be necessary or appropriate to the full exercise of the Authority's powers.

Section 4.8 of the JPA Agreement provides that all medical and fire administrative services personnel, and all medical and fire operations personnel, employed by the Big Bear City Community Services District ("City") or the Big Bear Lake Fire Protection District ("Lake"), prior to the initiation of activities by the Authority, shall remain employees of their respective entity unless and until the Authority affirmatively employs such personnel.

Currently, all employees remain employed by their respective agencies. Under those employment arrangements, employees of the City are enrolled in the PERS retirement plan and receive health insurance from PERS. Employees of the Lake are enrolled in the San Bernardino County Employees Retirement Association ("SBCERA") retirement plan and receive health insurance from Blue Cross of California and Kaiser Permanente Insurance.

It is common knowledge that due to the recent downturn in the economy and the growth in benefits, the financial obligations of public agencies will continue to rise and will continue to stretch the ability of public agencies to fulfill such financial obligations. Therefore, even if nothing changes and the employees of both the City and the Lake stay with their respective agencies and never move to the Authority, there will be increased obligations and cost increases resulting from both the SBCERA retirement plan for the Lake and the PERS retirement plan for the City. Additionally, since the City offers retiree medical (Other Post Employment Benefit – OPEB) there are escalating costs/obligations due to rising medical costs.

B. PURPOSE OF TODAY'S DISCUSSION

The purpose of this Special Meeting Workshop is to provide options for addressing these impending financial issues and to obtain direction from the Board regarding the extent to which the Board would like to pursue the transfer and employment of employees by the Authority and the types of retirement and health benefits the Board believes the Authority can and should provide.

C. RECOMMENDATIONS

1. How can these cost increases and obligations be addressed by the Authority in potentially setting up its own retirement plan with current and future employees?

(a) One option would be to establish a defined contribution plan similar to what is utilized in the private sector. However, based on information from recruiters and other sources in the fire protection community, it can be concluded that such defined contribution plans are not utilized and would make it difficult to retain employees. Additionally, the higher costs of administering defined contribution plans should be considered. More importantly, there are complexities associated with adopting a defined contribution plan to the extent that such plan is intended to provide for retirement benefits tied to future service by existing employees which may make this option undesirable.

(b) As a result, proceeding with a defined benefit plan through CalPERS or SBCERA would be a better long-term option for the Authority. Our research indicates that of the two, PERS would be more feasible and cost effective than SBCERA. For illustrative purposes, the following information provides you a side by side comparison of the percentage of compensation paid by each of the City and Lake for purposes of providing retirement benefits to its employees in the current fiscal year:

	City	**Lake**
Pension Plan:		
1. Employer Contribution	34.37% (PERS)	57.82% (SBCERA)
2. Employee Contribution	None	9.37%*
Federal Benefits:		
3. Social Security	6.2%	None
4. Medicare	1.45%	1.45%
Totals:	**42.02%**	**68.64%**

* The Lake has reached an agreement with its safety employees that provides that effective July 1, 2014, safety employees will pay an additional 1% of the employee contribution reducing the Lake's share to 8.37%. Finally, effective July 1, 2015, safety employees will pay another 1% of the employee contribution reducing the Lake's share to 7.37%.

Both PERS and SBCERA have taken steps to more adequately provide for full funding of their respective retirement systems which will result in increased employer contribution rates. As a result, the effect of the actions taken by PERS and SBCERA on the employer contribution rates under each system should be carefully considered in deciding which retirement system to select. However, after considering the anticipated increases, the PERS plan still ends up being the more affordable of the two. The principal reason for this is the fact that the PERS plan draws from a much larger pool than the SBCERA plan and, thus, can spread out the risk among more employers. Specifically, the City is in a risk pool for all safety plans with the 3% at 50 retirement formula. As of June 30, 2011, this PERS risk pool had 261 plans with a total of 10,209 employees participating. In comparison, the Lake's risk pool with SBCERA had less than a handful of plans with 64 employees participating as of June 30, 2011.

(c) Notwithstanding the expectation that costs under PERS or SBCERA will increase with respect to the retirement benefits of existing employees, there are two significant considerations that need to be understood. First, the Public Employees' Pension Reform Act of 2013 ("PEPRA") will reign in the costs of retirement benefits for new employees that are new to a public retirement system by mandating a retirement formula of 2.7% at 55 and requiring such employees to pay for a greater share of such benefits. Second, under the vested rights doctrine, the Authority, likely to be considered a successor to the City and Lake for purposes of existing employees, will have the obligation to ensure that existing employees either continue receiving the same retirement benefits or receive a substantially equivalent substitute. Case law is well settled that the "vested rights" doctrine as it applies to retirement benefits cannot be bargained away. Thus, the greatest opportunity to reduce costs lies with future employees and other post-employment benefits.

2. <u>Multi-million dollar termination fees/costs would be imposed if either agency terminated its enrollment in their respective retirement plans due to buy-out costs.</u>

Terminating participation for employees in either plan, and then establishing a new plan for those employees with the Authority would result in multi - million dollar termination costs. For example, PERS and SBCERA termination costs have been estimated to be in the $30M - $33M range (each) based on conservative actuarial interest rate assumptions. Additionally, non-safety employees who support fire services will need to be addressed in an appropriate pension plan.

3. <u>Therefore, in order to avoid paying such costs, it appears that the only feasible options result in the Authority contracting with PERS. The manner in which this could be accomplished varies as follows:</u>

(a) Have the Authority apply for and become a member of PERS. For this to occur, the Authority would need to establish that it is eligible to participate in PERS. This would be done through Phase 1 of the PERS contract process and would be done <u>before any employees are transferred</u> to avoid any interruption in the accrual of service credit under the applicable retirement system.

(b) Current PERS employees with the City could then be transferred over to the Authority.

(c) New employees of the Authority would join PERS. Employees first entering a public retirement system on or after January 1, 2013 would be subject to the new/reduced PERS retirement formula and mandatory contribution requirements that resulted from PEPRA. Depending on the expectations of SBCERA and/or PERS, Lake employees may be considered for employment and if selected, apply for reciprocity based on prior SBCERA service.

(d) Under this option, and for the purpose of avoiding the significant termination costs that would otherwise apply, one of the following three scenarios may apply to the employees of the Lake:

(1) Remain employees of the Lake and remain in SBCERA. Over time, there would be less employees in that system since any new employees would be hired by the Authority, and not the City nor the Lake, and would therefore be subject to the new PERS rules. Care would need to be taken to ensure that the Lake retains control over such employees rather than the Authority. Of the three scenarios outlined here, this scenario has the greatest amount of risk to the extent that the Authority could be deemed to be the common law employer of Lake employees.

(2) Transfer employees of the Lake to the Authority. All future service rendered by these employees would fall under the PERS plan and the Lake would retain responsibility over the accrued benefits under the SBCERA plan for service prior to the transfer. This scenario is contingent on the SBCERA plan falling under the same umbrella as the SBCERA plan for all other City of Big Bear Lake employees as it may allow for the Lake's safety plan to be placed in inactive status rather than terminated status and the Lake's miscellaneous employees merely to be withdrawn from the larger miscellaneous plan for all other City of Big Bear Lake employees.

(3) Transfer employees of the Lake to the Authority and if scenario (2) is not possible, negotiate a reallocation agreement between the Lake, PERS, SBCERA and the Authority such that the SBCERA contract assets, liabilities and accrued service are assumed under the Authority's contract with PERS. Consideration would need to be given to if and how the Lake would compensate the Authority for the assumption of its contract. This is a fairly complicated process but we are setting up the groundwork for this approach.

(e) The proposed transfer of employees from the City, and if applicable, the Lake, to the Authority would be subject to the meet-and-confer process, regardless of whether or not the benefits (retirement and medical) changed or stayed the same.

4. Such a strategy would help to reduce the amount of public funds that are necessary to pay for employee retirement and health plans.

Cost savings could be realized from the requirement under PEPRA that new employees begin paying the employee share of the retirement plan payments and the reduced retirement formula. The Authority could realize further savings by electing not to provide certain benefits that have been provided by public agencies in the past and which have resulted in rising financial burdens for agencies and taxpayers. For example, the Authority could decide not to provide the PERS medical benefit. This would help the Authority control such costs and future increases in such costs. The Authority could and should also assess and consider offering other more cost effective benefit plans, if available. Such decisions would be subject to the meet-and-confer process.