

**CITY COUNCIL AGENDA ITEM  
CITY OF SHORELINE, WASHINGTON**

<b>AGENDA TITLE:</b>	Discussion of Proposed Ordinance No. 684 Updating Record Keeper and Authorizing Rulemaking for Investment Policies in Shoreline Municipal Code Chapter 2.30
<b>DEPARTMENT:</b>	City Attorney City Manager's Office
<b>PRESENTED BY:</b>	Ian Sievers, City Attorney John Norris, Assistant City Manager
<b>ACTION:</b>	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

**PROBLEM/ISSUE STATEMENT:**

In June 2012, the Council approved an Oversight and Investment Policy ("Policy") in conjunction with the beginning of a new record keeping agreement with TIAA-CREF for the City's Section 401a Social Security Replacement Plan and its Section 457(b) Deferred Compensation Plan. This policy designated the City Manager as plans administrator and created an investment oversight committee to advise the City Manager.

Proposed Ordinance No. 684 clarifies the rulemaking authority of the City Manager, allowing administrative changes to the Oversight and Investment Policy itself in addition to changing investments selected for the two plans. Potential future changes include setting investment types, criteria for retention and selection of individual investments, and benchmarks for applying these criteria. This rulemaking delegation will avoid Council action for changes for legal compliance or plan options and is consistent with the current Policy's designation of the City Manager to "state expectations and objectives in the investment of plan assets."

The ordinance also updates Chapter 2.30 of the Shoreline Municipal Code to remove specific plan record keepers. According to the Purchasing Ordinance, Council requires periodic requests for proposals for record keeper services and Council will approve those multi-year contracts by motion. The successful vendor should not be codified in the Municipal Code, requiring a published code amendment with each change of provider to stay current. Thus, the references to PEBSCO and Nationwide Insurance, the original record keepers, have been deleted in the proposed ordinance.

**BACKGROUND:**

Shoreline elected not to participate in social security upon incorporation, and instead established an IRS Section 401(a) social security replacement plan for employees and officials. Both the City and the employees make a mandatory contribution of 6.2% of salary to this plan.

The City also provides an IRC Section 457(b) deferred compensation plan which is the government equivalent of private employer 401(k) plans. There are no matching contributions although employees are required to allocate unused portions of their health benefit allowance to this plan since no cash distribution of these benefit dollars is permitted.

Historically, the City has not managed plan investments of its employee's funds, limiting its involvement to negotiating new record keeping agreements with more competitive fees paid by employees from total assets under management. Under Shoreline's plans, investments are self-directed investments among 28 diverse mutual funds, including retirement year target funds. The plans also include a self-directed brokerage account option, allowing employees to pick any mutual fund, exchange traded fund or individual stock.

Even though the investment of employee funds is not directed by an employer consultant or pension committee, it was determined that the City should take on a more active fiduciary role in maintaining the investment list since performance and investment objectives can change over time. As a result an Oversight and Investment Policy was approved by the Council in 2012 which established investment classes to allow diversification and criteria for selecting and maintaining high performance investments within those classes. An employee investment committee was created to advise the City Manager in administering the two retirement plans and the Investment Policy.

The proposed ordinance amending Chapter 2.30 of the Shoreline Municipal Code clarifies responsibilities and rulemaking authority of the City Manager to avoid Council action to amend the Policy benchmarks become obsolete or regulations require new Policy provisions or a restatement of fiduciary duties. For example, Roth contribution accounts have recently become available to public Section 457(b) plans and amendments to the pension plan documents and the Policy are expected from TIAA-CREF, our record keeper, this year.<sup>1</sup> With the proposed ordinance, these changes may be implemented by the City Manager.

The amendments also remove references to PEBSCO, the original record keeper for the 401(a) plan and Nationwide, past record keeper for the 457(b) plan. This reference has become outdated with new record keepers over the years including Nationwide Insurance, ICMA and now TIAA-CREFF. Under the City's Purchasing Ordinance, substantial service contracts are required to be filled through an RFP process to provide opportunity for vendors and better services and price through competition. Codification of any particular record keeper is therefore unnecessary and cumbersome to change.

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<sup>1</sup> Roth Contribution Options offer employees a tax savings alternative similar to Roth Individual Retirement Accounts. Employees at any income level may make after-tax contributions and accumulate earnings tax free if certain conditions are met. Unlike distribution of other pension funds in retirement, Roth account distributions would not be taxed.

**RESOURCE/FINANCIAL IMPACT:**

There will be a small savings in Code publication costs and savings in staff time needed to prepare council agenda actions for often technical changes to the Oversight and Investment Policy.

**RECOMMENDATION**

It is recommended that the City Council review and discuss proposed Ordinance No. 684 amending SMC Chapter 2.30 *Public Employees Retirement System and Benefits* to remove references to a contract record keeper and allow rulemaking for investment policies. Staff will bring back proposed ordinance No. 684 for Council adoption once this discussion has been held.

**ATTACHMENTS:**

Attachment A – Proposed Ordinance No. 684

Approved By:       City Manager **DT**   City Attorney **IS**

## Attachment A

### ORDINANCE NO. 684

#### **AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON DELETING DESIGNATION OF RECORD KEEPER AND PROVIDING RULEMAKING FOR EMPLOYEE SELF-DIRECTED RETIREMENT PLANS; AND AMENDING SHORELINE MUNICIPAL CODE CHAPTER 2.30**

WHEREAS, upon incorporation the City of Shoreline authorized a money purchase pension plan under Internal Revenue Code 401(a) as a qualifying program in lieu of participation in the Social Security Program with the City Manager designated as plan administrator; and

WHEREAS, the City has also adopted an self-directed deferred compensation retirement plan for employees under IRC Section 457(b) which should be added to Chapter 2.30 with the City Manager as plan administrator; and

WHEREAS, record keepers are replaced periodically for these city administered retirement plans to take advantage of cost savings through technology and economies of scale as plan assets grow, and record keepers should not be included in Chapter 2.30; and

WHEREAS, the City Manager should be authorized to establish investment policy for the 401(a) and 457(b) retirement plans in addition to responsibility as plan administrator under the record keeping agreements; now therefore

#### **THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:**

**Section 1. Amendment.** Shoreline Municipal Code Sections 2.30.010, 2.30.030, 2.30.050 are amended and Sections 2.30.020 and 2.30.040 are repealed as set forth below:

#### **Chapter 2.30 PUBLIC EMPLOYEES RETIREMENT SYSTEM AND BENEFITS**

##### **2.30.010 Authorization to participate.**

The city authorizes and approves participation and membership of its eligible employees and appointive and elected officials both in the Washington Public Employees Retirement System pursuant to RCW 41.40.062 and the money purchase pension plan administered by the ~~Public Employees Benefits Services Corporation (PEBSCO)~~ pursuant to Section 401(a) of the Internal Revenue Code of 1986, as amended and a self-directed deferred compensation retirement plan administered pursuant to Section 457(b) of the Internal Revenue Code, as amended (collectively Retirement Plans); and authorizes the expenditure of the necessary funds to cover its

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proportionate share for participation in the ~~PEBSCO~~ money purchase pension plan, ~~both~~ in lieu of contributions to the Federal Social Security Program. Participation in the ~~PEBSCO~~ money purchase pension plan and/or the PERS Plan is hereby declared to be the city's qualifying retirement program in lieu of participation in the Federal Social Security System under Internal Revenue Code Section 3121(b)(7).

### ~~2.30.020 Appointing Public Employees Benefit Services Corporation.~~

~~The city of Shoreline appoints Public Employees Benefit Services Corporation (PEBSCO) to provide record keeping, employee education and other technical and administrative services relating to the plan.~~

### ~~2.30.030-020 Implementation of plans.~~

The city of Shoreline hereby authorizes and directs the city manager to perform all acts and sign all documents necessary to put said plans into operation. The city manager or his/her designee is authorized and directed to file an application, together with any supporting documents, with the United States Treasury Department, with a request for a determination that the defined contribution plan meets the requirements of Internal Revenue Code Section 401(a) and execute such powers of attorney, schedules and other documents as may be necessary and required in connection with such application. Further, the city manager or his/her designee is authorized and empowered in the city manager's or his/her designee's discretion to execute such further amendments to such plan as may be required in order to obtain the approval of the United States Treasury Department, if, in the city manager's or his/her designee's judgment, such amendments are in the best interests of the city.

The city manager or his/her designee is hereby appointed as trustee and administrator of the retirement plans. The city manager shall provide qualified record keeping, employee education and other technical, financial and administrative services relating to the plans pursuant to city purchasing policies and procedures. The city manager is authorized to promulgate policies and procedures necessary to maintain the plans' legal compliance, establish expectations and objectives for investments available for employees' self-directed pension funds, select investment options for retirement plans, recommend plan fees necessary to pay the plan record keeper and other necessary

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plan expenses, and provide timely information to employees regarding fees and investment alternatives.

**~~2.30.040 Appointing trustee.~~**

~~The city manager or his/her designee is hereby appointed as trustee and upon acceptance, by executing the adoption agreement of said plan, shall receive the necessary reports, notices, etc. from Public Employees Benefit Services Corporation (PEBSCO) and Nationwide Life Insurance Company pursuant to the interim city manager's September 11, 1995, memorandum, a copy of which is attached to the ordinance codified in this section and on file in the office of the city clerk.~~

*[ Remaining sections .050 and .060 renumbered as .030 and .040 respectively]*

**Section 3. Publication and Effective Date.** A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

**PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 2014.**

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Mayor Shari Winstead

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jessica Simulcik-Smith  
City Clerk

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Ian Sievers  
City Attorney

Date of Publication: , 2014  
Effective Date: , 2014