

IPFA COUNTER POINTS TO WINNETKA RESOLUTION NO. 25-2009 AS PROPOSED

May 20, 2009

- The Illinois General Assembly enacted a 5 member Fire Pension Board approximately five years ago with the agreement of the Illinois Municipal League (IML), of which the Village of Winnetka is a member community. This legislation was not forced upon the municipalities, they agreed to it.
- Of the approximate eighteen separate, additional pension and disability enhancements for the police and firefighter pensions, neither funds received eighteen enhancements. This number is a collection between the two funds, lumping them together creates an unfair bias as it makes it seem that both funds received eighteen pension benefit increases. The firefighters have seen their contributions increase to 9.455% of salary during this time period to offset the cost of the benefit increases. Each of the increases was negotiated with the IML, and was presented to the Illinois legislature as an agreed bill, meaning that the municipalities agreed with the increase in benefits. The increase in the unfunded liabilities did not occur due to the change in benefits but by a lack of municipalities funding their contributions at a proper and mandated rate of 17.5% of salary or the actual cost of the fund, whichever is greater.
- At the request of the IML, the Illinois legislature amended the Illinois Pension Code, Section 3-125, effective January 25, 1993. This amendment changed how police and firefighter pension funds were funded. The amendment moved the starting date of the forty-year amortization period from January of 1980 (requiring all funds to be 100% funded by 2020) to July of 1993 (meaning the municipalities now have until 2033 to become 100% funded). Additionally, and more importantly, the amendment changed the method of computing the annual amount required to amortize the unfunded accrued liability from a level dollar amount to a percentage of payroll. In simple terms, this allowed the municipalities to pay less now and owe more in the future. The future has arrived and now the municipalities are complaining that they don't have the money required to pay their debt. Several organizations opposed this amendment and fought

to have the Illinois legislature vote it down, but the IML and its municipal members prevailed and it passed (this was not an agreed bill as the benefit increases were). A lawsuit against the State of Illinois was filed and decided by the Illinois Supreme Court in 1996 in favor of the State of Illinois. It is important to understand that the IML filed a “friend of the court brief” in support of the defendant (the State of Illinois) in this case. The plaintiffs contended that allowing the municipalities to contribute lower initial amounts to the funds diminished and/or impaired the pension benefits guaranteed by the Illinois Constitution. Court documents presented showed that under the new funding provision, pension liabilities would increase dramatically in the early years and pension funds would have fewer assets, thereby producing less secure funds. The trial court entered a judgment in favor of the Plaintiffs (the funds). The State of Illinois appealed, arguing that the new funding method would not impair benefits or place a fund in default or on the verge of bankruptcy. Now the IML and local municipalities attempt to claim that there is a “crisis,” which threatens the solvency of the funds and the municipalities. A “crisis” which they created.

- A vast majority of funds are not in crisis; in fact they are financially solvent due to the fact that the pension trustees and the respective municipal officers have worked together as a team to ensure the financial stability of their funds. The problem with the pension underfunding started long before the composition of the pension boards went to a 3 to 2 ratio. In fact, the ratio when the “crisis” began was 5 to 4, with the municipality having the majority.
- Only when collective bargaining fails to negotiate a wage increase does a third-party arbitrator decide between the union’s and municipality’s offers. This binding arbitration is required because police and firefighters do not have the same rights as private sector employees (the right to strike) and this binding arbitration is to level the field as the arbitrator selects either side’s offer based on the evidence provided. Municipalities have paid hundreds of thousands of taxpayer dollars to outside legal firms to negotiate against their employees, instead of with them. Public sector

employees have historically not kept pace with private sector employees in times of prosperity, but have kept even or slightly better in bad economic times. Now is not the time to penalize police and firefighters for a municipality's failure to properly fund their pensions. This is akin to blaming a credit card company for issuing a credit card because you are falling behind by only making the minimum payment each month. Municipalities must face the promise they made to their dedicated employees and make their required contributions. The police and firefighters have made theirs.

- Regarding the IML and its members concerning the current police and fire pension systems, stop blaming the Illinois General Assembly for your agreements.
- House Bill 923: this proposed legislation addresses catastrophic injuries. This is not an enhancement of a pension benefit but, a clarification of an existing benefit needed because some municipalities are now trying to renege on paying benefits to firefighters (Aurora) injured while performing their duties as ordered.
- House Bill 650: this proposed legislation allows the disabled or retired firefighter the option to reenter the group health insurance plan after leaving employment, provided that it is done "during an open enrollment period", and "the firefighter must be insurable and must pay the cost of the insurance premium at a rate set in accordance with this Code in order to reenter the municipal group insurance plan." The Code requires the firefighter to pay "at the same premium rate from time to time charged for equivalent coverage provided under the group policy with respect to covered firefighters whose retirement or disability period has not begun". The firefighter would bear all costs, why the opposition?
- House Bill 1041: this proposed legislation would provide equality to firefighters who retired prior to 1977 and are receiving increases on a "simple" basis versus a "compounded" basis. This legislation, based on the Government Forecasting and Accountability Commission's actuarial study, will result in a total annual cost of \$237,000.00 for ALL Downstate

Firefighters Pension Funds, and will impact only 100 retirees. Please note that there are over 250 Downstate Firefighters Pension Funds in the State of Illinois, or an average impact of less than \$10,000.00 per fund for firefighter, if they retired at age 50 in 1977, that are at least 82 years old today.

- House Bill 2465: provides Police Officers the same rights that all citizens have to run for public office. Firefighters fought for, and received this very same right several years ago.
- House Bill 2540: this bill has been completely gutted and just provides a new date for a disabled Police Officer to qualify for increases of non-compounded 3% annually, provided that their disability time when added to their actual service time is equal to or greater than twenty years, and that they had at least seven years of actual service, and that they are not otherwise gainfully employed, and that they file for this benefit annually. This benefit is provided for police officers who have gone on disability approximately 10 years ago.
- House Bill 3840: requires reinstatement of a police officer who has been cleared of a disability. Firefighters already have this provision in their pension, the police do not, and a police officer injured in the act of duty currently has no right to their position back.
- Senate Bill 1827: this bill has no impact on a municipality unless its population was between 9,000 and 12,000 on July 1, 2007. This is specifically written to allow firefighters previously excluded from the Downstate Firefighters Pension Fund the ability to transfer in their creditable service as firefighters under the Illinois Municipal Retirement Fund (IMRF) into the Downstate Firefighters Pension Fund. It also requires that the firefighter make payment equal to what he would have paid had he/she been in the firefighter's fund, plus 6% interest compounded annually for all years covered under IMRF. Interestingly enough, some pension funds would kill to see 6% returns on their funds.
- There is no valid reason to change the make-up of the trustees as there is no correlation to the current "crisis." This is an attempt at misdirecting the

public as to the real cause of the underfunding; the funds have not gone on a binge of granting disability pensions with the current make-up.

- Broadening of the local investment authority by allowing funds to invest up to 60% of their assets in common stock is financially imprudent. The Illinois legislature, IML, pension advocates, and others have discussed this on many levels and agreed that the current levels are prudent and responsible. To cite from page one of your own Resolution, “WHEREAS, DURING THE LAST TEN YEARS, THE VALUE OF PENSION INVESTMENTS HAS BEEN ERODED DUE TO SIGNIFICANT LOSSES IN THE CAPITAL MARKETS WHICH HAS INCREASED THE UNFUNDED LIABILITIES OF POLICE AND FIRE PENSION FUNDS;”. Increasing the amount of funds exposed to capital loss would have been catastrophic. Perhaps, this is what the local municipalities and the IML want, to make it so bad that they can wash their hands of their promises and start all over on their terms.
- Resetting the amortization table to 2050 as is being proposed in Springfield is just providing a longer time frame for municipalities to forego their debt. Without a firm payment schedule and agreement from the IML and all municipalities to make those payments, this proposal is doomed to fail and will only provide a bigger “crisis” for future generations and taxpayers.
- The proposal to eliminate the right to binding arbitration on salary issues looks promising to the municipalities when the CPI is at 1% or so, but does not look so good when inflation would require wage increases of 10% or more. Would the Village of Winnetka blindly agree to match the CPI forever or only when it benefits the employer?
- The IML and others fought in the not so distant past to reduce the retirement age citing safety reasons. It is interesting that by reducing the retirement age you also replace your higher compensated employees with lower entry level employees faster. Now municipalities would like to increase the retirement age and also the risk of increased injury and disability associated with an older work force in a highly physically demanding job.

- A two-tier system of benefits would be acceptable if those proposing it (the employers) are willing to accept the new tier like all their new employees will be forced to. Creating a two-tier system breeds contempt amongst employees, where an us against them attitude can form.
- Defined contribution plans can have an extremely negative impact on employers as well as employees. Employees may have to “stay on” due to adverse market conditions at the time they would have normally retired, thereby increasing the risk of injury and disability, and liability to the employing entity.
- Having employees’ contributions increase because of market losses isn’t fair. Employee contributions don’t go down when the market is performing well, and asking employees to pay more when there are market losses is akin to “taxing” employees to perform their hazardous jobs.
- The issue of double dipping is such an interesting complaint. The municipalities that complain about this are the ones hiring the employees. Does it really matter if an employee is receiving a pension from Sears, or the City of Waukegan, if that employee is the most qualified? It is an even more ridiculous complaint when the employing entity has a history of hiring its own retirees. This resolution will not fix anything but is just a complaint of individuals jealous of other employees’ hard-earned benefits. IMRF provides creditable service for accumulated sick leave, why is there no resolution included to eliminate that provision. How much taxpayer money does it cost to base an IMRF retirees pension on time not worked?
- Before a Village passes a resolution should there not be a period of public comment? Why the rush to draft and vote on these very complex issues? Where is the willingness to open your books to public scrutiny?

The IML and some of its member municipalities have engaged in a campaign and are calling it “Pension Reform Initiatives.” Don’t be fooled by this attempt to justify their backing out of the promises they had made to their employees. The IML and its member communities rely on rumor, misstate facts, make innuendo, and flatly misstate the law. They should be

publicly embarrassed by the manner in which they seek to dismantle the pensions and promises they have made to the thousands of faithful employees and their families.