Drafted by	Law Department
Sponsored by/Referred by	Law Department
Introduced on	N/A
Advertised on	N/A

RESOLUTION NO. 107-A-2015

IMPLEMENTING THE ARBITRATION AWARD OF JULY 13, 2015 THEREIN DIRECTING EACH AND EVERY CITY OF READING APPOINTEE TO THE CITY'S POLICE PENSION FUND ASSOCIATION BOARD TO APPROVE PAYMENT OF JODI ROYER'S ENTIRE REMAINING DROP ACCUMULATION AND TO APPROVE COMMENCEMENT OF JODI ROYER'S REGULAR PENSION BENEFITS RETROACTIVE TO MAY 5, 2014, THE DATE ON WHICH JODI ROYER ANNOUNCED HE WAS RESIGNING HIS POSITION WITH THE CITY.

WHEREAS, the City of Reading ("City") is a Pennsylvania City of the Third Class and a public employer under state law, which maintains and operates the City of Reading Police Department;

WHEREAS, Reading Fraternal Order of Police Lodge #9, ("FOP"), is the exclusive, recognized bargaining agent for the unit consisting of sworn, non-managerial members of the City of Reading Police Department, pursuant to the Act of June 24, 1968, P.L. 237, No. 111 §1, as amended, 43 P.S. §§ 217.1-.10 (2014) and the Act of June 1, 1937, P.L. 1168, No. 294, §1, 43 P.S. §§ 211.1-.13 (2014);

WHEREAS, the City and FOP are parties to a Collective Bargaining Agreement ("CBA") setting the terms and conditions of employment for the City's Police Officers;

WHEREAS, on or about May 5, 2014, Jodi B. Royer ("Royer") resigned from the City of Reading Police Department and made a demand to the City of Reading Police Pension Fund Association Board ("Board") for his Deferred Retirement Option Program ("DROP") accumulation and for the commencement of his regular pension benefits;

WHEREAS, the City views the Board as a separate and legal entity, which has its own solicitor and operating guidelines under City of Reading Code of Ordinances §62-401, et seq;

WHEREAS, at a Board meeting on or about June 12, 2014, the Board declined to return Royer's DROP accumulation citing the alleged pending criminal theft and several other criminal charges, a conviction or plea of guilty or nolo contender on or to any of which would trigger application of the Commonwealth's Public Employee Pension Forfeiture Act, known as Act 140 (43 P.S. 1311-1315) also referred to as PEPFA;

WHEREAS, The City understands that the Pension Board has returned to Royer $54,353.81, that equals the otherwise not forfeitable contributions he made to the pension fund;

WHEREAS, as per PEPFA, receipt of any retirement "or other benefit or payment of any kind except a return of the contribution paid into any pension fund without interest" is barred;

WHEREAS, the FOP filed a grievance alleging a violation of the current CBA and subsequently demanded that the matter proceed to arbitration under the rules of the American Arbitration Association, Case No. 01 14 0001 0957 (2014);

WHEREAS, the City disputed the Arbitrator's jurisdiction over this matter and further defended that the withholding of the pension was a matter to be addressed in Court and not before a labor arbitration under the CBA;

WHEREAS, a prior decision of the Pension Board involving a family member's eligibility to a pension award had proceeded to Court, with the labor arbitrator in that matter declining jurisdiction;

WHERAS, on July 13, 2015, Arbitrator Ralph Colflesh, Jr., Esquire, issued a Decision and Award in Case No. 01 14 0001 0957;

WHEREAS, Arbitrator Colflesh expressly rejected the City's position and instead concluded that he had jurisdiction over this dispute and proceeded to issue a Decision and Award on the merits;

WHEREAS, the Arbitrator sustained the FOP's grievance and issued the following Award:

> *The City is directed to mandate each and every one of its appointees on the Board to approve payment of the Grievant's entire remaining DROP accumulation and to approve commencement of the Grievant's regular pension benefits retroactive to May 5, 2014, the date on which the Grievant announced he was resigning his position with the City.*

WHEREAS, the City did not take action as it recognized that the Board is a separate entity and that it has no authority over the decisions of the Board;

WHEREAS, the FOP filed an Unfair Labor Practice Charge, No. PF-C-15-67-E, with the Pennsylvania Labor Relations Board on August 18, 2015, stating that the City has not complied with the Award;

WHEREAS, a hearing on the Unfair Labor Practice Charge is scheduled for Monday, December 21, 2015, in Harrisburg, Pennsylvania;

WHEREAS, if the FOP meets its burden of proof, the City's failure to follow the arbitration award can be a violation of Section 6(1) of the Pennsylvania Labor Relations Act, and Act 111;

WHEREAS, any further challenge to the entry of an unfair labor practice would result in prolonged proceedings first before the Pennsylvania Labor Relations Board and eventually the Appellate Courts of the Commonwealth;

WHEREAS, the City still maintains that the Arbitrator incorrectly exercised jurisdiction over this matter; and

WHEREAS, the City issues this Resolution tracking the language of the Arbitration Award because it does not wish to incur any additional cost associated with this matter, while still preserving its position that the Award was inappropriate.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

The City directs each and every City appointee to the City's Police Pension Fund Association Board to approve payment of Royer's entire remaining DROP accumulation and to approve commencement of Royer's regular pension benefits retroactive to May 5, 2014, the date on which Royer announced he was resigning his position with the City.

Adopted by Council Dec 17, 2015

President of Council

Attest:

City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Resolution passed by the Council of the City of Reading, on the 17 day of Dec A. D. 2015. Witness my hand and seal of the said City this 17 day of Dec A. D. 2015

CITY CLERK