

A RESOLUTION OF THE COUNCIL OF THE CITY OF WHEELING PURSUANT TO WV CODE §8-22-27A(D) TO INTERVENE ON BEHALF OF THE INDIVIDUAL BENEFICIARIES REGARDING CERTAIN PENSION PAYMENTS AT ISSUE AND PROVIDING THAT GOING FORWARD MONTHLY PENSION PAYMENTS SHALL BE ADJUSTED BY THE POLICE PENSION FUND, TO THE CORRECT AMOUNT AS DETERMINED BY THE AUDIT AS DETAILED HEREIN

**WHEREAS**, the Municipal Pension Oversight Board directed all local police pension boards to conduct an audit to determine if monthly pension payments were properly calculated; and

**WHEREAS**, the Wheeling Police Pension retained Kozicki Hughes Tickerhoof, PLLC to conduct an audit; and

**WHEREAS**, upon conclusion of the audit it was determined that several pension fund beneficiaries were overpaid; and

**WHEREAS**, the audit findings were presented to the Municipal Pension Oversight Board; and

**WHEREAS**, the Municipal Pension Oversight Board conducted its own examination to determine the validity and accuracy of the audit; and

**WHEREAS**, the Municipal Pension Oversight Board accepted the final audit as presented by Kozicki Hughes Tickerhoof, PLLC; and

**WHEREAS**, WV Code §8-22-27a(d) states “*Overpayments from the plan. -- If any error results in any member, retirant, beneficiary, entity, or other individual receiving from the plan*”

*more than he or she would have been entitled to receive had the error not occurred, the board of trustees, after learning of the error, shall correct the error in a timely manner. Unless otherwise authorized by the governing body of the city in which the fund was established as provided herein, if correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board of trustees shall prospectively adjust the payment of the benefit to the correct amount. In addition, the member, retirant, beneficiary, entity, or other person who received the overpayment from the plan shall repay the amount of any overpayment to the municipal policemen's pension fund or municipal firemen's pension fund in any manner permitted by the board of trustees of that fund. The governing body of the city in which the overpaying municipal fund is established may, by majority vote, authorize continued overpayment of retirement benefits for any member, retirant, beneficiary, entity, or individual who retired prior to the effective date of this section as enacted during the regular legislative session of 2017: Provided, That where the governing body of the city authorizes continued overpayment, it shall also authorize continued payment into the fund in an amount equal to that which it would be responsible to pay under the applicable actuarial method used by the city without reduction to any retirement benefit. Interest shall not accumulate on any corrective payment made to the plan pursuant to this subsection. Whereas, given these economic times it would be a hardship to require pension beneficiaries who have been overpaid to reimburse the pension fund;” and*

**WHEREAS**, WV Code §8-22-27a(d) does not permit the pension boards to forgive, waive, or otherwise refuse to collect the overpayments from the individual beneficiaries; and

**WHEREAS**, the Municipal Pension Oversight Board has the authority to seize control of local pension boards and require them to collect the overpayments from the individual beneficiaries; and

**WHEREAS**, WV Code §8-22-27a(d) allows the City, by majority vote, to intervene so as to avoid requiring pension beneficiaries to reimburse the fund; and

**WHEREAS**, the overall goal pursuant to WV Code §8-22-27a is to return both the local pension board and the pension beneficiaries to a “position each would have been in had the error not occurred;” and

**WHEREAS**, it is believed that the Municipal Pension Oversight Board would view favorably and approve a resolution from this City reimbursing the respective funds for the overpayments, thus sparing the individual beneficiaries from having to do so, and correcting the monthly benefit amount to its proper sum as determined by the audit; and

**WHEREAS**, the actuarial report utilized in the City’s Pension Obligation Bonds process was published prior to the audit and thus, the benefits subject to reduction were included in the bond calculation, thus this correction is also beneficial to the City’s Pension Obligation Bond Plan; and

**WHEREAS**, Council acknowledges that the audit also showed that the police pension fund underpaid certain beneficiaries and that as required by statute, the fund, will be issuing lump sum payments to the underpaid beneficiaries and will increase the monthly payments to the corrected amount; and

**WHEREAS**, the intentions and purpose of this Resolution are believed to be in accord with the controlling state statute and in the best interests of the City of Wheeling.

**NOW BE IT RESOLVED** that the City of Wheeling pursuant to WV Code §8-22-27a (d) hereby intervenes on behalf of the individual beneficiaries and, so as to avoid requiring them to reimburse the police pension fund, resolves to reimburse the police pension fund, for the overpayments at issue. The monthly pension payments going forward

shall be adjusted by the police pension fund, to the correct amount as determined by the audit.

ADOPTED BY COUNCIL this 1<sup>st</sup> day of August 2023

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Glenn F. Elliott Jr., Mayor