



TOWN OF LOS GATOS
TOWN PENSION AND OPEB TRUSTS
OVERSIGHT COMMITTEE REPORT

MEETING DATE: 03/30/2021

ITEM NO: 2

DATE: March 22, 2021
TO: Town Pension and OPEB Trusts Oversight Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive and Discuss the Town of Los Gatos IRS Section 115 Pension Trust and OPEB Investment Policy

RECOMMENDATION:

Receive and discuss the Town of Los Gatos IRS Section 115 Pension Trust and OPEB Investment Policy.

BACKGROUND:

On August 15, 2017, the Town Council approved Public Agency Retirement Services (PARS) as the initial administrator of a Town Section 115 Pension Trust. A 115 Pension Trust acts as an additional investment vehicle for the overall funding of pension liabilities associated with the Town's Miscellaneous and Safety Pension Plans (the "Pension Plans"). On September 17, 2019, the Town Council directed staff to terminate the PARS agreement, consistent with the Town Pension and OPEB Trusts Oversight Committee recommendation. On November 5, 2019, the Town Council authorized the Town Manager to enter into an agreement with CalPERS for participation in their IRS 115 California Employers' Pension Prefunding Trust Program Strategy 2.

In addition, in 2009, the Council approved participating in the California Employer's Retiree Benefit Trust (CERBT) Fund. The CERBT Fund is also a Section 115 trust fund which is dedicated to the prefunding of other post-employment benefits ("OPEB"). The CERBT is the single investment vehicle for the Town's OPEB Plan ("OPEB Plan"). The CERBT trust initially provided a single investment vehicle similar to the CalPERS pension fund; however, the CERBT subsequently established three investment strategies with varying degrees of risk/return profiles.

PREPARED BY: Arn Andrews
Assistant Town Manager

Reviewed by: Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

Given the adoption of a 115 Pension Trust with multiple asset allocation choices and the establishment of the CERBT and subsequent addition of multiple asset allocations, staff recommended that the Town Council formalize the requisite governance and oversight controls reflective of the fiduciary responsibilities inherent in the management of pension and OPEB assets. Specifically, staff recommended the establishment of an Oversight Committee and an Investment Policy for the management of both the Town of Los Gatos IRS Section 115 Trust and California Employers' Retiree Benefit Trust (CERBT) (see Attachment 1).

At its November 7, 2017 meeting, the Town Council reviewed and discussed the staff recommendations for governance of the Town's IRS Section 115 Trusts. At the conclusion of the meeting, the Town Council established the Town Council as an Oversight Committee for the Town of Los Gatos IRS Section 115 Pension Trust and CERBT and adopted an Investment Policy for the Trusts.

DISCUSSION:

The adopted Investment Policy was predicated on existing California law and recommended best practices from governmental associations. Of note, the Investment Policy reflects provisions of Article XVI of the California State Constitution which covers public finance. Section 17 of this Article provides for the provision of pensions by a retirement board, who is vested with the responsibility of administering pension funds. Among other actions, Article XVI, Section 17, stipulates that investment of moneys and administration of the system are subject to the following:

"The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty."

"The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system."

DISCUSSION (continued):

“The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.”

“The members of the retirement board of a public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.”

In addition to ensuring regulatory compliance, the adopted Investment Policy includes best practices identified by the Government Finance Officers Association who opines that pension plan trustees and administrators carry out four primary functions in oversight of the investment process:

- Adopt an IRS 115 Pension Trust and OPEB Trust Assets Investment Policy
- Develop an asset allocation plan
- Assemble an investment team
- Monitor the investment program’s implementation and performance

At its December 18, 2019 meeting, the Town Pension and OPEB Trusts Oversight Committee adopted revisions to the Investment Policy to reflect that the “purpose” of the 115 pension funds is for “long-term capital accumulation and appreciation, additional discretionary payments (ADPs), and pension contribution management strategies. “

Attachment 1 contains the current version of the Investment Policy. The Oversight Committee generally meets quarterly to handle these responsibilities.

Attachment:

1. Town of Los Gatos IRS 115 Pension Trust and OPEB Trust Investment Policy