

To: City Council

From: Stephanie Sinnott, Commissioner,
Corporate and Finance Services Department

Report Number: CNCL-24-74

Date of Report: June 19, 2024

Date of Meeting: June 24, 2024

Subject: Council Remuneration By-Law Update - OMERS

Ward: All Wards

File: 03-05

1.0 Purpose

The City Council Remuneration By-law (39-2005, as amended) provides the parameters for compensation provided to the Members of Council (includes the Mayor) for their service to the City. The By-law includes salary, stipends, mileage and retirement allowance package among other things.

The purpose of this report is to provide information as it relates to the retirement allowance package specifically the implications of Councillors joining the Ontario Municipal Employee Retirement System (“OMERS”) pension plan.

Attachment 1 to this report is a copy of the OMERS By-law template as information.

2.0 Recommendation

It is recommended to City Council:

That Council select an option as outlined in Section 5.6 of Report CNCL-24-74, dated June 19, 2024, related to the participation of the Members of Council in the OMERS pension plan.

3.0 Executive Summary

Not applicable

4.0 Input From Other Sources

- Chief Administrative Officer
- Director, Legislative Services/City Clerk
- Other Durham Area Municipalities
- OMERS

5.0 Analysis

5.1 Background

At its meeting of March 30, 2005, Council passed the City Council Remuneration By-law 39-2005 (“the By-law”). The By-law determines, fixing and paying remuneration, salary, allowances and a retirement allowance package for Members of Council. Minor amendments have been made to the By-law from time to time.

Section 5 of the By-law sets out the Retirement Allowance Package and includes the conditions and options for a Retirement Allowance Package.

Section 5.08 of the By-law states the following related to the retirement allowance package:

“Where a Mayor or Councillor has elected under Section 5.01 or 5.02 to be eligible for the retirement allowance package, the City will provide to each such member of Council, including the Mayor, either of the following:

- a) for any member who is enrolled in OMERS, the employer’s contributions shall be paid in respect of all compensation payable under this By-law; or
- b) for any member who is not enrolled in OMERS, in lieu of a pension plan, an amount equal to 6% of all compensation paid to a member, including the Mayor, under this By-law, or such higher amount as is equal to the employer’s contributions referred to in sub-paragraph a).”

5.2 Remuneration By-laws

On May 25, 1966, City Council passed By-law 124-66 being a by-law to authorize participation in the Ontario Municipal Employees Retirement System.

Over the years, many amendments to the original by-law were adopted by City Council. These amendments were primarily related to supplementary agreements for the Oshawa Police Department and Oshawa Fire Department.

The original By-law and various amendments did not at any time include or approve Members of Council as participants in OMERS.

5.2 Process

At the beginning of a term, newly elected Members of Council are required to advise in writing to the City Clerk if they wish to be eligible for the retirement allowance package in accordance with Section 5 of the By-law.

The City Clerk created a form to simplify the process. Each Member of Council is required to complete the Council Remuneration Selection form indicating their selection. The form contains a section pertaining to a retirement allowance package that Councillors have the option to elect whether or not they wish to be eligible for the retirement allowance. The current retirement allowance for Members of Council is option b (as outlined in Section 5.1), the RRSP contributions, in an amount equivalent to OMERS contributions.

In accordance with Sections 5.01 and 5.02 of the By-law, the selection made by each Member of Council when first elected to City Council, stands for that term and all future terms, regardless of the office there are elected to.

Although the By-law cites OMERS as an option in the City's Remuneration By-law 39-2005, as amended, an OMERS By-law has never been executed. In order for Members of Council to join OMERS, there is a very specific By-law required by OMERS that:

- i) reconfirms the Employer's election to participate in the Primary Plan and the Retirement Compensation Arrangement (RCA) in respect of its eligible employees; and,
- ii) establishes an effective date and makes an election to participate in the Primary Plan and the RCA in respect of its Councillors, inclusive of its head of Council.

On passage of the OMERS By-law, current Members of Council can elect to join OMERS as of the effective date or be grandfathered under the current RRSP program. Membership in OMERS becomes mandatory for any new Mayor or Councillors taking office beyond the effective date of the By-law.

5.3 Other Durham Municipalities

The following table outlines the results of a survey of the lakeshore municipalities in Durham Region:

Municipality	OMERS Offered to Council?	Effective Date/ Comments
Ajax	Yes	January 1, 2023
Clarington	Yes	At least since 2011
Pickering	No	Offering an RRSP similar to Oshawa
Whitby	Yes	At least since 2011

5.4 Other Considerations

There are several considerations on enrolling in OMERS for Councillors:

1. Eligibility Age – unable to join OMERS beyond the age of 70.5 years as you must be collecting the pension by the age of 71.
2. Active service – the only service years that can be purchased are those in which Members of Council were actively serving on Council (if there was a break between terms, those years not eligible). Service with other OMERS organizations could be purchased as well, but that would need to be coordinated between the Councillor, OMERS and those previous employers.
3. Buying back past service (which is optional), Members of Council would be required to pay both the Employee and Employer shares of OMERS at their current commuted value of pension plus interest. The City would not fund the purchase of prior service as the RRSP amounts have already been paid out to Councillors. The buyback would require Members of Council to contact OMERS directly to work through the process.
4. There is no limit to the number of active service years that can be purchased.
5. Once enrolled in OMERS, the Council Member would be required to remain enrolled in OMERS, the City is unable to de-enroll anyone other than at the time of retirement, termination, or their passing.
6. OMERS assumes that Council Members are continuous full-time members. The contribution rates for Council Members and the pension benefits earned by Council Members are the same as for other OMERS normal retirement age (NRA) 65 members. Although NRA would be age 65, Members of Council and the City can continue to contribute to OMERS until November 30 of the year in which the Council Member turns age 71.

5.5 Financial Considerations

The financial impacts for the Corporation and the Members of Council are noted below:

Corporation

- The change would be relatively cost neutral since the City is currently paying the equivalent of OMERS contributions in RRSPs.

Members of Council

- Would start paying the employee's portion of OMERS contributions which would come off each pay cheque every two weeks.
- RRSP room will be much lower since OMERS contributions take up a larger portion of RRSP room - it accounts for the Council Member's and Corporation's contributions.
- The repurchase of past service could be very expensive.

- If a Council Member's term is not renewed, OMERS would provide an overview of the options available.

5.6 Options for Consideration

5.6.1 Option 1 – Approve the Participation of Members of Council in the OMERS Pension Plan

In order for Members of Council to participate in the OMERS pension plan an OMERS specific By-law needs to be adopted. A template for the By-law is contained in Attachment 1.

The proposed effective date for the By-law would be January 1, 2025 due to the implementation required by OMERS and the City.

Should Council wish to proceed with Option 1, approving the participation of Members of Council in the OMERS pension plan, the following recommendation should be adopted:

“That pursuant to Report CNCL-24-74 dated June 19, 2024, City staff be directed to work with OMERS to complete the appropriate documentation and present the By-law to Council in fall 2024.”

5.6.2 Option 2 – Do Not Approve the Participation of Members of Council in the OMERS Pension Plan

By selecting Option 2, Members of Council would continue to receive their retirement allowance through RRSP's.

Should Council wish to proceed with Option 2, not approving the participation of Members of Council in the OMERS pension plan, the following recommendation should be adopted:

1. That pursuant to Report CNCL-24-74 dated June 19, 2024, City Council does not approve of Members of Council participating in the OMERS pension plan; and,
2. The City Council Remuneration By-law 39, 2005, as amended be updated to remove the references to OMERS clarifying that it is not an option.”

6.0 Financial Implications

The participation of Members of Council in the OMERS pension plan would be relatively cost neutral to the City. Currently, the City budgets for compensation related to a retirement allowance for Members of Council in the form of an RRSP contribution at a value equivalent to OMERS.

There would be an impact on the pay cheques for Members of Council joining OMERS as a deduction of their share of the contribution to OMERS would be deducted from each pay cheque, impacting their net pay. Also, the Council Member's RRSP room would be much less since the value of OMERS is included in the calculation of contribution room.

It is not recommended that the City buyback prior years of service on behalf of eligible Members of Council as this would have significant financial implications including:

6.1 Double Contributions

Since 2005, Members of Council have been receiving RRSP allowance in lieu of OMERS. The RRSP allowances, as noted above, are equivalent to the value of a corresponding contribution to OMERS. The City funding the buyback of prior years of service would effectively pay the retirement allowance twice to Members of Council.

6.2 Cost

An order of magnitude estimate was prepared to determine the approximate cost for the City to buyback prior years of active service on behalf of Members of Council (both the Employer and Employee shares of the contributions). The cost to buyback active service years for Members of Council would be approximately \$5.2 million. This is an approximate estimate as buyback quotes are only done through OMERS financial actuarial directly.

If the City were to fund only the Employer share of the contribution the cost would be approximately \$2.6 million. If approved, the City Portion would need to be a cash payment to the Councillor as OMERS will not approve a payment from the City since it does not meet buyback requirements.

7.0 Relationship to the Oshawa Strategic Plan

The report responds to the Oshawa Strategic Plan goals of Accountable Leadership.



Stephanie Sinnott, Commissioner,
Corporate and Finance Services Department

**BY-LAW No. <insert By-law number if applicable> OF THE COUNCIL OF
THE CORPORATION OF THE CITY OF OSHAWA
("Council")**

A By-law to confirm and authorize participation in the OMERS Primary Pension Plan ("Primary Plan") and the Retirement Compensation Arrangement for the OMERS Primary Pension Plan ("RCA"), each as amended from time to time, of the employees, councillors and head of council of the **Corporation of the City of Oshawa** ("Employer") identified herein.

WHEREAS the Employer is eligible to participate in the Primary Plan and the RCA in accordance with subsection 5(1) of the *Ontario Municipal Employees Retirement System Act, 2006*, as amended from time to time ("OMERS Act, 2006"), in respect of its eligible employees and does so in accordance with the applicable Primary Plan and RCA documents and applicable legislation;

AND WHEREAS pursuant to subsection 6(1) of the Primary Plan, the Employer may, by by-law or resolution, participate in the Primary Plan and the RCA and pay to the funds for the Primary Plan and the RCA the total of the employer and member contributions required by the Primary Plan, and has all of the powers necessary and incidental thereto;

AND WHEREAS the Employer previously enacted **By-law 124-66** and elected to participate in the Primary Plan in respect of its eligible employees effective **July 1, 1966** in accordance with the terms of the Primary Plan, RCA and applicable legislation, each as amended from time to time;

AND WHEREAS the Employer is a municipality and, pursuant to subsection 5(2) of the OMERS Act, 2006, a municipality may participate in the Primary Plan and the RCA in respect of its councillors;

AND WHEREAS the Employer wishes to enact a by-law to: (i) reconfirm the Employer's election to participate in the Primary Plan and the RCA in respect of its eligible employees in an updated format; and (ii) effective <insert effective date>, make an election to participate in the Primary Plan and the RCA in respect of its councillors, inclusive of its head of council;

THEREFORE, BE IT RESOLVED THAT, effective <insert effective date> ("Effective Date"), or as otherwise indicated, the **Council** enacts as follows:

(Continuation
of
Participation)

1. The Employer shall continue to participate in the Primary Plan and the RCA in accordance with the terms of the Primary Plan, RCA, and applicable legislation, each as amended from time to time.

- (Existing Members)
2. For greater certainty, the Employer continues to participate in the Primary Plan and the RCA in respect of all of its Employees (defined below) who were members of the Primary Plan and the RCA on the day immediately preceding the Effective Date.
- (Election re: Employees)
3. As of the Effective Date, the Employer shall participate in the Primary Plan and the RCA in respect of each person who is employed by the Employer and who is eligible to be a member of the Primary Plan and the RCA under subsection 5(3) of the OMERS Act, 2006 (“Employee”), in accordance with the terms of the Primary Plan, RCA, and applicable legislation, each as amended from time to time.
- (Future CFT Employees)
4. An Employee who becomes an Employee employed on a continuous full-time basis, as defined in subsection 9(1) of the Primary Plan, as amended from time to time (“CFT Employee”), on or after the Effective Date shall, as a condition of employment, become a member of the Primary Plan and the RCA, or if such person is already a member, resume contributions to the Primary Plan and the RCA on the date so employed.
- (Membership for OTCFT Employees)
5. An Employee who is employed on other than a continuous full-time basis (“OTCFT Employee”) and meets the eligibility criteria in subsection 9(6) of the Primary Plan, as amended from time to time, is entitled to become a member of the Primary Plan and the RCA in accordance with the terms of the Primary Plan, as amended from time to time.
- (NRA 60 Option for Firefighters)
6. Employees who, in respect of their employment with the Employer, meet the definition of “firefighter” in subsection 1(1) of the *Fire Protection and Prevention Act, 1997*, as amended from time to time, shall continue to have a normal retirement age of 60 years under the Primary Plan and the RCA, as applicable, in accordance with the terms of the Primary Plan, RCA, and applicable legislation, each as amended from time to time.
- (Election re: All Councillors)
7. The Employer shall participate in the Primary Plan and the RCA in respect of each of its councillors (inclusive of its head of council) who meet the definition of “councillor” in subsection 1(1) of the Primary Plan, as amended from time to time (“Councillor”), as of **<insert effective date>** in accordance with the terms of the Primary Plan, RCA, and applicable legislation, each as amended from time to time.

- (Current Councillors)
8. A Councillor in office on the Effective Date is entitled to become a member of the Primary Plan and the RCA on the first day of the month following the month in which the Councillor's application is received by the OMERS Administration Corporation ("AC"), provided that the AC may, at the request of the Employer, fix an earlier date on which the Councillor becomes a member but not before the date on which the Councillor became entitled to be a member or the first day of January in the year in which the application is received by the AC, whichever is the later date.
- (Future Councillors)
9. Every person who becomes a Councillor after the Effective Date shall become a member of the Primary Plan and RCA on the date the person becomes a Councillor.
- (Senior Management Official)
10. Any person who holds a senior management position with the Employer, as the Employer may designate from time to time ("Senior Management Official"), is hereby authorized on behalf of the Employer to take all such action and execute all such documents, certificates and agreements, as they may consider necessary to give effect to the provisions of this By-law and to fulfill the Employer's duties and obligations with respect to the Primary Plan and the RCA. The Employer further authorizes the **<insert title of the appropriate official>** to submit forthwith a certified copy of this By-law to the AC.

DATED this _____ day of _____, 2024.

<Insert Employer's standard By-law closing language and appropriate signature lines>