

5/19/2000

ORDINANCE NO. 00-08

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RENAMING THE "MARCO ISLAND FIRE CONTROL DISTRICT FIREFIGHTER PENSION PLAN" AS THE "CITY OF MARCO ISLAND FIREFIGHTER PENSION PLAN"; CHANGING ALL PLAN REFERENCES FROM "DISTRICT" TO "CITY"; RECODIFYING THE PLAN TO INCORPORATE PREVIOUSLY ADOPTED AMENDMENTS; AMENDING THE DEFINITION OF CREDITED SERVICE TO ALLOW THE PURCHASE OF PRIOR SERVICE CREDIT AND COMPLY WITH FEDERAL LAW; PROVIDING AN OPT-OUT PROVISION FOR THE FIRE CHIEF; AMENDING THE TRUSTEE REIMBURSEMENT PROVISION TO COMPLY WITH FLORIDA STATUTES; AMENDING PENSION BOARD DUTIES; AMENDING INVESTMENT PROVISIONS; PROVIDING FOR REVIEW OF INVESTMENTS BY AN INDEPENDENT CONSULTANT; PROVIDING FOR THE DEPOSIT OF MEMBER CONTRIBUTIONS EVERY PAY PERIOD; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 97-367, Laws of Florida, the electorate of Marco Island established the municipality known as the City of Marco Island; and

WHEREAS, section 8.01 of Chapter 97-367 provided that, upon approval of the electorate, the Marco Island Fire Control District ceased to exist and the City of Marco Island has, exercises, and enjoys all rights, immunities, powers, benefits, privileges and franchises possessed by the Marco Island Fire Control District; and

WHEREAS, section 8.02 of Chapter 97-367 provided that, upon approval of the electorate, the City of Marco Island assumed the assets, liabilities, and contracts of the Marco Island Fire

Control District, including all rights, obligations, duties, and relationships existing by law or agreement; and

WHEREAS, section 8.02 of Chapter 97-367 provided that, upon approval of the electorate, the employees of the Marco Island Fire Control District became employees of the City of Marco Island, and all rights as to vacation, sick leave, pay grades, retirement, and similar personnel benefits were preserved; and

WHEREAS, the existing Firefighter Pension Plan, as created by Marco Island Fire Control District Resolution No. 95-006 and subsequently amended by Marco Island Fire Control District Resolutions No. 96-004 and No. 97-003, in accordance with the provisions of Chapter 175, Florida Statutes, should become an ordinance of the City of Marco Island, and all plan references the Marco Island Fire Control District should be changed to the City of Marco Island; and

WHEREAS, certain changes to the Firefighter Pension Plan are necessary to comply with changes in state law, to ensure that the City will continue to be eligible to receive state premium tax revenues pursuant to Chapter 175, Florida Statutes;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, COLLIER COUNTY, FLORIDA:

Section 1. The Marco Island Fire Control District Firefighters' Pension Plan, a local law pension plan established pursuant to Chapter 175, Florida Statutes, created by Marco Island Fire Control District Resolution No. 95-006 and subsequently amended by Marco Island Fire Control District Resolutions No. 96-004 and No. 97-003, is hereby renamed the "City of Marco Island Firefighters' Pension Plan."

Section 2. The existing Firefighter Pension Plan, as created by Marco Island Fire Control District Resolution No. 95-006 and subsequently amended by Marco Island Fire Control

District Resolutions No. 96-004, and No. 97-003, together with the further amendments adopted herein, is now recodified as an ordinance of the City of Marco Island, all references to the "Marco Island Fire Control District" are changed to the "City of Marco Island", all references to the "Board of Commissioners" of the Fire Control District are changed to the "City Council" of the City of Marco Island, and the pension plan is hereby restated in its entirety in the attached document.

Section 3. Subsection (G) of Section 2 of the City of Marco Island Firefighters' Pension Plan (definition of "Credited Service"), is amended as follows:

- G. "Credited Service" means the total number of years and fractional parts of years of employment as a city firefighter and contributing member of this pension plan on or after January 1, 1996, omitting intervening years or fractional parts of years when such firefighter may not be employed by the city. If a member accumulates service as both a full-time firefighter and as a volunteer firefighter, credited service shall be calculated separately for full-time and volunteer service, with the sum of all years and fractional parts of years of service used only for vesting and benefit eligibility purposes. A firefighter may voluntarily leave his or her contributions in the pension fund for a period of five (5) years after leaving the employment of the city pending the possibility of being rehired, ~~and remaining employed for a period of not less than three (3) years, without losing credit for the time of active participation as a firefighter. If the firefighter does not remain employed for a period of three (3) years upon reemployment, then the member's accumulated contributions will be returned to him upon his request.~~ A firefighter who withdraws his or her contributions upon termination of employment may, upon reemployment as a city firefighter, receive credited service for the period of prior service by repaying into the fund the amount of contributions withdrawn, plus interest as determined by the board of trustees, within 90 days following reemployment. When ~~firefighters~~ a firefighter leaves city employment (other than employment in temporary position) in order
1. to perform training and service in the Armed Forces of the United States or the United States Merchant Marine, or
 2. to report for the purpose of being inducted into, entering, or determining, by preinduction or other examination, physical fitness to enter the Armed Forces, whether or not voluntarily, the firefighter shall receive credited service for the years or fractional parts of years that he or she was is engaged in such Armed Forces or Merchant Marine activities in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as amended, if ~~he~~ the member leaves his or her contributions in the pension fund during his absence. Except as otherwise provided by

USERRA ~~the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended,~~ the firefighter shall receive credited service for the period of military service on the following conditions:

- (a) The firefighter must return to his employment in accordance with the provisions of USERRA ~~as a city firefighter within one (1) year following the date of military discharge.~~
- (b) The firefighter must deposit into the pension fund the same sum that the member would have contributed if he or she had remained a firefighter, ~~plus an amount of interest equal to the assumed rate of return on pension fund investments as reflected in the most recent actuarial valuation,~~ from the date of original ~~re-~~employment to the date of deposit, in accordance with USERRA.
- (c) The maximum credit for military service shall be five (5) years.

Section 4. Section 3 (“Membership”) of the City of Marco Island Firefighters’ Pension Plan is amended by adding the following language to the end of the section:

The Fire Chief may elect not to participate in this plan by submitting a written notice of non-participation to the board of trustees within sixty (60) days of initial employment or the adoption of this amendment, whichever is later. A Fire Chief who elects not to participate in this plan shall not thereafter be eligible to accrue or receive benefits through this plan.

Section 5. Subsections (C) and (E) of section 4 (“Board of Trustees”) of the City of Marco Island Firefighters’ Pension Plan, are amended as follows:

- C. The trustees shall, by a majority vote, elect a chairman and a secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. Additionally the secretary of the board shall keep a record of all persons receiving benefit payments under the provisions of this ordinance, in which it shall be noted the time when such pension benefit was approved and when the pension benefit ceased to be paid. This record shall include a list of all firefighters employed by the city showing the name, address, date of employment, and date of termination of each firefighter. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by Florida law.

* * *

- E. The city attorney shall give advice to the board in all matters pertaining to its duties in the administration of the pension plan whenever requested. The city attorney shall represent and defend the board as its attorney in all suits or legal actions that may be brought against it, and bring all suits and actions at the direction of the board. However, if the board so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein. The board may also engage such professional, technical or other advisers as it deems necessary to administer the pension plan. The board may choose to use the city's actuary or other professional, technical, or other advisors, but must do so only under terms and conditions acceptable to the board. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the pension plan shall be paid from the pension fund at such rates and in such amounts as the board shall agree. The board must, at least every three (3) years, retain a professionally qualified independent consultant, as defined in Chapter 175, Florida Statutes, who shall evaluate the performance of any existing professional money manager and make recommendations to the board regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board at its next regularly scheduled meeting, which will be advertised in the same manner as any meeting of the board.

Section 6. Subsection (E) of section 5 of the City of Marco Island Firefighters' Pension

Plan, is amended as follows:

- E. If the assets of the fund are ~~one~~ two hundred fifty thousand dollars (~~\$10250,000~~) or more, an independent audit shall be performed annually by a certified public accountant who may, in the board's discretion, be the accountant retained by the city for the city audit. The audit shall be for the most recent fiscal year of the city showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect a complete valuation of assets on both a cost and market basis, as well as other items normally included in a certified audit. If the fund has less than ~~one~~ two hundred fifty thousand dollars (~~\$10250,000~~) in assets, an annual certified statement of accounting must be prepared in accordance with Section 175.261(1)(~~ba~~)2., Florida Statutes.

Section 7. Paragraphs (2) and (14) of subsection (F) of section 5 the City of Marco Island

Firefighters' Pension Plan are amended as follows:

2. All monies paid into or held in the fund shall be invested and reinvested by the board and the investment of all or any part of such funds shall be limited to:

- (a) Annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the members in the fund shall be entitled under the provisions of this pension plan, and to pay the initial and subsequent premiums thereon.
- (b) Time or savings accounts of a national or state bank insured by the Bank Insurance Fund Federal Deposit Insurance Corporation, or a savings, building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation, or a state or federally chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund Federal Savings and Loan Insurance Corporation.
- (c) Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States.
- (d) Bonds issued by the State of Israel.
- (e) Bonds, stocks, commingled funds administered by national or state banks, or evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided that the corporation is traded on a nationally recognized exchange and in the case of bonds holds a rating in one (1) of the three (3) highest classifications by a major rating service, and if such investments are made in a pooled fund administered by a state or national bank, then the rating of each issue in the pooled fund shall hold a rating within the top three (3) rating classifications of a major rating service.
- (f) Real estate.

* * *

- 14. The board shall not invest more than ten percent (10%) of the fund's assets in foreign securities or certificates of indebtedness, except as specifically authorized herein.

Section 8. Paragraph (1) of subsection (A) of section 6 ("Contributions") of the City of

Marco Island Firefighters' Pension Plan is amended as follows:

- A. Member Contributions.

1. Amount. Members of the pension plan shall be required to make regular contributions to the fund in the amount of one percent (1%) of their salary. Member contributions withheld by the city on behalf of the member shall be deposited with the board ~~at least monthly~~ every pay period. The contributions made by each member to the fund may be designated by the city as employer contributions pursuant to Section 414(h) of the Code. Such designation is contingent upon a resolution adopted by the city council and the contributions being excluded from the member's gross income for Federal Income Tax purposes. For all other purposes of the pension plan, such contributions shall be considered to be member contributions.

Section 9. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 10. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 15. This ordinance shall become effective as of December 31, 1999.

ADOPTED ON FIRST READING THIS 19th DAY OF June, 2000 BY THE
CITY OF MARCO ISLAND CITY COUNCIL.

ADOPTED ON SECOND READING THIS 17 DAY OF July, 2000 BY THE
CITY OF MARCO ISLAND CITY COUNCIL.



A. William Moss
City Manager/City Clerk



Harry Cowin
Chairman

Reviewed for legal sufficiency:



Kenneth B. Cuyler
City Attorney

Naples Daily News
Naples, FL 34102

Affidavit of Publication
Naples Daily News

CITY OF MARCO ISLAND
ATT: DEE PHILLIPS
950 N COLLIER BLVD #308
MARCO ISLAND FL 34145

REFERENCE: 054361
58081399 SECOND READING & PUB

State of Florida
County of Collier

Before the undersigned authority, personally appeared B. Lamb, who on oath says that she serves as the Assistant Corporate Secretary of the Naples Daily News, a daily newspaper published at Naples, in Collier County, Florida; that the attached copy of advertising was published in said newspaper on dates listed.

Affiant further says that the said Naples Daily News is a newspaper published at Naples, in said Collier County, Florida, and that the said newspaper has heretofore been continuously published in said Collier County, Florida, each day and has been entered as second class mail matter at the post office in Naples, in said Collier County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

PUBLISHED ON: 06/24

AD SPACE: 74.000 INCH
FILED ON: 06/26/00

Signature of Affiant B. Lamb

Sworn to and Subscribed before me this 27 day of June 2000

Personally known by me S. Flora

SECOND READING &
PUBLIC HEARING
ORDINANCE
CITY OF
MARCO ISLAND

The City Council of Marco Island, meeting in regular session at 6:00 p.m., on July 17, 2000, at the Frank E. Mackle, Jr., Community Park, 1361 Andalusia Terrace, Marco Island, Florida will consider:

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RENAMING THE "MARCO ISLAND FIRE CONTROL DISTRICT FIREFIGHTER PENSION PLAN" AS THE "CITY OF MARCO ISLAND FIREFIGHTER PENSION PLAN"; CHANGING ALL PLAN REFERENCES FROM "DISTRICT" TO "CITY"; RECORDING THE PLAN TO INCORPORATE PREVIOUSLY ADOPTED AMENDMENTS; AMENDING THE DEFINITION OF CREDITED SERVICE TO ALLOW THE PURCHASE OR PRIOR SERVICE CREDIT AND COMPLY WITH FEDERAL LAW, PROVIDING AN OPT-OUT PROVISION FOR THE FIRE CHIEF; AMENDING THE TRUSTEE REIMBURSEMENT PROVISION TO COMPLY WITH FLORIDA STATUTES; AMENDING PENSION BOARD DUTIES; AMENDING INVESTMENT PROVISIONS; PROVIDING FOR REVIEW OF INVESTMENTS BY AN INDEPENDENT CONSULTANT; PROVIDING FOR THE DEPOSIT OF MEMBER CONTRIBUTIONS EVERY PAY PERIOD; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

This Ordinance is available for inspection by the Public in the Deputy City Clerk's office located at City Hall. Members of the Public are invited to make oral or written comments in regards to this Ordinance.
June 24 No. 1639075



Susan D Flora
My Commission CC581717
Expires Dec. 10, 2000