

ORDINANCE 2008-06

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES AMENDING THE CITY OF LAKE WALES GENERAL EMPLOYEES' PENSION PLAN AND TRUST; AMENDING SECTION 16-42(d)(2) TO CLARIFY THE ACTUARIAL METHODOLOGY USED FOR PURCHASING SERVICES WHEN OPTING BACK INTO THE PLAN; AMENDING SECTION 16-46(j) TO PERMIT DROP PARTICIPANTS TO PROSPECTIVELY CHANGE THEIR DROP INVESTMENT OPTION ON A BI-ANNUAL BASIS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Division of Retirement has requested clarification of the operation of Section 16-42 of the General Employees Pension Plan and Trust;

WHEREAS, DROP participants have requested the same flexibility with regard to DROP investment options as provided under the City's police and firefighter pension plans;

WHEREAS, the Board of Trustees of the City of Lake Wales General Employees' Pension Plan has recommended adoption of this ordinance; and

WHEREAS, the City agrees that additional flexibility for DROP participants is in the best interests of the City, the taxpayers, and the employees.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA THAT:

Section 1. Section 16-42(d)(2) of the Code of Ordinances of the City of Lake Wales is hereby amended to read as follows:

Sec. 16-42. Membership.

(c) *Participation, election to opt out.*

(1) All full time employees shall participate in the plan as a condition of their employment, except for employees who serve in opt-out positions who may make an irrevocable election to opt-out of the plan. Opt-out positions are defined as pay grades 119(a)--300.

(2) Employees eligible to opt-out shall be given notice and an opportunity to elect out of the plan from October 1, 1999 through December 31, 1999. Employees who are hired or promoted to opt-out positions after the initial opt-out election period expires shall be given the option to opt-out of the plan at the time they are hired or first promoted to an opt-out position. All elections are irrevocable, except as provided in Section 16-42(d). An employee who elects to opt-out of the plan and establishes a qualified tax deferred pension plan in accordance with the Internal Revenue Code and rules as promulgated by the Secretary of the Treasury, shall be entitled to receive, via rollover, direct plan to plan transfer, or other method, an amount equal to the electing employee's member contributions, with simple interest thereon computed at the greater of five (5) percent per annum, or such other rate which may at that time be in effect, plus an amount equal to such employee's total compensation earned while a plan participant, multiplied by the average percentage of city contributions to its general employees over the five (5) year period immediately preceding the year in which the election

is made. Participants who receive a payout of their plan benefits after opting out will not be entitled to any other benefits under the plan.

(3) An employee who elects to opt-out may choose to leave their funds in the plan in which case the member shall be entitled to receive benefits under the plan in the same manner as other members, except that such members shall cease accruing additional credited service for benefit purposes and all determinations of compensation made under the plan will be based upon compensation earned during the time the member participated in the plan.

(4) An employee who elects to opt-out is eligible to establish a tax deferred pension plan in accordance with the Internal Revenue Code and rules as promulgated by the Secretary of the Treasury. In conjunction with the employee's remittance of an amount at least equal to the contribution requirements as stated in section 16-45(a)(1) but not more than the maximum deferral allowed by the Internal Revenue Code and treasury regulations, to the deferral plan of their choosing, the city shall remit an amount equal to their gross bi-weekly wages or salary times a percentage determined in the annual actuarial valuation report prepared by the general employee's pension plan actuary, for city contributions to the general employee's pension plan for participants. In the absence of adequate individual remittances, the city is absolved of its responsibility to make contributions.

(d) *Participation, written election to opt back into the Plan.*

(1) All former members who opted-out of the Plan pursuant to Section 16-42(c)(2) and remain employees of the City as of January 1, 2007 shall be provided a ninety (90) day window to submit a one-time written election to rejoin the Plan. Upon rejoining the Plan, the former member shall be transferred from the City's defined contribution plan into the General Employees' Pension Plan and Trust. The Board of Trustees shall provide all applicable opt-out employees with a copy of the ordinance permitting the election to opt back into the Plan. The Board of Trustees shall have the authority to adopt administrative rules and procedures to govern the opt-in procedure to be uniformly applied to all applicable employees.

(2) Upon re-entry into the Plan, former opt-out members shall have the option to purchase prior creditable service with the City. The member shall be required to pay the full actuarial cost of the prior service for any service purchased. The member shall also be required to reimburse the Plan for the cost of the actuary's individual service buyback calculation. Payment in full for the cost of the prior service buyback must be submitted by June 30, 2007 or within ninety (90) days from the expiration of the election period. Payment may be made by rollover from another qualified plan. Members electing to rejoin the Plan but not to purchase prior creditable service will be deemed to have commenced credited service on the date of re-entry into the Plan. The member shall be required to pay the actuarial cost of the prior service for any service purchased utilizing the same methodology as described in subsection (c)(2) above.

Section 2. Section 16-46(j) of the Code of Ordinances of the City of Lake Wales is

hereby amended to read as follows:

(j) *Deferred retirement option plan (DROP).*

(1) *Operation.* Any member of the system who has satisfied the requirement for normal or delayed retirement as set forth therein may elect to withdraw from the system while continuing to be an employee of the city for a period of up to five (5) years. During this period, the member would cease to make contributions to the fund and benefit accruals would cease at the date of withdrawal. At the time of the withdrawal, the member may elect an optional form of retirement income as described in section 16-48. The amount of the monthly pension which would otherwise be paid shall be maintained in a special DROP account in the name of the member within the fund and shall be segregated from other trust assets on a bookkeeping basis. The member shall elect to receive either interest or earnings on ~~his~~ their account to be determined as provided below. The election is ~~irrevocable~~ may be revised bi-annually on a prospective basis pursuant to such rules as the Board of Trustees may adopt. DROP investment elections must be made in writing at least thirty (30) days prior to the end of the December and June quarters, on such forms as the Board of Trustees may require.

- a. Interest election. The DROP account shall be credited interest based on the 91 T-Bill interest rate compounded quarterly; or
- b. Earnings election. Quarterly the DROP account shall share in the investment gains and losses for the quarter at the same rate of the return earned by the total trust fund.

Section 3. Inclusion in Code. It is the intention of the City Commission of the City of Lake Wales, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Lake Wales Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "division," or such other appropriate word or phrase in order to accomplish such intentions.

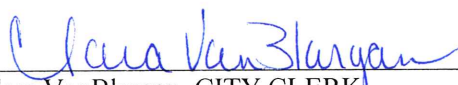
Section 4. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be construed as eliminated and shall in no way affect the validity of the remaining portions of this Ordinance.

Section 5. All Ordinances or Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, THIS 5th DAY OF FEBRUARY 2008.

PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA THIS 19th DAY OF FEBRUARY 2008.

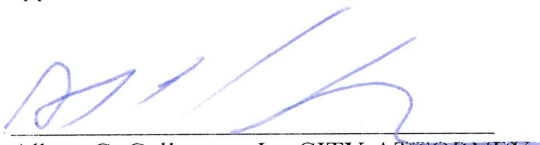
ATTEST:


Clara VanBlargan, CITY CLERK

CITY OF LAKE WALES, FLORIDA

By: 
Lee A. Wheeler, III, MAYOR/COMMISSIONER

I HEREBY CERTIFY that I have approved the form of this Ordinance.


Albert C. Galloway, Jr., CITY ATTORNEY