

## **MEMORANDUM**

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December 5, 2014

**TO:** Honorable Mayor and City Commission

**VIA:** Kenneth Fields, City Manager

**FROM:** Sandra D. Davis, Human Resources Director

**SUBJECT:** Ordinance 2015-01, Amending Chapter 16, Pension & Retirement, General Employees' Pension Plan – First Reading

**SYNOPSIS:** The Commission will consider amending the General Employees' Pension Ordinance to allow employees in pay grades 119(a) – 300 and who participates in the 401(a) plan to opt in to the General Employees Pension Plan.

### **RECOMMENDATION**

The General Employee's Pension Board and staff recommend that the City Commission approve Ordinance 2015-01 after first reading.

### **BACKGROUND**

At the General Employees' Pension Board's November 19, 2014 meeting, the Board approved submitting the proposed Ordinance to the City Commission for adoption.

On September 21, 1999, the City Commission approved Ordinance 99-11 allowing employees in certain defined pay grades (currently pay grades 119(a)-300) to opt-out of the General Employees' Defined Benefit Plan and participate in a 401(a) Defined Contribution Plan.

Ordinance 2015-01 provides an opportunity for these employees to now opt into the General Employees Pension plan under certain conditions. The conditions being:

- 1) Any current 401(a) member will need to submit a one-time written election to join the Plan;
- 2) Upon joining the Plan, the member shall be transferred from the City's defined contribution plan into the General Employees' Pension Plan (defined benefit plan);
- 3) Upon entry into the Plan, opt-out members shall have the option to purchase prior creditable service with the City;
- 4) The member shall be required to pay the full actuarial cost of the prior service for any service purchased;
- 5) The member shall reimburse the Plan for the cost of the actuary's individual service buyback calculation - \$100.00;
- 6) Payment in full for the cost of the prior service buyback must be submitted when the actuarially determined calculation is provided to the employee.

### **OTHER OPTIONS**

Make no change.

### **FISCAL IMPACT**

Foster & Foster, Inc., the General Employees' Pension Board's Actuarial Consultants, have determined that adopting the Ordinance will have no impact on the assumptions used in determining the funding requirements of the program.

All costs to join the plan will be paid by the employee.

The City will discontinue contributing to the employee's 401(a) plan (defined contribution plan) and begin contributing to the General Employees' Pension Plan (defined benefit plan). The contribution is calculated as a percentage of salary. The percentage is the same for both plans.

**ATTACHMENTS**

Ordinance 2015-01

Actuarial Impact Statement

## ORDINANCE 2015-01

**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 16-41 TO DEFINE MEMBER AS INCLUDING OPT-OUT EMPLOYEES WHO MAKE AN ELECTION TO JOIN THE PLAN; AMENDING SECTION 16-42 TO PERMIT A WRITTEN ELECTION TO JOIN THE PLAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, various revisions have been made to the Plan over time which support allowing existing employees a one-time option to elect membership in the Plan;

**WHEREAS**, the board of Trustees of the City of Lake Wales General Employees' Pension Plan has recommended providing an election to accept membership in the Plan for employees who previously opted-out of the Plan and who submit a written election to join the Plan with a specified period;

**WHEREAS**, the City agrees that providing employees with a one-time option to join the Plan 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 16-41 of the Code of Ordinances of the City of Lake Wales is hereby created to read as follows:

**Sec. 16-41.** Definitions and rules of construction.

*Member* means an actively employed general employee who fulfills the prescribed membership requirements and does not elect to opt-out. Benefit improvements which, in the past, have been provided for by amendments to the system adopted by city ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary. Member shall also include any opt-out employee under section 16-42(c) (2) who elects to join the Plan and is determined by the board of trustees to have fulfilled the requirements set forth in section 16-42(d).

**SECTION 2:** Section 16-42(d) of the Code of Ordinances of the City of Lake Wales is hereby created 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 subsection 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 subsection 16-42(c)(2) and remain employees of the city ~~as of January 1, 2007~~ shall be provided an option 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~~ date the actuarially determined calculation is provided to the employee ~~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 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.

**CERTIFIED AS TO PASSAGE, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.**

**CITY OF LAKE WALES, FLORIDA**

\_\_\_\_\_  
Mayor/Commissioner

**ATTEST:**

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City Clerk



December 18, 2014

VIA EMAIL AND MAIL

Ms. Sandra Davis  
City of Lake Wales  
201 West Central Avenue  
Lake Wales, FL 33853

Re: City of Lake Wales  
General Employees' Retirement Plan

Dear Sandra:

As requested, we have reviewed the proposed Ordinance (identified as 2015-01) providing for an opt-in for employees who had previously opted out. We have determined that its adoption will have no impact on the assumptions used in determining the funding requirements of the program.

Because the changes do not result in a change in the valuation results, it is our opinion that a formal Actuarial Impact Statement is not required in support of its adoption. However, since the Division of Retirement must be aware of the current provisions of all public pension programs, it is recommended that you send a copy of this letter and a copy of the fully executed Ordinance to the following office:

Mr. Keith Brinkman  
Division of Retirement  
Bureau of Local Retirement Systems  
P. O. Box 9000  
Tallahassee, FL 32315-9000

If you have any questions, please let me know.

Sincerely,

Patrick T. Donlan

PTD/lke