

To: The Honorable Mayor and City Council
From: Joseph Roglieri, Jr., Personnel Administration Director
Date: October 25, 2016
RE: Council Report – Pension Ordinance First Reading



RECOMMENDATION

Approve the attached revised Police Pension Ordinance (748).

BACKGROUND

The Mayor and Council has approved the Police Bargaining Unit contract which included pension reform. The attached Ordinance enacts this reform for all new sworn employees. This is the first reading of this ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING ARTICLE V, “NORTH MIAMI POLICE PENSION PLAN” OF THE CITY CODE OF ORDINANCES BY AMENDING SECTION 15-101 “DEFINITIONS,” SECTION 15-102 “EMPLOYEES’ RETIREMENT SYSTEM (ORD. NO. 582) AND EMPLOYEES’ RETIREMENT SYSTEM (ORD. NO. 691) CONTINUED,” BY CREATING A NEW SECTION 15-104 “PLAN CLOSED TO NEW MEMBERS; PARTICIPATION IN THE FLORIDA RETIREMENT SYSTEM,” BY CREATING A NEW SECTION 15-119 “USAGE OF PREMIUM TAX REVENUES,” BY AMENDING SECTION 15-120 “ELIGIBILITY GENERALLY,” BY AMENDING SECTION 15-124 “REEMPLOYED PERSON”; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami (“City”) has established the North Miami Police Pension Plan (the “Retirement System”) for members of the Plan as defined in Section 15-101 of the City’s Code of Ordinances (“Members”); and

WHEREAS, the City has entered into a collective bargaining agreement (“CBA”) with the Dade County Police Benevolent Association (the “Union”) covering the term October 1, 2015 through September 30, 2018; and

WHEREAS, the CBA contains certain changes to the City’s Retirement System and provides that Members hired after ratification of the CBA will join the Florida Retirement System and that Members employed by the City prior to ratification will have the option to remain in the Retirement System or to join to Florida Retirement System; and

WHEREAS, the CBA addresses certain provisions required under Chapter No. 2015-39, Laws of Florida (Senate Bill 172); and

WHEREAS, to implement the pension changes contained in the CBA and comply with applicable pension laws, it is necessary to adopt an ordinance amending the retirement system as set forth in Article V of the City’s Code of Ordinances; and

WHEREAS, the City Council finds that it is in the best interest of the City and its employees to amend the City Code to implement the aforementioned changes.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. **Recitals.** The following recitals are true and correct and are incorporated herein by reference.

Section 2. **City Code Amended.** That Section 15-101 “Definitions” of Article V “North Miami Police Pension Plan” of Division 1 “Generally” of the City Code of Ordinances, is hereby amended to read as follows:

Sec. 15-101. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Premium tax revenues means State insurance premium tax revenues remitted annually to the City, which are collected on casualty insurance policies in the City in accordance with Chapter 185, Florida Statutes.

* * *

Section 3. **City Code Amended.** That Section 15-102 “Employees' retirement system (Ord. No. 582) and employees' retirement system (Ord. No. 691) continued” of Article V “North Miami Police Pension Plan” of Division 1 “Generally” of the City Code of Ordinances, is hereby amended to read as follows:

Sec. 15-102. - Employees' retirement system (Ord. No. 582) and employees' retirement system (Ord. No. 691) continued.

- (a) It is deemed in the best interests of the city and the citizens that a retirement system be maintained for ~~all~~ sworn police personnel and to that end the employees' retirement system established by prior ordinances (Ord. No. 582 and Ord. No. 691) are herewith continued as amended in their entirety by this article.
- (b) All sworn police personnel who are initially employed or reemployed by the city on or after January 1, 1977, shall be governed by the provisions of this article, except for personnel participating in the Florida Retirement System (FRS), who shall be governed in accordance with Chapter 121, Florida Statutes, and rules promulgated thereunder, as such statutes and rules may be amended in the future. All sworn police personnel employed prior to January 1, 1977, and who are or may have become members of the

retirement systems by authority of prior ordinances whether at such time of employment they held permanent, probationary or temporary status as employees shall be governed by those prior ordinances and not by this article; except that such persons may elect to be governed by the provisions of this article by written request within ninety (90) days from the effective date of this article or, at such other times as the board of trustees may specify, in which event benefits up to date of such election shall be governed by provisions under prior ordinances, and benefits under this article shall be determined from the date of election, and credited service under this article shall be computed from the date of election to obtain the benefits provided by this article.

* * *

Section 4. City Code Amended. That Section 15-104 “Plan closed to new members; participation in the Florida Retirement System” of Article V “North Miami Police Pension Plan” of Division 1 “Generally” of the City Code of Ordinances, is hereby created to read as follows:

Sec. 15-104. Reserved Plan closed to new members; participation in the Florida Retirement System.

- (a) Effective December 1, 2016 or as soon thereafter as administratively practical, the City will join the Florida Retirement System ("FRS"). The City's Retirement System shall be closed to new members on the day before the City joins FRS.
- (b) All employees who are certified law enforcement officers and hired by the City on or after the date the City joins FRS, and who would otherwise have been members of the City's Retirement System, will participate in FRS, Special Risk Class, in accordance with Chapter 121, Florida Statutes and rules promulgated thereunder, as such statutes and rules may be amended in the future.
- (c) All certified law enforcement officers who are employed by the City on the date the City joins FRS will have the option to remain in the City's Retirement System or participate in the FRS, Special Risk Class. For those members who have not reached their normal retirement date as of the date the City joins the FRS and who elect to remain in the City's Retirement System, the benefit levels, employee contributions and other Retirement System provisions in effect on the date the City joins the FRS will remain in effect.
- (d) Members hired prior to the date the City joins FRS who elect to join FRS will have the option of retaining their accrued benefit in the City's Retirement System (based on average final compensation, credited service and the benefits in effect on the day before the date the City joins FRS), or receiving a refund of their accumulated contributions. Members who elect to receive a refund of their accumulated contributions may purchase prior service in the FRS at the member's expense, in accordance with applicable Florida statutes and rules.

- (e) Regardless of whether a member elects to join FRS or continues participating in the City's Retirement System, in order to receive any benefit from the City's Retirement System (other than disability or death benefits) a member must reach the early or normal retirement date and terminate employment with the City.

Section 5. City Code Amended. That Section 15-119 "Usage of premium tax revenues" of Article V "North Miami Police Pension Plan" of Division 3 "Fund" of the City Code of Ordinances, is hereby created to read as follows:

Sec. 15 -119. Reserved Usage of premium tax revenues.

The City and Police Benevolent Association have mutually agreed that all premium tax revenues received by the City in accordance with Chapter 185, Florida Statutes, shall be utilized as follows:

- (a) The first \$82,682 of the premium tax revenues received annually shall be used to offset the City's annual required contributions.
- (b) Annual premium tax revenues received by the City in excess of \$82,268 up to \$230,268 shall be allocated to the special police officers' fund ("Share Plan") in accordance with section 15-173 et seq.
- (c) Annual premium tax revenues received by the City in excess of \$230,268 shall be designated as unallocated and held in reserve as an accumulated excess.

Section 6. City Code Amended. That Section 15-120 "Eligibility generally" of Article V "North Miami Police Pension Plan" of Division 4 "Eligibility and Member Contributions" of the City Code of Ordinances, is hereby amended to read as follows:

Sec. 15-120. - Eligibility generally.

All police bargaining unit members and general employees initially employed as a police officer trainee before the date the City joins the Florida Retirement System (FRS) shall be eligible for membership and shall become members of this system immediately upon being employed on a full-time permanent basis pursuant to the city's administrative rules and procedures.

Effective upon the date the City joins FRS, all sworn police personnel, including police administrators, who are members of this system may remain members of this system or instead may elect to join the FRS, as applicable. Police bargaining unit members who are promoted to police administrator after April 3, 1994 shall remain members of this plan. Police bargaining unit employees and police administrators who were members of this plan on or before April 3, 1994, shall remain members of this plan. Effective April 3, 1994, all

~~department heads and general employees who are members of Pension Ordinance 748 on that date, shall become members of Pension Ordinance 691; and credited service for these members under Pension Ordinance 748 shall be credited service under Pension Ordinance 691. Any general employee who is a member of Pension Ordinance 691 and who accepts an appointment as a police officer after April 3, 1994, shall be transferred to the Pension Ordinance 748 Pension Plan; said transfer to be effective on the date of the appointment as a sworn police officer; and credited service for the subject member under Pension Ordinance 691, shall be credited under Pension Ordinance 748. The following shall not be eligible:~~

- ~~(1)Medical directors;~~
- ~~(2)Contractual employees;~~
- ~~(3)Appointed board members; and~~
- ~~(4)Firefighters.~~

Section 7. City Code Amended. That Section 15-124 “Reemployed person” of Article V “North Miami Police Pension Plan” of Division 4 “Eligibility and Member Contributions” of the City Code of Ordinances, is hereby amended to read as follows:

Sec. 15-124. - Reemployed person.

~~If a former member who was previously employed by the City is Should a former member be reemployed by the city on or after the date the City joins FRS after having his previous employment with the city terminated with or without cause, such employee shall participate in FRS and not in this Retirement System.he shall for the purposes of this article be deemed to be a new employee as of his date of reemployment; provided, however, that in the event of reemployment within five (5) years of the termination of his last period of employment, an employee may have his continuous credited service restored for his membership under the system during his last period of employment provided he pay the fund, the accumulated contributions and prior vested benefit which he received upon such termination plus accrued interest for the period of absence. Upon such payment to the fund, which shall be made within six (6) months of employee reemployment, such employee shall continue as a member under the system and shall be credited with additional membership service beginning with the date of such payment to the fund.~~

Section 8. Conflicts. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 9. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 10. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

Section 11. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2016.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2016.

DR. SMITH JOSEPH
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Smith Joseph, D.O., Pharm. D.	_____ (Yes)	_____ (No)
Vice Mayor Alix Desulme	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Philippe Bien-Aime	_____ (Yes)	_____ (No)