

ORDINANCE NO. 2017-028

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE POLICE PENSION PLAN ADOPTING THE PENSION PROVISIONS OF THE 2016 - 2019 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN AND FOP LODGE 100; ADOPTING A NEW SECTION 3.8 OF THE PLAN ESTABLISHING A SHARE PLAN AS REQUIRED BY SECTION 185.35, FLA.STAT.; AMENDING SECTION 4.3.1 TO ADDRESS THE EFFECTS OF BENEFIT LIMITS UNDER SECTION 415 OF THE INTERNAL REVENUE CODE; AMENDING SECTION 4.3.5(c) TO CREATE TERMINAL LEAVE ACCOUNTS FOR THE RECEIPT OF ACCUMULATED LEAVE; AMENDING SECTIONS 4.3.7 TO PROVIDE FOR THE CREATION OF A SELF-DIRECTED DROP OPTION; AMENDING SECTION 7.1(b) TO PROVIDE FOR THE MUTUALLY AGREED USE OF PREMIUM TAX REVENUES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie previously adopted Ordinance 99-20 amending and restating the Police Pension Plan;

WHEREAS, the Town and Florida State Lodge, Fraternal Order of Police, Lodge 100 ratified a Collective Bargaining Agreement for October 1, 2016 - September 30, 2019 (hereinafter the "CBA");

WHEREAS, the Police Pension Board has recommended adoption of this ordinance consistent with the CBA; and

WHEREAS, it is necessary to amend the Police Pension Plan to effectuate the new CBA provisions;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. Article 3, Section 3.8 of the Town of Davie Police Pension Trust Fund is hereby created to read as follows:

ARTICLE III. RETIREMENT DATES AND BENEFITS.

SECTION 3.8.

SHARE PLAN.

A. Establishment of Share Plan:

The Town of Davie Police Pension Share Plan (hereinafter the "Share Plan") is hereby adopted pursuant to the minimum requirements of Section 185.35(6), Fla. Stat. The Share Plan shall be

aseparate defined contribution plan administered by the Board of Trustees of the Police Pension Plan. No Chapter 185 premium tax revenues shall be allocated to the share plan until the Town and the Fraternal Order of Police mutually agree to such allocation. At such time in the future that the mutually parties agree to allocate Chapter 185 premium tax revenues to the Share Plan, further details will be negotiated. Notwithstanding the establishment of the Share Plan, nothing in this Article will be construed to require funding of, or guarantee payment of, any benefit thereunder. In no event will the Share Plan result in additional cost to the Town or have any actuarial impact on the Police Pension Plan.

B. *Share Plan Provisions:*

1) For accounting purposes, an individual Share Plan account shall be established for each active member (including DROP participants) of the Police Pension Plan. The Share Plan shall account for each member's Share Plan account balance as provided herein.

2) Each active plan member who has at least one (1) full year of credited service on the last day of any fiscal year in which premium tax revenues are allocated towards the Share Plan (available funds) shall receive an equal share of the available funds, less administrative expenses, deposited into his/her Share Plan account.

3) On January 1 each year, individual Share Plan accounts shall be credited with interest at an annual rate equal to the market rate of return on Pension Plan investments for the preceding plan year.

4) Available funds and Share Plan balances shall be comingled with Pension Plan assets for investment purposes, and invested by the Board of Trustees with other Pension Plan assets.

5) The Plan Administrator shall provide an annual statement to the Board of Trustees and each Share Plan member on or before April 1 each year, showing each member's Individual Share Plan account balance and the interest credited to the member's Share Plan account that year.

6) The expense of administering the Share Plan for the preceding plan year shall be determined by the Police Pension Board of Trustees and charged against the available funds received for that year, before allocations are made to individual member Share Plan accounts.

7) A member's Share Plan account shall be distributed to the member within 60 days following retirement. A member's Share Plan account distribution may be rolled over to another qualified plan. If a member dies before retirement, the member's Share Plan account balance on the date of death shall be distributed to the member's designated beneficiary(ies).

8) In the event a Share Plan member separates from employment before attaining ten (10) years of credited service, or separates from employment after attaining ten (10) years of credited service but elects to receive a refund of member contributions in lieu of any benefit from the plan, the member shall forfeit his/her Share Plan account balance. Forfeitures shall not be used to increase the benefits of any plan members, and will be used to reduce plan costs and or employer contributions.

SECTION 2. Article 4, Section 4.3.1 of the Town of Davie Police Pension is hereby

amended to read as follows:

ARTICLE IV. PAYMENT OF BENEFITS.

SECTION 4.3.1 ELIGIBILITY.

* * *

(d) Effective November 1, 2017, members who elect to enter the DROP shall receive a written benefit calculation prior to commencing participation in the DROP. The benefit calculation will be prepared by the plan actuary in accordance with Section 4.3.5, and it will indicate if the member's benefit will be impacted by the annual benefit limits under Section 415 of the Internal Revenue Code, and if so impacted, an estimate of the impact if the member participates in the DROP for the maximum DROP period. If a member's benefit will be impacted, the plan administrator will advise the member to seek guidance from a tax professional. The member may reduce or eliminate the impact of Section 415 benefit limits by selecting a different optional form of benefit, or by reducing the member's DROP participation period. Each member who elects to participate in DROP shall acknowledge in writing the member's understanding that the Town has not established an excess benefits plan for members of the police pension plan and has no obligation to establish an excess benefits plan, and therefore he or she assumes any risk of potential reduction in pension benefits due to the effects of Section 415.

SECTION 3. Article 4, Sections 4.3.5(c) of the Town of Davie Police Pension is hereby amended

to read as follows:

ARTICLE IV. PAYMENT OF BENEFITS

SECTION 4.3.5 BENEFIT CALCULATION.

(c) Transfer of Accumulated Leave to frontload a DROP account or to a Terminal Leave Account:

Transfers of accrued leave pay-outs for vested employees to frontload a DROP account or to a Terminal Leave account shall occur only when: (1) the vested employee retires and continues employment via the DROP; or (2) the vested employee enters retirement directly without participating in the DROP; or (3) the vested employee separates employment in good standing without immediately retiring, as follows:

(i) For those vested employees who retire and continue employment in the DROP, the value of their accrued leave pay-outs will be transferred/ frontloaded to the vested employee's DROP account subject to the caps and limitations contained in the operative collective bargaining agreement. Upon separation, the remaining balance of the leave accrual payouts, not to exceed any applicable maximum accrual and/or payout caps, will be paid into the employee's DROP account.

(ii) Terminal Leave Accounts shall be created for all vested employees who retire but do not enter DROP and for vested employees who separate employment in good standing without immediately retiring. The Terminal Leave Accounts shall be administered as part of the

pension plan by the Pension Board and shall receive transfers of accrued leave pay-outs at separation based on the caps and limitations contained in the operative collective bargaining agreement.

Terminal Leave Account balances shall be distributed/rolled-over to the separated employee within 90 days after the vested employee's separation date, in a manner consistent with the separated employee's direction, if given, and in all cases, shall be subject to all applicable requirements, payments and/or penalties of the Internal Revenue Code/Treasury regulations. Terminal Leave Accounts shall be created, maintained and administered in a manner that shall not create, or result in, any costs to the Town or to the Pension Plan.

The Pension Board, by rule, shall have the authority to enact administrative rules for purposes of administering the provisions of this Section, consistent with the Federal tax laws in effect on the date of transfer. No such rule shall conflict with the provisions of this Section or the Internal Revenue Code. The value of the leave transferred shall be determined in accordance with then applicable personnel policies or collectively bargained agreements.

~~(e) Transfer of Accumulated Leave. DROP participants will have the option to "front load" the DROP with accumulated vacation, holiday, and sick time in excess of four hundred and eighty (480) hours as follows:~~

~~Members eligible to receive accumulated vacation time, accumulated holiday time or accumulated sick time, which is otherwise payable only upon separation, may elect, not later than the December 31st of the calendar year prior to the year of separation from service, to have the leave in excess of 480 hours transferred into the member's DROP account. Initial eligibility to front load the DROP shall begin when a participant first becomes eligible to enter into the DROP. On an annual basis, effective September 30 of every year, DROP participants may elect to continue transferring accumulated leave balances above the 480 requirement set forth above.~~

~~For purposes of this section, the term "separation" shall mean termination of service as a police officer with the Town of Davie. The Pension Board, by rule, shall have the authority to enact administrative rules for purposes of administering the provisions of this Section, consistent with the Federal tax laws in effect on the date of transfer. No such rule shall conflict with the provisions of this Section or the IRS Code. The value of the leave transferred shall be determined in accordance with applicable personnel policies or collectively bargained agreements.~~

SECTION 4. Article 4, Section 4.3.7 of the Town of Davie Police Pension is hereby amended to

read as follows:

ARTICLE IV. PAYMENT OF BENEFITS.

SECTION 4.3.7 DROP EARNINGS.

(A) Pension Plan Return Option:

At the option of the DROP Participant, DROP accounts may be invested in the same manner as the Pension Plan's investment portfolio. Member accounts shall be credited or debited, as appropriate, with the investment earned/lost at a rate equal to the Fund's actual investment return, net of investment expenses. Accounts may be credited monthly or quarterly at the discretion of the Board of Trustees. Investment earnings/losses will be posted up to the last date of the members' DROP period. DROP participants by virtue of their participation authorize the Retirement Board to invest their DROP assets in the same manner as other assets of the Pension Fund. By participation in the DROP, DROP participants agree to hold the Board of Trustees, the Retirement Fund and the Town of Davie free from any liability claims associated with investment losses which may occur in the ordinary course of the investment of assets of the Retirement System.

(B) Self Directed DROP Option:

At the option of the DROP participant, DROP accounts may be self-directed by DROP participants using mutual funds and related investment vehicles offered under the self-directed DROP program. The Pension Board, working with its investment consultant, shall approve a series of mutual funds and investment vehicles which may be selected by DROP participants. Any losses, charges, or expenses incurred by the DROP participant shall be borne solely by the DROP participant, not by the Town of Davie, the Board of Trustees, or the Pension Plan. At least one of the investment vehicles offered under the self-directed DROP shall be a guaranteed investment contract or similar stable value, or low volatility product, with any contractual guarantees provided by the third-party vendor, not the Pension Plan or Town. In order to participate in the self-directed DROP program, DROP participants shall agree in writing to hold the Board of Trustees, the Pension Plan and the Town of Davie free from any liability claims associated with investment losses.

Existing DROP participants on the date of adoption shall be permitted to make a written irrevocable election, within sixty days, to transfer their DROP balance into the self-directed DROP program.

(C) Default:

The default option for DROP participants who do not make an election prior to entering DROP shall be the Pension Plan Return Option, which election shall be irrevocable.

SECTION 5. Article 7, Section 7.1(b) of the Town of Davie Police Pension is hereby amended to read as follows:

ARTICLE VII. CONTRIBUTIONS.

SECTION 7.1 GOVERNMENT CONTRIBUTIONS.

* * *

(b) Chapter 185 contributions. Under Chapter 185 of the Florida Statutes, the State of Florida pays to the Police Pension Plan Trust certain monies received as premiums on casualty insurance written in the Town to help fund the cost of the age 55 Normal Retirement Age and other benefits not generally provided to other employees. In the event the Plan's actuary determines that all such contributions are not needed for such purpose, the Board

~~will use the excess to fund other benefits provided under this Plan, subject to approval of the Florida Department of Management Services, Division of Retirement, Bureau of Police and Fire Pensions, and the Town. The Board will maintain a separate accounting of these contributions but may merge them with other Plan assets for investment purposes. The Town and the Fraternal Order of Police have mutually agreed that all excess Chapter 185 premium tax revenues accumulated through the date of the Actuarial Valuation of the Davie Police Pension Plan as of October 1, 2016, and all additional excess Chapter 185 premium tax revenues received on or after that Actuarial Valuation report was issued in 2016 shall be used to reduce the Town's required contribution.~~

SECTION 6. If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full force and effect.

SECTION 7. All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

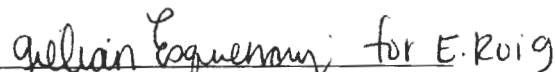
SECTION 8. This Ordinance shall become immediately upon adoption, unless otherwise provided.

PASSED ON FIRST READING THIS 18TH DAY OF OCTOBER, 2017.

PASSED ON SECOND READING THIS 1ST DAY OF NOVEMBER, 2017.


MAYOR/COUNCILMEMBER

ATTEST:


TOWN CLERK / Deputy Town Clerk

APPROVED THIS 1ST DAY OF NOVEMBER, 2017.