

TAB 2

ORDINANCE NO. 09-1002

AN ORDINANCE OF THE CITY OF PALMETTO AMENDING CHAPTER 22, PERSONNEL, ARTICLE IV, GENERAL EMPLOYEES' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF PALMETTO; AMENDING SECTION 22-82, MEMBERSHIP; AMENDING SECTION 22-84, FINANCES AND FUND MANAGEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, IN REGULAR SESSION ASSEMBLED:

SECTION 1: That Chapter 22, Personnel, Article IV, General Employees' Retirement System, of the City of Palmetto Code of Ordinances, is hereby amended by amending Section 22-82, Membership, to read as follows:

Sec. 22-82. Membership.

Conditions of eligibility.

(a) All general employees as of January 1, 1986, all those subsequently becoming members, and all future new general employees shall be members of this system as a condition of employment.

(b) If, as of January 1, 1986, a general employee elected not to become a member in the system, such member may subsequently elect to become a member of the system. He shall become a member on the date such election is submitted in writing to the board. Credited service shall be given for all periods of employment with the city provided such member pays to the fund an amount which would equal his accumulated contributions, determined as if he had participated in the system from the date he is requesting credit, plus interest at the rate of five (5) percent compounded annually. If such member does not contribute his member contributions to the fund, credited service shall be given from the date he became a member.

(c) *Opt out option.* Notwithstanding (a) above, the current city clerk, director of public works and chief of police may, within ten (10) days from the effective date of the ordinance adopting this subsection, and any future city clerk, director of public works and chief of police may, in the event he has elected to participate in another pension program, within the first 12 months of his employment as city clerk, director of public works and chief of police, notify the board and the city, in writing, of his election to not be a member of the system. In the event of any such election, the board shall refund from the fund, the full amount, without interest, withheld from the member's salary and deposited in the fund and he shall be barred from future membership in the system.

(d) Each general employee shall complete a form prescribed by the board providing for a designation of a beneficiary or beneficiaries.

(e) *Opt-in option.* Notwithstanding the provisions above, any current general employee who previously opted-out of the system pursuant to subsection (c) above, may, within sixty (60) days of the effective date of the ordinance adopting this provision, elect, in writing, to reenter the system and any such general employee may also elect to receive credited service for all or a part of his

time of employment with the city, by buying back such credited service as provided for in Section 22-107, Prior government service.

SECTION 2: That Chapter 22, Personnel, Article IV, General Employees' Retirement System, of the City of Palmetto Code of Ordinances, is hereby amended by amending Section 22-84, Finances and Fund Management, subsection (6), to read as follows:

(6) The board shall have the following investment powers and authority:

a. The board shall be vested with full legal title to said fund, subject, however, and in any event to the authority and power of the Palmetto city ~~council~~ commission to amend or terminate this fund, provided that no amendment or fund termination shall ever result in the use of any assets of this fund except for the payment of regular expenses and benefits under this system, except as otherwise provided herein. All contributions from time to time paid into the fund, and the income thereof, without distinction between principal and income, shall be held and administered by the board or its agent in the fund and the board shall not be required to segregate or invest separately any portion of the fund.

~~b. All monies paid into or held in the fund shall be invested and reinvested in such securities or property wherever situated and whatever kind, as shall be approved by the board, including but not limited to stocks, common or preferred, bonds, other evidences of indebtedness or ownership, and mutual funds, but there shall be no investment in the following:~~

- ~~1. Margin purchases:~~
- ~~2. Commodities:~~
- ~~3. Calls or straddles (not including covered call options):~~
- ~~4. Warrants or other options, except as part of purchase of another security:~~
- ~~5. Venture capital:~~
- ~~6. Any investment prohibited by state or federal law:~~
- ~~7. Bonds that are rated less than "A" by Standard and Poors and Moodys:~~
- ~~8. Real property or real estate:~~

~~The board shall develop and adopt a written investment policy statement setting forth goals and objectives of investments and setting quality and quantity limitations on investments. The investment policy statement shall be reviewed by the board at least annually.~~

~~c. The board shall not invest more than five (5) percent of its assets in the common stock, capital stock, or convertible securities of any one (1) issuing company, nor shall the aggregate investment in any one (1) issuing company exceed five (5) percent of the outstanding capital stock of that company; nor shall the aggregate of its investments in common stock, capital stock and~~

~~convertible securities at cost exceed seventy (70) percent of the assets of the fund.~~

~~d. The board shall not invest more than twenty (20) percent of its assets in foreign securities.~~

b. 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 subject to the following:

1. Notwithstanding any limitation in prior city ordinances to the contrary, all monies paid into or held in the fund may be invested and reinvested in such securities, investment vehicles or property wherever situated and of whatever kind, as shall be approved by the board, including but not limited to common or preferred stocks, bonds, and other evidences of indebtedness or ownership, however, the board shall per permitted to invest only in those investments set forth in Section 215.47, Florida Statutes and shall be limited to the investment restrictions provided for therein.

2. The board shall develop and adopt a written investment policy statement setting forth permissible types of investments, goals and objectives of investments and setting quality and quantity limitations on investments in accordance with the recommendations of its investment consultants. The investment policy statement shall be reviewed by the board at least annually.

3. In addition, the board may, upon recommendation by the board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100 or successor rulings or guidance of similar import, and while any portion of the assets of the fund are invested in such a group trust, such group trust is itself adopted as a part of the system or plan.

e c. At least once every three (3) years, and more often as determined by the board, the board shall retain a professionally qualified independent consultant to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the board at its next regularly scheduled meeting.

f d. Neither the board nor any trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the fund, except that due to his or its own negligence, willful misconduct or lack of good faith.

g e. The board may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cash requirements of the system.

h f. The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the fund.

- i g. The board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be the best interest of the fund to exercise.
- j h. The board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.
- k i. Where any action which the board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as trustee under this article, can reasonably be taken or performed only after receipt by it from a member, the city, or any other entity, of specific information, certification, direction or instructions, the board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction, or instruction has been received by it.
- l j. Any overpayments or underpayments from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial equivalent of the benefit to which the member, retiree or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the fund in a prudent manner.
- m k. The board shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits herein provided for.
- n l. In any application to or proceeding or action in the courts, only the board shall be a necessary party, and no member or other person having an interest in the fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.
- o m. Any of the foregoing powers and functions reposed in the board may be performed or carried out by the board through duly authorized agents, provided that the board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said fund shall always remain in the board.

SECTION 3: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Palmetto.

SECTION 4: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 5: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 6: This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four votes.

First Reading: _____, 2009.

Publication: _____, 2009.

Second Reading and Public Hearing: _____, 2009.

PASSED AND DULY ADOPTED BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, with a quorum present and voting, in regular session assembled, this _____ day of _____, 2009.

MAYOR

ATTEST:

CITY CLERK