

**TAB 3**

Law Offices

# Christiansen & Dehner, P.A.

63 Sarasota Center Blvd. Suite 107 Sarasota, Florida 34240 • 941-377-2200 • Fax 941-377-4848

---

November 14, 2011

Ms. Diane Ponder  
Palmetto Police Officers' Retirement Plan  
Post Office Box 1209  
Palmetto, Florida 34220-1209

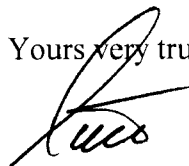
Re: City of Palmetto Police Officers' Retirement Plan - Proposed Ordinance

Dear Diane:

As directed by the Board at its last meeting, enclosed please find a proposed ordinance amending the City of Palmetto Police Officers' Retirement Plan. The ordinance makes changes to the definitions of actuarial equivalent and salary, and amends the investment section to provide for more liberal investment restrictions. Please provide a copy of this document to each member of the Board for review and discussion at the next meeting.

If you have any questions with regard to this ordinance, please feel free to give me a call.

Yours very truly,



Scott R. Christiansen

SRC/dm  
enclosure

cc: Doug Lozen, with enclosure

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 22, PERSONNEL, ARTICLE V, POLICE OFFICERS' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF PALMETTO; AMENDING SECTION 22-171, DEFINITIONS; AMENDING SECTION 22-174, 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;**

**SECTION 1:** That Chapter 22, Personnel, Article V, Police Officers' Retirement Plan, of the Code of Ordinances of the City of Palmetto, is hereby amended by amending Section 22-171, Definitions, to amend the definitions of "*Actuarial equivalent*" and "*Salary*", to read as follows:

*Actuarial equivalent* means a benefit or amount of equal value, based upon the ~~1983 Group Annuity RP 2000 Combined Healthy Mortality Table~~ and an interest rate ~~to be determined by the board of eight percent (8%) per annum~~. This definition may only be amended by the city pursuant to the recommendation of the board using assumptions adopted by the board with the advice of the plan's actuary, such that benefit calculations are not subject to city discretion.

\* \* \* \* \*

*Salary* means the total compensation for services rendered to the city as a police officer reportable on the member's W-2 form, including overtime, bonuses and any payment of accrued vacation or sick time, and plus all tax deferred, tax sheltered, or tax exempt items of income derived from elective employee payroll deductions or salary reductions. For service earned after July 1, 2011, Salary shall not include more than three hundred (300) hours of overtime per calendar year and shall also not include payments for accrued unused sick or annual leave. Provided however, in any event, payments for overtime in excess of three hundred (300) hours per year or accrued unused sick or annual leave accrued as of July 1, 2011 and attributable to service earned prior to July 1, 2011, may still be included in Salary for pension purposes even if the payment is not actually made until on or after July 1, 2011. In any event, with respect to unused sick leave and unused annual leave accrued prior to July 1, 2011, Salary will include the lesser of the amount of sick or annual leave time accrued on July 1, 2011 or the actual amount of sick or annual leave time for which the retiree receives payment at the time of retirement, regardless of whether the amount of sick or annual leave was, at some time prior to retirement, reduced below the amount on July 1, 2011

Compensation in excess of the limitations set forth in section 401(a)(17) of the code as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year beginning on or after January 1, 2002, may not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Internal Revenue Code Section 401(a)(17)(B). Compensation means compensation during the fiscal year. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a member's

contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a member before the first plan year beginning after December 31, 1995.

\* \* \* \* \*

**SECTION 2:** That Chapter 22, Personnel, Article V, Police Officers' Retirement Plan, of the Code of Ordinances of the City of Palmetto, is hereby amended by amending Section 22-174, Finances and Fund Management, subsection (6)b., to read as follows:

\* \* \* \* \*

(6) 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 ~~limited~~ to subject to the following:

- ~~1. Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the members in the fund shall be entitled under the provisions of this system and pay the initial and subsequent premium thereon.~~
- ~~2. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund or a savings/building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.~~
- ~~3. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States or by an agency of the government of the United States.~~
- ~~4. Bonds issued by the State of Israel.~~
- ~~5. Stocks, commingled funds administered by national or state banks, mutual funds and bonds or other evidences of indebtedness, provided that:
  - ~~i. Except as provided in subparagraph (1), all individually held securities and all securities in a commingled or mutual fund must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia.~~
  - ~~ii. Up to twenty-five (25) percent of the assets of the fund at market value may be invested in foreign securities.~~
  - ~~iii. 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 issuing company, nor shall the aggregate investment in any one 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 exceed the greater of sixty (60) percent at cost or sixty (60) percent at market of the assets of the fund.~~

- ~~6. Real estate investments in an amount not to exceed at cost value fifteen (15) percent of the assets of the fund. The board may invest in real estate directly or through an investment vehicle approved by the board.~~
1. Notwithstanding any limitation provided for in Chapter 185, Florida Statutes to the contrary (unless such limitation may not be amended by local ordinance) or 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. In no event, however, shall more than twenty-five percent of the assets of the fund at market value be invested in foreign securities.
  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.

\* \* \* \* \*

**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: \_\_\_\_\_, 2011.

Publication: \_\_\_\_\_, 2011.

Second Reading and Public Hearing: \_\_\_\_\_, 2011.

**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 \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK