



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE

SUBJECT: Proposed Ordinance Amendment Police Pension
Approve Ordinance No. 2007-15

DEPARTMENT: POLICE

RECOMMENDED MOTION: Amend the existing ordinance to authorize third party payments as a deduction from their benefits for specific purposes.

COMMENTS: Recent changes in federal law governing public pension plans for public service employees, specifically the Pension Protection Act of 2006, permits the pension recipient to authorize the board of trustees to withhold from the monthly benefit those funds necessary to pay for health care and long-term care insurance premiums up to \$3000.00 annually tax deferred. The proposed amendment attached hereto also provides for the disbursement of child support and alimony payments as authorized and requested by the pension recipient. The Police Benevolent Association has furnished an opinion that the revision does not require a vote of the union membership. The actuary has provided an actuarial impact statement to the effect that there is no impact to the cost of the plan as a result of the suggested revision of the existing ordinance. The proposal does not increase the benefit level or cost of the plan.

ATTACHMENTS: Ordinance Resolution Budget Resolution

Other Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD	Gerald M. Monahan, Jr.	<i>Gerald M. Monahan, Jr.</i>	Date <i>3/5/07</i>
FINANCE DEPARTMENT	Approved as to Budget Requirements		Date
CITY ATTORNEY	Approved as to Form and Legality	<i>M.A. Schick</i>	Date <i>3-9-07</i>
CITY MANAGER	Approved Agenda Item For:	<i>[Signature]</i>	Date <i>3/20/07</i>

COUNCIL ACTION: Approved as Recommended Disapproved Tabled Indefinitely
 Continued to Date Certain Approved with Modification:

ORDINANCE NO. 2007-15

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CITY OF PORT ORANGE POLICE OFFICERS' PENSION FUND, SECTION 54-138, PROVIDING THAT RETIREES MAY AUTHORIZE DIRECT THIRD PARTY PAYMENTS AS A DEDUCTION FROM NET BENEFITS FOR SPECIFIC PURPOSES; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to amend its police officers' pension fund, which is a local law plan established pursuant to Section 185.35, Florida Statutes, to provide retirees may authorize direct third party payments for specific purposes; and

WHEREAS, a public hearing has been held pursuant to Chapter 166, Florida Statutes; and

WHEREAS, the City Council has, prior to the final adoption of this ordinance, reviewed the actuarial impact statement which sets forth the cost to the City of this amendment; and

WHEREAS, the City Council of the City of Port Orange has determined that it is in the public interest to adopt this ordinance.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. Section 54-138 of the City of Port Orange Police Pension Fund is hereby amended as follows:

Sec. 54-138. Miscellaneous provisions.

(c) Benefits not assignable. The right of any person to any payment under this pension plan shall not be subject to assignment, alienation or voluntary or involuntary transfer, except that the recipient of any monthly benefit may authorize the board of trustees to withhold from the monthly benefit those funds necessary to pay for the benefits being received through the city, to pay the certified bargaining agent of the City, and to make any payments for child support or alimony, and, to the fullest extent permitted by law, shall not be subject to attachment, execution, garnishment, sequestration or other legal or equitable process. If any person attempts to assign, transfer or dispose of such right, or if an attempt is made to subject such right to such process, such assignment, transfer or disposition shall be null and void.

Section 2. Specific authority is hereby granted to codify and incorporate this ordinance in the existing Code of Ordinances of the City of Port Orange.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provision or applications of this ordinance which can be given effect without the invalid provision or application, and to this and the provisions of this ordinance are declared severable.

Section 5. This ordinance amendment shall take effect on adoption.

MAYOR ALLEN GREEN

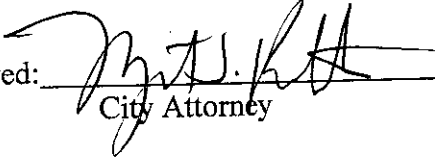
ATTEST:

Kenneth W. Parker, City Manager

Passed on first reading on the ____ day of _____, 2007.

Passed and adopted on second and final reading on the ____ day of _____
_____, 2007.

Reviewed and Approved: _____


City Attorney



March 5, 2007

Judy Surmaczewicz
Pension Administrator
City of Port Orange Police Officers' Pension Fund
1395 Dunlawton Avenue
Port Orange, Florida 32129
(386) 756-0515 (Telephone)

Dear Judy:

Re: Statement of No Impact With Respect to Payments to a Third Party

This letter is being written to provide a statement of no impact with regard to the proposed ordinance to the City of Port Orange Police Officers' Pension Fund (the Plan) which allows for payment of monthly benefits to a third party, as follows.

Proposed Ordinance Wording

We were asked to review the proposed change to the current Plan Provisions as shown underlined below.

Sec. 54-138. Miscellaneous provisions.

(c) Benefits not assignable. The right of any person to any payment under this pension plan shall not be subject to assignment, alienation or voluntary or involuntary transfer, except that the recipient of any monthly benefit may authorize the board of trustees to withhold from the monthly benefit those funds necessary to pay for the benefits being received through the city, to pay the certified bargaining agent of the City, and to make any payments for child support or alimony, and, to the fullest extent permitted by law, shall not be subject to attachment, execution, garnishment, sequestration or other legal or equitable process. If any person attempts to assign, transfer or dispose of such right, or if an attempt is made to subject such right to such process, such assignment, transfer or disposition shall be null and void.

Actuarial Impact

As the total amount of benefits payable under the Plan are not affected by this change in Plan provisions, there is no impact to the cost of Plan.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chad M. Little', is written over a faint, larger version of the same signature.

Chad M. Little, ASA, EA
Partner, Consulting Actuary

SUGARMAN & SUSSKIND

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

Robert A. Sugarman ♦
Howard S. Susskind
Kenneth R. Harrison, Sr.
David E. Robinson
D. Marcus Braswell, Jr.
Pedro A. Herrera

♦ Board Certified Labor
& Employment Lawyer

2801 Ponce De Leon Boulevard
Suite 750
Coral Gables, Florida 33134
(305) 529-2801
Broward 327-2878
Toll Free 1-800-329-2122
Facsimile (305) 447-8115

January 16, 2007

Board of Trustees
City of Port Orange Police Officers' Pension Fund
c/o Tim Girard, Chairman
Port Orange Police Department
1395 Dunlawton Avenue
Port Orange, Florida 32129

*Re: City of Port Orange Police Officers' Pension Fund
Proposed Ordinance Amendment*


Dear Trustees:

We are pleased to enclose a proposed ordinance amendment which amends §54-138 of your pension plan to provide that retirees may authorize direct third party payments as a deduction from their net benefits for specific purposes.

Kindly place this item on the agenda for consideration and adoption by the Board of Trustees.

If you should have any questions, please do not hesitate to contact us at any time.

Yours truly,


Jessica De la Torre, Assistant to
ROBERT A. SUGARMAN

/jd

Enclosure

Girard Tim

From: Jakovenko John
Sent: Wednesday, February 07, 2007 10:28 AM
To: Girard Tim
Cc: Jakovenko John
Subject: 54-138

Mr. Chairman:

Today I had the PBA legal review the change to said ordinance above reference the POPD Police Pension. It is the opinion of the Union, that said change is a change in Terms of Conditions of Employment. Due to the nature of the change, a positive change to the pension member, a vote by the membership would not be necessary. It was suggested, if the Pension Board wanted the information could be made available to the Pension Membership so they would be aware of the change.

Thank You



John Jakovenko
PBA Representative POPD