

# TOWN OF DAVIE

## TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Council Members

**FROM/PHONE:** Bill Underwood/797-1050  
Document Prepared by: Bill Underwood/797-1050

**SUBJECT:** Ordinance

**AFFECTED DISTRICT:** N/A

**TITLE OF AGENDA ITEM:** AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE FIREFIGHTERS PENSION TRUST FUND TO CODIFY THE COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BETWEEN THE TOWN AND THE IAFF; AMENDING SECTION FOUR OF THE PLAN TO PROVIDE FOR INCREASED EMPLOYEE CONTRIBUTIONS; AMENDING SECTION SIX OF THE PLAN TO INCREASE THE NORMAL RETIREMENT BENEFIT; AMENDING SECTION FOURTEEN OF THE PLAN TO INCREASE THE MAXIMUM PERIOD OF DROP PARTICIPATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:** As the Council maybe aware, certain changes to the Fire Pension Plan were provided in the Collective Bargaining Agreement for the period of 2002 to 2005. That agreement provided for increase in benefits to Firefighters Pension members. Despite the fact, the ordinance has not been heretofore brought forward for Councils actions; audit and actuarial calculations and contributions have been and are premised on the implementing of the proposed ordinance. This office has requested a review of both the labor contract and the attached pension ordinance and we have been advised that the pension ordinance conforms to the labor contract. As a result, we respectfully request Town Councils approval to the attached ordinance on the first reading.

**PREVIOUS ACTIONS:** Town Council previously approved resolution number R-2000-107 on May 17, 2004.

**CONCURRENCES:** Town's counsel reviewed attached ordinance and provided their comments on the attached letter.

**FISCAL IMPACT:**

Has request been budgeted? Yes

If yes, expected cost: Fire Department salary account.

**RECOMMENDATION(S):** Motion to approve the ordinance.

**Attachment(s):**

Ordinance

Letter from Glenn Thomas

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE FIREFIGHTERS PENSION TRUST FUND TO CODIFY THE COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BETWEEN THE TOWN AND THE IAFF; AMENDING SECTION FOUR OF THE PLAN TO PROVIDE FOR INCREASED EMPLOYEE CONTRIBUTIONS; AMENDING SECTION SIX OF THE PLAN TO INCREASE THE NORMAL RETIREMENT BENEFIT; AMENDING SECTION FOURTEEN OF THE PLAN TO INCREASE THE MAXIMUM PERIOD OF DROP PARTICIPATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie has previously adopted Ordinance 98-47 amending and restating the pension plan for firefighters;

WHEREAS, the Town of Davie Firefighter Pension Plan is required to comply with the minimum benefit requirements of Chapter 175, Florida Statutes; and

WHEREAS, the Town has negotiated a collective bargaining agreement providing for new pension benefits for firefighters.

WHEREAS, the Town of Davie Firefighter Pension Plan receives Chapter 175 premium tax revenue from the State of Florida and is governed by the requirements of Chapter 175, Florida Statutes.

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

Section 1: Section 4 of the Town of Davie Firefighters Pension Trust Fund is hereby amended to read as follows:

**SECTION FOUR. CONTRIBUTIONS.**

A. The Town shall pick-up, rather than deduct from each member's pay, as intended under Section 414(h)(2) of the Internal Revenue Code, beginning with the date of employment, ~~five (5%)~~ seven (7%) percent of the member's earnable compensation, or such other amount as set forth below in subsection (1) through (3) below. The monies so picked-up shall be deposited in the Fund. An account record shall be maintained continuously for each member. Pick-up contributions shall continue until death, disability or termination of service, whichever shall occur first. Contributions shall remain in the Fund unless withdrawn as provided in the Plan. No member shall have the option to choose to receive the contributed amounts directly instead of having them paid by the Town directly to the Plan. All such pick-up contributions by the Town shall be deemed and be considered as part of the member's accumulated contributions and subject to all provisions of the Plan pertaining to accumulated contributions of members. The intent of this provision is to comply with Section

414(h) (2) of the Internal Revenue Code. For the purpose of accruing and calculating pension benefits, Social Security benefits, overtime compensation, percentage increases to base pay, supplemental percentage payments for particular assignments, education, experience, longevity, years of service, payroll steps, licensure or training, and for paying Social Security taxes, and for such other purposes except as specified in this Plan, the amount of employee contributions "picked-up" or paid by the Town will be added to the amount distributed on a current basis in order to determine total wages, salary, pay or compensation.

1. For members who were actively employed on October 1, 2002, who were hired on or after October 1, 1986, and therefore had not completed sixteen (16) years of Credited Service prior to October 1, 2002, commencing with the first pay period in October 2002: the employee contribution rate will be increased to seven percent (7.0%). This contribution shall be made until the employee retires, enters the DROP or otherwise terminates employment in a Town of Davie Municipal Firefighter's Pension Trust Fund eligible job classification.
2. For members who were actively employed on October 1, 2002, who were hired before October 1, 1986, who had completed sixteen (16) years of Credited Service prior to October 1, 2002, and who were not DROP participants at any time on or after October 1, 2002, commencing with the first pay period in October 2002: the employee contribution rate will be increased to seven percent (7.0%). Said employees must also pay an actuarially determined amount that shall be a sum equal to two percent (2.0%) times the total Earnable Compensation after attaining sixteen (16) years of Credited Service, up through October 1, 2002. This actuarially determined amount must be paid in full prior to the date that is five (5) years following the date on which the Town Council approves the resolution ratifying this collective bargaining agreement. Failure to pay this actuarially determined amount in full within the prescribed time period will exclude the member from the increased multiplier benefit set forth in subsection 6(B). Additionally, pension benefit payments received beyond this prescribed date will be adjusted to comply with this provision.
3. For members who were actively employed on October 1, 2002, who were hired before October 1, 1986, who had completed sixteen (16) years of Credited Service prior to October 1, 2002, and who are DROP participants or were DROP participants as of October 1, 2002: said employees must pay an actuarially determined amount that shall be a sum equal to two percent (2.0%) times the total Earnable Compensation after attaining sixteen (16) years of Credited Service, up through the date of entry into the DROP. This actuarially

determined amount must be paid in full prior to the date that is five (5) years following the date on which the Town Council approves the resolution ratifying this collective bargaining agreement. Failure to pay this actuarially determined amount in full within the prescribed time period will exclude the member from the increased multiplier benefit set forth in subsection 6(B). Pension benefit payments received beyond this prescribed date will be adjusted to comply with this provision.

Section 2: Section 6 of the Town of Davie Firefighters Pension Trust Fund is hereby amended to read as follows:

**SECTION SIX. SERVICE RETIREMENT BENEFITS; EARLY RETIREMENT BENEFITS; COST OF LIVING ADJUSTMENTS.**

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- B. A normal retirement benefit shall be determined by multiplying three (3%) of final monthly compensation by the number of years of credited service for the first twenty (20) years of credited service and two (2%) percent for each additional year of credited service, up to a maximum of 30 years of service. The normal form of retirement benefit shall be an unreduced life annuity with one hundred twenty (120) guaranteed payments. If the member shall die prior to receiving one hundred twenty (120) payments, the remaining benefits shall be paid to the beneficiary designated by the member. In the event that no beneficiary has been designated, the member's estate shall be the recipient of the remaining balance of payments. Effective October 1, 2004, the normal retirement benefit shall be three percent (3%) of Final Monthly Compensation per year for the first ten (10) years of Credited Service, four percent (4%) of Final Monthly Compensation per year for the next ten (10) years of Credited Service, and two percent (2%) of Final Monthly Compensation per year for the next ten (10) years of Credited Service, for all members who were actively employed on or after October 1, 2002.

Section 3: Section 7 of the Town of Davie Firefighters Pension Trust Fund is hereby amended to read as follows:

**SECTION SEVEN. BUY-BACK FOR MILITARY SERVICE, PRIOR SERVICE, COORDINATION OF BENEFITS.**

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- B. To be eligible for prior service buy back, the member must have completed one ~~at least 10~~ years of creditable service as a firefighter with the Town.

Section 4: Section 14 of the Town of Davie Firefighters Pension Trust Fund is hereby amended to read as follows:

**SECTION FOURTEEN. DEFERRED RETIREMENT OPTION PLAN.**

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C. Eligibility.

2. The maximum DROP participation period shall be five (5) years commencing at the earliest date of eligibility. The available DROP participation period shall decline by one month until the expiration of a sixty (60) month period beginning at eligibility date. Effective October 1, 2002, the maximum period of DROP participation shall be increased by one (1) year to a maximum participation period of six (6) years for all members of the Pension Plan and existing DROP participants.

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4. Notwithstanding any provision to the contrary, effective October 1, 2002, DROP participants actively employed in the Fire Rescue Department and whose DROP period has expired may remain employed by the Town of Davie for (1) one additional year and continue in the DROP for that additional year. However, upon expiration of the six (6) year DROP period, and separation for the service of the Town, no further retirement distributions will be added to the employee's DROP account and subsequent retirement benefits will be paid directly to the employee. The employment extension referenced in this paragraph shall be based annually upon Departmental staffing needs. The determination to extend employment shall be made annually by the Town at the beginning of the Town's fiscal year and shall apply to all bargaining unit DROP participants in their final year of DROP participation.

Section 5: 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 6: All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 7: This Ordinance shall become immediately upon adoption.

PASSED on first reading by the Town Council of the Town of Davie, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2005.

PASSED AND ADOPTED on the second reading by the Town Council of the Town of Davie, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
Town Clerk

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2005

Coding: Words in stricken type are deletions from existing text.  
Words in underline type are additions.



LEWIS, LONGMAN & WALKER, P.A.  
ATTORNEYS AT LAW

Reply To: Tallahassee

August 22, 2005

Mr. Chris Kovanes,  
Town Administrator  
Town of Davie  
6591 Orange Drive  
Davie, FL 33314-3399

Re: Proposed Firefighter Pension Ordinances

Dear Mr. Kovanes:

This responds to a request by William Underwood to review two proposed ordinances. Upon adoption, the ordinances will revise certain provisions of the Town of Davie Firefighters' Pension Plan to implement the Collective Bargaining Agreement between the Town and firefighters' union and comply with minimum benefit provisions in Chapter 175, Florida Statutes. We have compared the content of those ordinances with the retirement articles contained in the CBA and Chapter 175, Florida Statutes, and our conclusions follow.

#### Ordinance One

**Section 1** accurately implements the contribution provisions contained in Article 11 of the Collective Bargaining Agreement and complies with Chapter 175, Florida Statutes. We noticed, however what may be a typographical error under subsection A.1., line 2, in which the year 1976 appears. We believe the date should read October 1, 1986.

**Section 2** properly implements the change in multiplier set forth in Article 11 of the CBA and complies with Chapter 175, Florida Statutes.

**Section 3** provides that a member must have completed at least one year of creditable service to be eligible for the prior service buy-back. The revision properly implements the CBA and complies with Chapter 175.

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**Section 4** amends the deferred retirement option plan (DROP). The language employed in the Ordinance accurately tracks the language in the Collective Bargaining Agreement. The new provision provides, in part, that DROP participants whose DROP period expires may remain employed by the Town for one additional year. After the maximum six year DROP period has expired, no further retirement distribution will be added to the employee's DROP account and retirement benefits will thereafter be paid directly to the employee. This provision results in DROP participants prolonging their employment with the Town following the expiration of their DROP period and such employees who remain employed following the expiration of the DROP period will receive retirement benefit payments directly. Such extended employment is entirely at the discretion of the Town, which may approve or deny the extension based on staffing needs. This provision is not contrary to the provisions of Chapter 175, Florida Statutes.

#### **Ordinance Two**

**Section 1** provides for service retirement at age 55 with ten years of service in addition to the current requirement of twenty years of service, regardless of age. This revision complies with the minimum benefit provision in section 175.162, Florida Statutes.

**Section 2** prohibits the reduction of disability benefits below 42% for service-incurred and 25% for non-service incurred, due to worker's compensation offsets. This revision complies with the minimum benefit provisions contained in section 175.191, Florida Statutes.

**Section 3** provides that the above benefit improvements shall be funded exclusively from increases in insurance premium tax rebates. If future increases are not sufficient, the Town may reduce the benefits prospectively.

It is our opinion that the attached Ordinances comply with Florida law and where applicable, accurately reflects the terms of the Collective bargaining Agreement between the Town and the Davie Professional Firefighters Local 2315 AFL-CIO. Please call us if you have any further questions concerning these matters. With best regards, I am

Sincerely,



Glenn E. Thomas

Cc: William F. Underwood, II, Budget and Finance Director  
Robert Klausner, Esquire, Pension Board Counsel