

Meeting Date: 1/13/15

Agenda Item

29

REQUESTED COMMISSION ACTION:

|                |          |                  |                   |                                      |                     |
|----------------|----------|------------------|-------------------|--------------------------------------|---------------------|
| <u>Consent</u> | <u>X</u> | <u>Ordinance</u> | <u>Resolution</u> | <u>Consideration/<br/>Discussion</u> | <u>Presentation</u> |
|----------------|----------|------------------|-------------------|--------------------------------------|---------------------|

**SHORT TITLE** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, RESCINDING ORDINANCE NO. 2014-61; AMENDING CHAPTER 34 "CITY POLICY," BY AMENDING SECTION 34.045, "DEFINITIONS," TO MODIFY THE DEFINITION OF AVERAGE MONTHLY EARNINGS AND SURVIVING SPOUSE FOR THE POLICE AND FIREFIGHTERS' RETIREMENT SYSTEM; BY AMENDING SECTION 34.053, "NORMAL RETIREMENT DATE," AND SECTION 34.055, "NORMAL RETIREMENT BENEFIT," TO MODIFY PENSION RETIREMENT REQUIREMENTS FOR FIREFIGHTERS; BY AMENDING SECTION 34.057, "DISABILITY," TO MODIFY THE CALCULATIONS OF DISABILITY BENEFITS FOR FIREFIGHTERS; BY AMENDING SECTION 34.0603, "DEFERRED RETIREMENT OPTION PLAN," ("DROP") TO AMEND THE PROVISION RELATING TO PROMOTIONS OF FIREFIGHTERS WHO HAVE ENTERED THE DROP AND TO PROVIDE FOR FIREFIGHTER PARTICIPATION IN THE DROP LOAN PROGRAM; AND BY AMENDING SECTION 34.061, "CONTRIBUTIONS," TO MODIFY REQUIRED MEMBER CONTRIBUTION TO THE FIREFIGHTER RETIREMENT SYSTEM - ALL TO COMPLY WITH THE PROVISIONS CONTAINED IN ARTICLES 35 AND 38 OF THE ADOPTED LABOR AGREEMENTS BETWEEN THE POMPANO BEACH PROFESSIONAL FIRE FIGHTERS, LOCAL 1549 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AND THE CITY OF POMPANO BEACH, FOR THE PERIOD BEGINNING OCTOBER 1, 2010 AND ENDING SEPTEMBER 30, 2013, AND OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2016; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

**Summary of Purpose and Why:**

This ordinance corrects an ordinance which was previously passed in September 2014. The pension board attorney and City Attorney's office collaborated on the development of the ordinance to amend the plan to reflect the changes negotiated in the collective bargaining agreement with the IAFF. Unfortunately the version which was approved in September was not the final iteration. It implements the new tier of benefits which were included in the IAFF CBA (October 1, 2010 through September 30, 2013). There are no conceptual changes just legal language structure.

- (1) Origin of request for this action: Human Resources
- (2) Primary staff contact: Michael Smith 954-786-5549
- (3) Expiration of contract, if applicable: \_\_\_\_\_
- (4) Fiscal impact and source of funding: Actuarial Savings from \$10,000 to \$182,000 over next ten years. Other items have no actuarial impact.

| DEPARTMENTAL COORDINATION | DATE       | DEPARTMENTAL RECOMMENDATION     | DEPARTMENT HEAD SIGNATURE |
|---------------------------|------------|---------------------------------|---------------------------|
| Budget                    | 11.25.2014 | Approve                         |                           |
| Human Resources           | 11.24.2014 | Approve                         |                           |
| Finance                   | 11.25.2014 | Approve                         |                           |
| City Attorney             | 11.25.2014 | Reviewed for form & correctness |                           |

Advisory Board  
 Planning Director  
 Public Works Director  
 City Manager

**ACTION TAKEN BY COMMISSION:**

| <u>Ordinance</u>                       | <u>Resolution</u>             | <u>Consideration</u> |
|--|-------------------------------|----------------------|
| <u>Workshop</u>                        |                               |                      |
| 1 <sup>st</sup> Reading <u>12/9/14</u> | 1 <sup>st</sup> Reading _____ | Results: _____       |
| <u>APPROVED</u>                        |                               |                      |
| 2 <sup>nd</sup> Reading <u>1/13/15</u> | _____                         | Results: _____       |

# MEMORANDUM

## Human Resources

**DATE:** November 25, 2014

**TO:** Dennis Beach, City Manager

**FROM:** Mike Smith, Human Resources Director

**SUBJECT:** Pension Modification for Firefighters – Dec. 9, 2014 and Jan. 13, 2014



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The pension board attorney and City Attorney's office collaborated on the development of the ordinance to amend the plan to reflect the changes negotiated in the collective bargaining agreement with the IAFF. Unfortunately the version which was approved in September was not the actual final iteration. While the concepts are the same and there is nothing new in the new ordinance below, except an additional option for Firefighters to repay DROP loans via payroll deduction, there are legal language structure variations which need to be corrected. The City Attorney's office therefore wants to rescind the September ordinance and adopt the correct final version. The union and pension board attorney are also in agreement with this approach.

This item will rescind the September Ordinance and amend the Police and Firefighters Pension Plan to incorporate the changes negotiated in the collective bargaining agreement with the IAFF and ratified in May 2014 for the term October 1, 2010 through September 30, 2013. The changes include the following:

- Change the age for normal retirement from 47 to 50 \*\*.
- Provide for calculating benefits on the average of five years (formerly 3 years) \*\*
- Clarify language on disability benefit for members who are disabled due to a service connected injury after entering DROP.
- Provide survivor benefits to same sex spouses who are legally married in any state.
- Provide for a loan program from member DROP accounts and repayment rules.
- Incorporates existing language on member contributions that were previously in the DROP rules.

\*\*Change applies only to new hires after May 27, 2014



**City Attorney's Communication #2015-212**

November 17, 2014

**TO:** Michael Smith, Human Resources Director

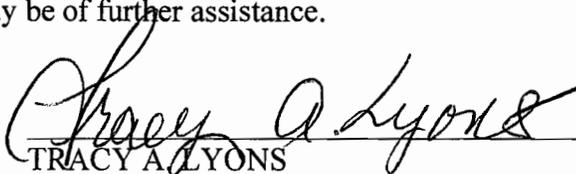
**FROM:** Tracy A. Lyons, Assistant City Attorney

**RE:** Ordinance / Labor Agreement – October 1, 2010 to September 30, 2013 and October 1, 2013 to September 30, 2016

Attached please find the following form of Ordinance, relative to the above-referenced matter:

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, RESCINDING ORDINANCE NO. 2014-61; AMENDING CHAPTER 34 "CITY POLICY," BY AMENDING SECTION 34.045, "DEFINITIONS," TO MODIFY THE DEFINITION OF AVERAGE MONTHLY EARNINGS AND SURVIVING SPOUSE FOR THE POLICE AND FIREFIGHTERS' RETIREMENT SYSTEM; BY AMENDING SECTION 34.053, "NORMAL RETIREMENT DATE," AND SECTION 34.055, "NORMAL RETIREMENT BENEFIT," TO MODIFY PENSION RETIREMENT REQUIREMENTS FOR FIREFIGHTERS; BY AMENDING SECTION 34.057, "DISABILITY," TO MODIFY THE CALCULATIONS OF DISABILITY BENEFITS FOR FIREFIGHTERS; BY AMENDING SECTION 34.0603, "DEFERRED RETIREMENT OPTION PLAN," ("DROP") TO AMEND THE PROVISION RELATING TO PROMOTIONS OF FIREFIGHTERS WHO HAVE ENTERED THE DROP AND TO PROVIDE FOR FIREFIGHTER PARTICIPATION IN THE DROP LOAN PROGRAM; AND BY AMENDING SECTION 34.061, "CONTRIBUTIONS," TO MODIFY REQUIRED MEMBER CONTRIBUTION TO THE FIREFIGHTER RETIREMENT SYSTEM - ALL TO COMPLY WITH THE PROVISIONS CONTAINED IN ARTICLES 35 AND 38 OF THE ADOPTED LABOR AGREEMENTS BETWEEN THE POMPANO BEACH PROFESSIONAL FIRE FIGHTERS, LOCAL 1549 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AND THE CITY OF POMPANO BEACH, FOR THE PERIOD BEGINNING OCTOBER 1, 2010 AND ENDING SEPTEMBER 30, 2013, AND OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2016; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

Please do not hesitate to contact me if I may be of further assistance.

  
TRACY A LYONS

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, RESCINDING ORDINANCE NO. 2014-61; AMENDING CHAPTER 34 "CITY POLICY," BY AMENDING SECTION 34.045, "DEFINITIONS," TO MODIFY THE DEFINITION OF AVERAGE MONTHLY EARNINGS AND SURVIVING SPOUSE FOR THE POLICE AND FIREFIGHTERS' RETIREMENT SYSTEM; BY AMENDING SECTION 34.053, "NORMAL RETIREMENT DATE," AND SECTION 34.055, "NORMAL RETIREMENT BENEFIT," TO MODIFY PENSION RETIREMENT REQUIREMENTS FOR FIREFIGHTERS; BY AMENDING SECTION 34.057, "DISABILITY," TO MODIFY THE CALCULATIONS OF DISABILITY BENEFITS FOR FIREFIGHTERS; BY AMENDING SECTION 34.0603, "DEFERRED RETIREMENT OPTION PLAN," ("DROP") TO AMEND THE PROVISION RELATING TO PROMOTIONS OF FIREFIGHTERS WHO HAVE ENTERED THE DROP AND TO PROVIDE FOR FIREFIGHTER PARTICIPATION IN THE DROP LOAN PROGRAM; AND BY AMENDING SECTION 34.061, "CONTRIBUTIONS," TO MODIFY REQUIRED MEMBER CONTRIBUTION TO THE FIREFIGHTER RETIREMENT SYSTEM - ALL TO COMPLY WITH THE PROVISIONS CONTAINED IN ARTICLES 35 AND 38 OF THE ADOPTED LABOR AGREEMENTS BETWEEN THE POMPANO BEACH PROFESSIONAL FIRE FIGHTERS, LOCAL 1549 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AND THE CITY OF POMPANO BEACH, FOR THE PERIOD BEGINNING OCTOBER 1, 2010 AND ENDING SEPTEMBER 30, 2013, AND OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2016; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

**WHEREAS**, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That Ordinance No. 2014-61, a copy attached hereto, is hereby rescinded in its entirety.

**SECTION 2.** That the Agreements between the Pompano Beach Professional Fire Fighters, Local 1549 of the International Association of Fire Fighters and the City of Pompano Beach for the period of October 1, 2010 to September 30, 2013, and October 1, 2013 to September 30, 2016, were ratified and approved by the City Commission on May 27, 2014.

**SECTION 3.** That Section 34.045, "Definitions," of Chapter 34, "City Policy," of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**§ 34.045 DEFINITIONS.**

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

...

***AVERAGE MONTHLY EARNINGS.*** One-twelfth of the arithmetic average of annual earnings for the highest three years preceding the actual retirement or termination date of a member. For all firefighter members hired after May 27, 2014, the Average Monthly Earnings shall be based on the highest five years preceding the actual retirement or termination date of a member.

...

***SURVIVING SPOUSE.*** A lawfully-wedded spouse, including a same-sex spouse lawfully recognized in the state in which the marriage took place, of the member at the time of the member's death.

...

**SECTION 4.** That Section 34.053, “Normal Retirement Date,” of Chapter 34, “City Policy,” of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**§ 34.053 NORMAL RETIREMENT DATE.**

(A) A member may elect to retire on or after the day of attainment of age 47, age 50 for firefighters hired after May 27, 2014, and the completion of 20 years of continuous service or attainment of age 55 and the completion of ten years of continuous service. However, employees who are eligible to, and become, members as of the effective date of this system shall be eligible to retire on the attainment of age 47 regardless of the number of years of continuous service. A police officer Member who attains 25 years of continuous service prior to attaining 47 years of age may elect to purchase, at the Member’s sole expense, a normal retirement age and unreduced normal benefit commencing the first of the month following or coincident with completion of 25 years of continuous service. In order to purchase this earlier normal retirement age, the police officer Member must pay to the Fund the full actuarial cost of the earlier normal retirement age, as determined by the Fund’s actuary. Payment shall be made by cash lump sum payment, direct transfer or rollover of an eligible rollover distribution from a qualified or eligible plan in accordance with Section 34.0602 herein or a combination of both.

...

**SECTION 5.** That Section 34.055, “Normal Retirement Benefit,” of Chapter 34, “City Policy,” of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**§ 34.055 NORMAL RETIREMENT BENEFIT.**

...

(B) *Firefighters.*

...

~~(4) The adjustment in the maximum benefit percentage under subsection (B)(3) above shall be effective beginning on October 1, 2004, and shall be implemented based upon meeting all of the following conditions and requirements:~~

~~(a) No change to the minimum retirement age;~~

~~(b) — Employee contributions shall be reduced to 0.5% after 25 years of service and upon reaching the maximum benefit of 80% and shall be increased to 11.6% if the member continues in employment and does not enter the DROP upon reaching the normal retirement date;~~

~~(c) — A service connected disability pension of a minimum of 75% or the vested pension amount, whichever is greater;~~

~~(d) — The recurring allowable Chapter 175 credit amount of the City of Pompano Beach to provide benefits is increased from \$567,754 to \$732,754 (\$165,000);~~

~~(e) — Any additional Chapter 175 monies beyond the \$165,000 the amount specified in subsection (B)(4)(d) above will remain in reserve to be used for additional member benefits; and~~

~~(f) — Beginning the first full pay period that includes October 1, 2004, the employee contributions paid by the members of the plan shall increase from 8.6% to 11.6% except as otherwise provided in subsection (B)(4)(b) above.~~

...

**SECTION 6.** That Section 34.057, "Disability," of Chapter 34, "City Policy," of the Pompano Beach Code of Ordinance is hereby amended to read as follows:

**§ 34.057 DISABILITY.**

(A) Service incurred. Any active member who receives a service-connected injury, disease, or disability, which totally and permanently incapacitates him or her, physically or mentally, from regular and continuous duty as a firefighter, or police officer, ~~or dispatcher~~, and any other duty or duties available through the Fire or Police Departments respectively to the firefighter, or police officer, ~~or dispatcher~~, shall receive in equal monthly installments an amount equal to .75% of monthly earnings in effect on date disability is granted by the Board. For firefighters only, if the member's accrued benefit exceeds the disability benefit, such excess benefit will be classified as a normal retirement benefit. The disability pension shall be effective immediately and the first payment shall be made on the first day of the month coincident with or next following such granting and shall be payable until the earlier of death or recovery from disability. If the member dies after retirement but before recovery from disability and before he or she has received benefits for a period of ten years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the member for the balance of such ten-year period.

(B) Nonservice incurred. Any active member with ten years of service who receives a nonservice-incurred injury, disease, or disability, which totally and permanently incapacitates him or her physical or mentally, from regular and continuous duty as a firefighter, or police officer, ~~or dispatcher~~, and any other duty or duties available through the Fire or Police Departments respectively to the firefighter, or police officer, ~~or dispatcher~~, shall receive in equal monthly installments an amount equal to 3% of his or her average monthly earnings for each year of continuous service, subject in any event to a maximum of 60% of monthly earnings in effect on date disability is granted by the Board plus 2 % of monthly earnings for each year of continuous service in excess of 25 ears. However, in the case of a member, the minimum benefit shall be 25% of such member's average monthly earnings. The disability pension shall be effective immediately and the first payment shall be made on the first day of the month coincident with or next following such granting and shall be payable until the earlier of death or recovery from disability. If the member dies after retirement but before recovery from disability and before he or she has received benefits for a period of ten years, the monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the member for the balance of such ten-year period.

**SECTION 7.** That Section 34.0603, "Deferred Retirement Option Plan," ("DROP") of Chapter 34, "City Policy," of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**§ 34.0603 DEFERRED RETIREMENT OPTION PLAN (DROP).**

A Deferred Retirement Option Plan (DROP) is hereby authorized. The DROP is to be administered by the Board of Trustees. Police officer members may elect to enter the DROP upon reaching normal retirement as set forth and in accordance with the terms and conditions of the DROP document in existence as negotiated in the collective bargaining agreements between the Broward County Police Benevolent Association of Pompano Beach, Florida and the City or Broward County Sheriff's Office. In no event shall the Board administer a plan which results in the disqualification of the system under the Internal Revenue Code.

...

(C) Limitation and disqualifications for other benefits. A member may participate in the DROP only once. After commencement of participation, the member shall not again have the right to be a contributing member of the retirement system. Police officer members shall not be eligible for disability or pre-retirement death benefits as provided for by the retirement system. Firefighter members shall not be eligible for pre-retirement death benefits, but shall be eligible, effective October 1, 20014, for service connected disability retirement,

calculated pursuant to Section 34.057(A), or non-service connected disability retirement, calculated pursuant to Section 34.057(B), when a determination is made by the Pension Board that an existing benefit should be reclassified as a disability benefit subject to Article 16 of the I.A.F.F. Local 1549 Collective Bargaining Agreement. Effective after October 1, 2004, the reclassified service-incurred disability benefit shall be equal to 75% of the member's monthly rate of pay in effect at the time of entry into the DROP. If the benefit the member accrued prior to DROP entry exceeds the disability benefit, such excess benefit will be treated as a normal retirement benefit.

...

(J) Promotions. Starting with the 79<sup>th</sup> 72<sup>nd</sup> month after a member enters the DROP, the member is not eligible to be promoted, to participate in any promotional examination process and/or to be appointed or promoted to any bargaining unit position. Employees who have participated in DROP for less than 78 72 months shall be eligible to be promoted, to participate in any promotional examination process and/or to be appointed or promoted to any non-bargaining unit position. Employees who have participated in DROP for 78 72 months or more shall be eligible to be promoted, to participate in any promotional examination process and/or to be appointed or promoted to any non-bargaining unit position with the specific approval of the Fire Chief and City Manager when the Fire Chief and City Manager determine such actions to be in the best interest of the city.

...

(M) DROP Loan Program

(1) Effective June 22, 2010 for Ppolice officers and October 1, 2013 for firefighters, DROP participants may apply to the Board of Trustees to borrow from the Retirement System up to 50% of the total balance in their respective DROP Account, up to a maximum of \$50,000. The Board of Trustees shall approve or deny any such application in accordance with the terms and conditions specified herein. Board of Trustees shall not have the authority to deny Member loan applications that satisfy requirements outlined herein. All loans to ~~police officer~~ DROP participants shall be secured by the member's DROP Account and no payments from the member's DROP account shall be made to the member, survivor or beneficiary while a loan balance remains outstanding. Should any loan balance remain unpaid after the balance in the member's DROP account has been exhausted, then that balance shall be secured and paid by offsetting such member, survivor or beneficiary's other benefits payable by the retirement system. The loan must be evidenced by the member's promissory note payable to the retirement system and shall have a definite interest rate, repayment schedule, and maturity date. The promissory note shall provide that in the event that the loan is not repaid, at a time when the member is entitled to a distribution, any unpaid balance of the loan, plus interest, shall be retained by

the Board of Trustees out of such distribution. The Board of Trustees shall be authorized to take any and all necessary action to reinforce such member's obligations.

(2) In making its determination with respect to eligibility for, terms and conditions of, and interest rates on any loan, the Board of Trustees shall act in a uniform and nondiscriminatory manner. The outstanding principal of any loan to a ~~police-officer~~ member shall not exceed 50% of the member's vested amount in the DROP account, provided, that the maximum loan amount shall not exceed \$50,000. The promissory note shall bear interest at the annual interest rate quoted as the "prime rate" in the *Wall Street Journal* on the day which the member files all necessary forms for his DROP loan with the Board of Trustees.

(3) If a ~~police-officer~~ member or beneficiary, directly or indirectly, receives any amount as a loan from the retirement system, such amount shall be treated as a taxable distribution from the retirement system to the individual if:

(a) The amount of the loan exceeds the lesser of (i) \$50,000 (reduced to the extent that the member or beneficiary's highest balance for plan loans outstanding during the preceding 12 months exceeds the current balance for plan loans); or (ii) one-half of the member's DROP account (or \$10,000 if greater); and

(b) The loan by its terms is not required to be repaid within five years of the date the funds are actually received by the borrower (i.e. member).

(4) Loan amount and term: The Board of Trustees may loan to a ~~police-officer~~ DROP participant member a minimum of \$5,000 and a maximum of \$50,000. The loan shall be repaid by the member over a period of time not to exceed five years, as elected by the member at the time of the loan, with installment payments to be paid on a biweekly or monthly basis, as chosen by the member, with each payment being comprised of principal and interest. Member may elect to have installment payments automatically deducted by the Pompano Beach Credit Union and paid directly to the retirement system. Alternatively, the retired members may elect that the loan installment payments be automatically deducted from his or her their monthly pension benefit from the retirement system. DROP firefighter members may elect to have the loan installment payments automatically deducted from their bi-weekly city paycheck.

(a) Suspension of loan repayment; leave for military absence. In accordance with IRC section 414(u)(4), the retirement system shall permit postponement of loan repayments for military service personnel while performing military service. Any such postponement shall not alter the accrual of interest. Any such suspension of loan repayments during a leave of absence for

military service will not cause the loan to be deemed a taxable distribution so long as:

1. Loan repayments resume upon the completion of the military service; and
2. The amount remaining due on the loan is repaid in substantially level installments; and
3. The loan is fully repaid by the end of the original term of the loan plus the period of military service.

(5) Loan costs and expenses. The electing ~~police officer~~ member shall pay all costs of the loan, including documentary stamps, intangible taxes, loan-servicing fees, and all other costs associated with loan.

(6) Default. Events of default under the terms of the loan shall include, but are not limited to bankruptcy, insolvency, or failure to make any installment loan payment when due.

(7) Grace period. In the event of a default due to a participating ~~police officer~~ member's failure to make an installment payment when due, then the retirement system, at its sole discretion, may provide written notice to such member of the occurrence of such default, and afford such member a grace period not to exceed ten days from the date upon which the subject payment(s) was due, within which such member may make payment to the retirement system to cure such default.

(8) Attorney's fees and costs. In the event of a default, and should the Board of Trustees determine that it is required to pursue legal relief to enforce a ~~police officer~~ member's loan repayment obligations hereunder, then such member shall be held responsible for any and all attorney's fees and costs incurred by the retirement system to enforce such member's obligations.

...

**SECTION 8.** That Section 34.061, "Contributions," of Chapter 34, "City Policy," of the

City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**§ 34.061 CONTRIBUTIONS.**

(A) (1) Members of the retirement system shall make regular contributions to the trust fund at a rate equal to 8.6% of their respective annual earnings, except for firefighter members who, ~~pursuant to §34.055 (B)(4)(f) of this code effective October 1, 2004,~~ shall contribute 11.6% of their respective annual earnings. Firefighter member contributions shall be reduced to 0.5% after

25 years of service and upon reaching the maximum benefit of 80% and shall be increased to 11.6% if the member continues in employment and does not enter DROP upon reaching the normal retirement date. Eligible employees, as a condition of membership, shall agree in writing on becoming a member to make the contributions specified herein. The contributions shall be deducted from earnings before the earnings are paid.

(2) Effective September 26<sup>th</sup>, 1989, the city shall assume and pay future member contributions in lieu of payroll deductions from member's earnings. No member shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the city directly to the retirement system. All such contributions by the city shall be deemed and considered as a part of each member's accumulated contributions and subject to all provisions of the retirement's system pertaining to accumulated contributions of the members. The city shall immediately deposit all such contributions following each pay period. This city "pick up" of contributions shall be the result of an 8.6%, or 11.6% for firefighter members on or after October 1, 2004, reduction of each member's base pay and is intended to comply with Section 414(H)(2) of the Internal revenue Code. Base pay for purposes of overtime pay, pay supplements, and retirement benefit calculations shall not be reduced.

...

**SECTION 9.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 10.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**PASSED SECOND READING** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**MARY L. CHAMBERS, CITY CLERK**

GBL/tal:jrm  
12/11/14  
L:ord/ch34/2015-90

**ORDINANCE NO. 2014-61**

**CITY OF POMPANO BEACH  
Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 34 "CITY POLICY", BY AMENDING SECTION 34.045 "DEFINITIONS", TO MODIFY THE DEFINITION OF AVERAGE MONTHLY EARNINGS AND SURVIVING SPOUSE FOR THE POLICE AND FIREFIGHTERS' RETIREMENT SYSTEM; BY AMENDING SECTION 34.053 "NORMAL RETIREMENT DATE" AND SECTION 34.055 "NORMAL RETIREMENT BENEFIT TO MODIFY PENSION RETIREMENT REQUIREMENTS FOR FIREFIGHTERS; BY AMENDING SECTION 34.057 "DISABILITY", TO MODIFY THE CALCULATIONS OF DISABILITY BENEFITS FOR FIREFIGHTERS; BY AMENDING SECTION 34.0603 "DEFERRED RETIREMENT OPTION PLAN" ("DROP") TO PROVIDE ADDITIONAL PROVISIONS FOR PROMOTION OF FIREFIGHTERS WHO HAVE ENTERED THE DROP AND TO PROVIDE FOR FIREFIGHTER PARTICIPATION IN THE DROP LOAN PROGRAM; AND BY AMENDING SECTION 34.061 "CONTRIBUTIONS", TO MODIFY REQUIRED MEMBER CONTRIBUTION TO THE FIREFIGHTER RETIREMENT SYSTEM -ALL TO COMPLY WITH THE PROVISIONS CONTAINED IN ARTICLES 35 AND 38 OF THE ADOPTED LABOR AGREEMENTS BETWEEN THE POMPANO BEACH PROFESSIONAL FIRE FIGHTERS, LOCAL 1549 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AND THE CITY OF POMPANO BEACH, FOR THE PERIOD BEGINNING OCTOBER 1, 2010 AND ENDING SEPTEMBER 30, 2013 AND OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2016; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That the Agreements between the Pompano Beach Professional Fire Fighters, Local 1549 of the International Association of Fire Fighters and the City of Pompano Beach for the period of October 1, 2010 to September 30, 2013, and October 1, 2013 to September 30, 2016, were approved on May 27, 2014.

**SECTION 2.** That Section 34.045, "Definitions" of Chapter 34, "City Policy" of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**§ 34.045 DEFINITIONS**

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Average Monthly Earnings.** One-twelfth of the arithmetic average of annual earnings for the highest three years preceding the actual retirement or termination date of a member. For all bargaining members hired after ratification of the 2010-2013 Collective Bargaining Agreement, which occurred on May 27, 2014, the Average Monthly Earnings shall be based on the highest five (5) years preceding the actual retirement or termination date of a member.

**Surviving Spouse.** A lawfully-wedded spouse of the member at the time of the member's death. A Surviving Spouse shall include a lawfully-wedded spouse, including same-sex, lawfully recognized in the state in which the marriage took place, of a member at the time of the member's death.

**SECTION 3.** That Section 34.053 "Normal Retirement Date" of Chapter 34, "City Policy" of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**§ 34.053 NORMAL RETIREMENT DATE**

(A.) A member Firefighter Member may elect to retire on or after the day of attainment of age 47 50 and the completion of 20 years of continuous service or attainment of age 55 and the completion of ten years of continuous service. However, employees who are eligible to, and become, members as of the effective date of this system shall be eligible to retire on the attainment of age 47 regardless of the number of years of continuous service. The change in the retirement age for a Firefighter Member from age 47 to 50 shall be made applicable to all bargaining members hired after ratification of the 2010-2013 Collective Bargaining Agreement, which occurred on May 27, 2014. A police officer Member who attains 25 years of continuous service prior to attaining 47 years of age may elect to purchase, at the Member's sole expense, a normal retirement age and unreduced normal benefit commencing the first of the month following or coincident with completion of 25 years of continuous service. In order to purchase this earlier normal retirement age, the police officer Member must pay to the Fund the full actuarial cost of the earlier normal retirement age, as determined by the Fund's actuary. Payment shall be made by cash lump sum payment, direct transfer or rollover of an eligible rollover distribution from a qualified or eligible plan in accordance with Section 34.0602 herein or a combination of both.

**SECTION 4.** That Section 34.055 "Normal Retirement Benefit" of Chapter 34, "City Policy" of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**§ 34.055 NORMAL RETIREMENT BENEFIT**

\* \* \*

(B) *Firefighters.*

(1) A firefighter retiring on his or her normal retirement date shall receive a monthly benefit which shall commence on his or her normal retirement date and be continued thereafter during his or her lifetime. If the member dies after retirement but before he or she has received benefits for a period of ten years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the member for the balance of such ten-year period. Upon reaching normal retirement age a member's benefits shall be fully vested. For members who are hired after the ratification of the 2010-2013 Collective Bargaining Agreement, which occurred on May 27, 2014, the Average Monthly Earnings shall be based on the highest five (5) years preceding the actual retirement or termination date of a member.

\* \* \*

~~(4) — The adjustment in the maximum benefit percentage under subsection (B)(3) above shall be effective beginning on October 1, 2004, and shall be implemented based upon meeting all of the following conditions and requirements:~~

~~(a) No change to the minimum retirement age;~~

~~(b) Employee contributions shall be reduced to 0.5% after 25 years of service and upon reaching the maximum benefit of 80% and shall be increased to 11.6 % if the member continues in employment and does not enter the DROP upon reaching the normal retirement date;~~

~~(c) A service-connected disability pension of a minimum of 75% or the vested pension amount, whichever is greater;~~

~~(d) The recurring allowable Chapter 175 credit amount of the City of Pompano Beach to provide benefits is increased from \$567,754 to \$732,754 (\$165,000);~~

~~(e) Any additional Chapter 175 monies beyond the \$165,000 the amount specified in subsection (B)(4)(d) above will remain in reserve to be used for additional member benefits; and~~

~~(f) Beginning the first full pay period that includes October 1, 2004, the employee contributions paid by the members of the plan shall increase from 8.6% to 11.6% except as otherwise provided in subsection (B)(4)(b) above.~~

**SECTION 5.** That Section 34.057 “DISABILITY” of Chapter 34, “City Policy” of the Pompano Beach Code of Ordinance is hereby amended to read as follows:

(A) Service incurred. Any active member who receives a service-connected injury, disease, or disability, which totally and permanently incapacitates him or her, physically or mentally, from regular and continuous duty as a firefighter, police officer, or dispatcher, and any other duty or duties available through the Fire or Police Departments respectively to the firefighter, police officer, or dispatcher, shall receive in equal monthly installments an amount equal to 75% of monthly earnings in effect on date disability is granted by the Board. For firefighters only, if the benefit the member accrued exceeds the disability benefit, such excess benefit will be treated as a normal retirement benefit. The disability pension shall be effective immediately and the first payment shall be made on the first day of the month coincident with or next following such granting and shall be payable until the earlier of death or recovery from disability. If the member dies after retirement but before recovery from disability and before he or she has received benefits for a period of ten years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the member for the balance of such ten-year period.

(B) Nonservice incurred. Any active member with ten years of service who receives a non-service-incurred injury, disease, or disability, which totally and permanently incapacitates him or her physical or mentally, from regular and continuous duty as a firefighter, police officer, or dispatcher, and any other duty

or duties available through the Fire or Police Departments respectively to the firefighter, police officer, or dispatcher, shall receive in equal monthly installments an amount equal to 3% of his or her average monthly earnings for each year of continuous service, subject in any event to a maximum of 60% of monthly earnings in effect on date disability is granted by the Board plus 2 % of monthly earnings for each year of continuous service in excess of 25 ears. However, in the case of a member, the minimum benefit shall be 25% of such member's average monthly earnings. The disability pension shall be effective immediately and the first payment shall be made on the first day of the month coincident with or next following such granting and shall be payable until the earlier of death or recovery from disability. If the member dies after retirement but before recovery from disability and before he or she has received benefits for a period of ten years, the monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the member for the balance of such ten-year period.

**SECTION 6.** That Section 34.0603, "Deferred Retirement Option Plan" ("DROP") of Chapter 34, "City Policy" of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**§ 34.0603 DEFERRED RETIREMENT OPTION PLAN (DROP).**

*A Deferred Retirement Option Plan (DROP) is hereby authorized. The DROP is to be administered by the Board of Trustees. Police officer members may elect to enter the DROP upon reaching normal retirement as set forth and in accordance with the terms and conditions of the DROP document in existence as negotiated in the collective bargaining agreements between the Broward County Police Benevolent Association of Pompano Beach, Florida and the City or Broward County Sheriff's Office. In no event shall the Board administer a plan which results in the disqualification of the system under the Internal Revenue Code.*

(A) *Eligibility.* Any active member of the Pompano Beach Police and Firefighters' Retirement System, who is eligible to receive a normal retirement pension, may elect to participate in the DROP. However, said election must be made at or before the employee has attained twenty-five (25) years of continuous service with the City. Except as provided below, after an employee has exceeded twenty-five (25) years of continuous service, s/he would no longer be eligible to participate in the DROP. In cases where an employee has reached twenty-five (25) years of continuous service, but still has not become eligible for normal retirement, that employee will be eligible to elect to participate in the DROP upon (but not after) reaching eligibility for normal retirement. Firefighter members will "retire" for purposes of the pension plan, but may continue their employment with the City for a maximum ninety-six (96) months from the effective date of

the member's DROP election. Firefighters who enter the DROP shall not be eligible to be promoted, to participate in any promotional examination process and/or to be appointed or promoted to any bargaining unit position beginning with the 72<sup>nd</sup> month after the employee has entered the DROP.

...

(C) Limitation and disqualifications for other benefits. A member may participate in the DROP only once. After commencement of participation, the member shall not again have the right to be a contributing member of the retirement system. Police officer members shall not be eligible for disability or pre-retirement death benefits as provided for by the retirement system. Firefighter members shall not be eligible for pre-retirement death benefits, but shall be eligible, effective October 1, 2004, for service connected retirement, calculated pursuant to Section 34.057(A) or non-service connected disability retirement, calculated pursuant to Section 34.057(B), when a determination is made by the Pension Board that an existing benefit should be reclassified as a disability benefit subject to Article 16 of the I.A.F.F. Local 1549 Collective Bargaining Agreement. Effective after October 1, 2004, the reclassified service-incurred disability benefit shall be equal to 75% of the member's monthly rate of pay in effect at the time of entry into the DROP. If the benefit the member accrued prior to DROP entry exceeds the disability benefit, such excess benefit will be treated as a normal retirement benefit.

...

(M) DROP Loan Program

(1) Police officer or firefighter DROP participants may apply to the Board of Trustees to borrow from the Retirement System up to fifty percent (50%) of the total balance in their respective DROP Account, up to a maximum of \$50,000. The Board of Trustees shall approve or deny any such application in accordance with the terms and conditions specified herein. Board of Trustees shall not have the authority to deny Member loan applications that satisfy requirements outlined herein. All loans to police officer or firefighter DROP participants shall be secured by the Member's DROP Account and no payments from the Member's DROP Account shall be made to the Member, survivor or beneficiary while a loan balance remains outstanding. Should any loan balance remain unpaid after the balance in the Member's DROP Account has been exhausted, then that balance shall be secured and paid by offsetting such Member, survivor or beneficiary's other benefits payable by the Retirement System. The loan must be evidenced by the Member's promissory note payable to the Retirement System and shall have a definite interest rate, repayment schedule, and maturity date. The promissory note shall provide that in the event that the loan is not repaid, at a time when the Member is entitled to a distribution, any unpaid balance of the loan, plus interest, shall be retained by the Board of

Trustees out of such distribution. The Board of Trustees shall be authorized to take any and all necessary action to reinforce such Member's obligations.

(2) In making its determination with respect to eligibility for, terms and conditions of, and interest rates on any loan, the Board of Trustees shall act in a uniform and nondiscriminatory manner. The outstanding principal of any loan to a police officer or firefighter Member shall not exceed fifty percent of the Member's vested amount in the DROP account, provided, that the maximum loan amount shall not exceed \$50,000.00. The promissory note shall bear interest at the annual interest rate quoted as the "prime rate" in the *Wall Street Journal* on the day which the Member files all necessary forms for his DROP loan with the Board of Trustees.

(3) If a police officer or firefighter Member or beneficiary, directly or indirectly, receives any amount as a loan from the Retirement System, such amount shall be treated as a taxable distribution from the Retirement System to the individual if:

(a) The amount of the loan exceeds the lesser of (i) \$50,000.00 (reduced to the extent that the Member or beneficiary's highest balance for plan loans outstanding during the preceding 12 months exceeds the current balance for plan loans); or (ii) one-half of the Member's DROP account (or \$10,000 if greater); and

(b) The loan by its terms is not required to be repaid within five years of the date the funds are actually received by the borrower (i.e. Member).

(4) **Loan Amount and Term:** The Board of Trustees may loan to a police officer or firefighter DROP participant Member a minimum of \$5,000.00 and a maximum of \$50,000.00. The loan shall be repaid by the Member over a period of time not to exceed five years, as elected by the Member at the time of the loan, with installment payments to be paid on a biweekly or monthly basis, as chosen by the Member, with each payment being comprised of principal and interest. Member may elect to have installment payments automatically deducted by the Pompano Beach Credit Union and paid directly to the Retirement System. Alternatively, the Member may elect that the loan installment payments be automatically deducted from his or her monthly pension benefit from the Retirement System.

(a) **Suspension of Loan Repayment; Leave for Military Absence:** In accordance with IRC section 414(u)(4), the Retirement System shall permit postponement of loan repayments for military service personnel while performing military service. Any such postponement shall not alter the accrual of interest. Any such suspension of loan repayments during a leave of absence for

military service will not cause the loan to be deemed a taxable distribution so long as:

1. Loan repayments resume upon the completion of the military service; and

2. The amount remaining due on the loan is repaid in substantially level installments; and

3. The loan is fully repaid by the end of the original term of the loan plus the period of military service.

(5) **Loan Costs and Expenses:** The electing police officer or firefighter Member shall pay all costs of the loan, including documentary stamps, intangible taxes, loan-servicing fees, and all other costs associated with loan.

(6) **Default:** Events of Default under the terms of the loan shall include, but are not limited to bankruptcy, insolvency, or failure to make any installment loan payment when due.

(7) **Grace Period:** In the event of a default due to a participating police officer or firefighter Member's failure to make an installment payment when due, then the Retirement System, at its sole discretion, may provide written notice to such Member of the occurrence of such default, and afford such Member a grace period not to exceed ten days from the date upon which the subject payment(s) was due, within which such Member may make payment to the Retirement System to cure such default.

(8) **Attorney's Fees and Costs:** In the event of a default, and should the Board of Trustees determine that it is required to pursue legal relief to enforce a police officer or firefighter Member's loan repayment obligations hereunder, then such Member shall be held responsible for any and all attorney's fees and costs incurred by the Retirement System to enforce such Member's obligations.

**SECTION 7.** That Section 34.061, "CONTRIBUTIONS" of Chapter 34, "City Policy"

of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

(A) (1) Members of the retirement system shall make regular contributions to the trust fund at a rate equal to 8.6% of their respective annual earnings, except for firefighter members who, ~~pursuant to §34.055 (B)(4)(f) of this code effective October 1, 2004~~ shall contribute 11.6% of their respective annual earnings. Firefighter member contributions shall be reduced to 0.5% after 25 years of service and upon reaching the maximum benefit of 80% and shall be increased to 11.6% if the member continues in employment and does not enter DROP upon reaching the normal retirement date. Eligible employees, as a condition of

membership, shall agree in writing on becoming a member to make the contributions specified herein. The contribution shall be deducted from earnings before the earnings are paid.

(2) Effective September 26<sup>th</sup>, 1989, the city shall assume and pay future member contributions in lieu of payroll deductions from member's earnings. No member shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the city directly to the retirement system. All such contributions by the city shall be deemed and considered as a part of each member's accumulated contributions and subject to all provisions of the retirement's system pertaining to accumulated contributions of the members. The city shall immediately deposit all such contributions following each pay period. This city "pick up" of contributions shall be the result of an 8.6% or 11.6% for firefighter members on or after October 1, 2004, reduction of each member's base pay and is intended to comply with Section 414 (H) (2) of the Internal revenue Code. Base pay for purposes of overtime pay, pay supplements, and retirement benefit calculations shall not be reduced.

\* \* \*

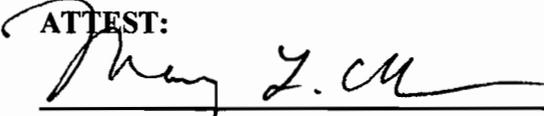
**SECTION 8.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 9.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 23<sup>rd</sup> day of \_\_\_\_\_ September, 2014.

**PASSED SECOND READING** this 9<sup>th</sup> day of \_\_\_\_\_ September, 2014.

  
\_\_\_\_\_  
**LAMAR FISHER, MAYOR**

**ATTEST:**  
  
\_\_\_\_\_  
**MARY L. CHAMBERS, CITY CLERK**

GBL/tal  
7/10/14  
L:ord/2014-311