



AGENDA REQUEST

<u>AGENDA HEADING:</u> Consent Agenda No. 2		<u>COMMISSION MEETING DATE:</u> March 20, 2017	<u>AGENDA ITEM NO.:</u> IV.B.3.
BY City Auditor and Clerk	Pamela M. Nadalini	Attorney Scott Christiansen, General Employees' Defined Benefit Pension Plan	
<u>Originating Department</u>	<u>Department Head</u>	<u>Presenter</u>	
<u>SUBJECT:</u> Adoption Re: Second reading of Proposed Ordinance No. 16-5185, amending Chapter 24, Personnel, Article II, Pensions, Division 4, General Employees, of the Code of Ordinances of the City of Sarasota; amending Section 24-95, Definitions; amending Section 24-101, Credited Service; amending Section 24-102, Normal and Early Retirement; amending Section 24-103, Pension Benefits; amending Section 24-107, Disability Benefits; amending Section 24-108, Minimum Distribution of Benefits; amending Section 24-117, Deferred Retirement Option Plan; repealing all ordinances in conflict herewith; providing for severability of the parts hereof if declared invalid, etc. (Title Only)			
<u>COMMISSION PRIORITIES:</u> Business Requirement			
<u>EXPLANATION:</u> (see next page for additional explanation) The General Employees' Defined Benefit Pension Plan recommended that the City Commission adopt proposed Ordinance No. 16-5185, amending the City of Sarasota General Employees' Defined Benefit Pension Plan concerning changes to the Internal Revenue Code (IRC) and its associated Regulations, as well as guidance from the Internal Revenue Service (IRS), and various amendments to the pension plan as outlined in ordinance.			
<u>ADMINISTRATION'S RECOMMENDATION:</u> Action is at the discretion of the City Commission.			
<u>APPROVAL SUMMARY:</u>			
Approval	Required	Date Completed	Completed By
City Auditor and Clerk Approval	Y	03/14/2017	Pamela Nadalini
			Status
			APPROVED



AGENDA REQUEST

ADDITIONAL EXPLANATION:

At its July 18, 2016 Regular Meeting, the General Employees' Defined Benefit Pension Plan Board of Trustees approved the proposed Ordinance to be presented to the City Commission for public hearing. The proposed Ordinance was originally scheduled for public hearing before the City Commission on September 19, 2016; however, the Board gave consensus at its Regular Meeting the morning of September 19, 2016 to recommend that the City Commission continue the public hearing to allow the opportunity for the Teamsters and the Attorneys to review any further necessary changes before proceeding. As a result of discussions between the Teamsters, Attorneys and Human Resources, the decision was made to remove changes originally proposed for Section 24-104, Optional Forms of Pension. A public hearing on Proposed Ordinance No. 16-5185 was held at the December 5, 2016 Regular City Commission Meeting, where the proposed Ordinance passed on first reading with the assurance that concerns of the Teamsters would be addressed prior to second reading. Since the time of the first public hearing, the decision was made to also remove Section 24-105, Termination of Benefits. Proposed Ordinance No. 16-5185 is now being presented on second reading, as modified.

ADDITIONAL ADMIN RECOMMENDATION:

FUNDING SOURCE:

AMOUNT:

HOUSING IMPACT (Per House):

NEW CONSTRUCTION:

REHABILITATION:

\$ 0

\$ 0

SUPPORT DEPARTMENTS:

City Auditor and Clerk - Pamela M. Nadalini

City Attorney - Robert Fournier

AGENDA DISPOSITION

COMMISSION ACTION:

Final Action Motion: _____

Motion By: _____ Second By: _____

Vote: _____

Law Offices

Christiansen & Dehner, P.A.

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January 23, 2017

Mr. Harry Ramphal
Sarasota General Employees' Defined Benefit
Pension Plan
Post Office Box 1058
Sarasota, Florida 34230

Re: City of Sarasota General Employees' Defined Benefit Pension Plan - Proposed Ordinance

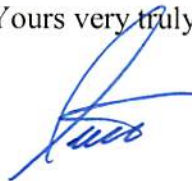
Dear Harry:

As discussed at today's meeting of the Board, enclosed please find the revised proposed ordinance amending the City of Sarasota General Employees' Defined Benefit Pension Plan, removing the provision to amend Section 24-105, Termination of Benefits. Please provide this document to the City for presentation and consideration for adoption at second reading.

By copy of this letter to the Board's actuary, Gabriel Roeder Smith & Company, I am requesting that they provide you with an updated letter indicating the cost, if any, associated with the adoption of this ordinance.

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: Pete Strong, with enclosure

ORDINANCE NO. 16-5185

AN ORDINANCE OF THE CITY OF SARASOTA AMENDING CHAPTER 24, PERSONNEL, ARTICLE II, PENSIONS, DIVISION 4, GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF SARASOTA; AMENDING SECTION 24-95, DEFINITIONS; AMENDING SECTION 24-101, CREDITED SERVICE; AMENDING SECTION 24-102, NORMAL AND EARLY RETIREMENT; AMENDING SECTION 24-103, PENSION BENEFITS; AMENDING SECTION 24-107, DISABILITY BENEFITS; AMENDING SECTION 24-108, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 24-117, DEFERRED RETIREMENT OPTION PLAN; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY OF THE PARTS HEREOF IF DECLARED INVALID; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

SECTION 1: That Chapter 24, Personnel, Article II, Pensions, Division 4, General Employees, of the Code of Ordinances of the City of Sarasota is hereby amended by amending Section 24-95, Definitions, to amend the definition of “Spouse”, to read as follows:

* * * * *

Spouse: ~~The lawful wife or husband of a member or retiree~~ member's or retiree's spouse under applicable law at the time benefits become payable.

* * * * *

SECTION 2: That Chapter 24, Personnel, Article II, Pensions, Division 4, General Employees, of the Code of Ordinances of the City of Sarasota is hereby amended by amending Section 24-101, Credited Service, subsection (c), to read as follows:

* * * * *

(c) ~~Reserved.~~ Leave conversions: Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of credited service either during each plan year of a member's employment with the City or in the plan year in which the member terminates employment.

* * * * *

SECTION 3: That Chapter 24, Personnel, Article II, Pensions, Division 4, General Employees, of the Code of Ordinances of the City of Sarasota is hereby amended by amending Section 24-101, Credited Service, subsection (m), *Other Government Service Prior to Employment*, subsection (5), to read as follows:

* * * * *

- (m) (5) In no event, however, may credited service be purchased pursuant to this subsection for prior service with any other governmental agency, if such prior service forms or will form the basis of a retirement benefit or pension from a different employer's retirement system or plan as set forth in section 24-103, subsection ~~(f)(11)~~ (f)(12)b.

* * * * *

SECTION 4: That Chapter 24, Personnel, Article II, Pensions, Division 4, General Employees, of the Code of Ordinances of the City of Sarasota is hereby amended by amending Section 24-102, Normal and Early Retirement, subsection (a)(1), to read as follows:

* * * * *

- (a) (1) ~~The normal retirement date shall be the earlier of the first day of the month coincident with or the next following attainment of age sixty-five (65) and ten (10) years credited service or upon completion of thirty (30) years of credited service, regardless of age. A member's normal retirement age is the earlier of the attainment of age sixty-five (65) and the completion of ten (10) years of credited service or upon completion of thirty (30) years of credited service, regardless of age. Each member shall become one hundred percent (100%) vested in his accrued benefit at normal retirement age. A member's normal retirement date shall be the first day of the month coincident with or next following the date the member retires from the City after attaining normal retirement age.~~

* * * * *

SECTION 5: That Chapter 24, Personnel, Article II, Pensions, Division 4, General Employees, of the Code of Ordinances of the City of Sarasota is hereby amended by amending Section 24-103, Pension Benefits, subsection (f), *Maximum Pension*, to read as follows:

* * * * *

- (f) *Maximum pension:*
- (1) *Basic limitation.* Notwithstanding any other provisions of this system to the contrary, the member contributions paid to, and retirement benefits paid from, the system shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan member may not receive an annual benefit that exceeds the limits specified in Code Section

415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a plan member may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) (\$160,000), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this System. For purposes of this section, "limitation year" shall be the calendar year.

For purposes of Code Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Code Section 415(n) and to rollover contributions (as defined in Code Section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(2) *Adjustments to Basic Limitation for Form of Benefit.* If the benefit under the plan is other than the annual benefit described in subsection (a), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations. If the form of the benefit without regard to any automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Code Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:

- a. For a benefit paid in a form to which section 417(e)(3) of the code does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:
 1. The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member, or
 2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code); or
- b. For a benefit paid in a form to which section 417(e)(3) of the code applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:
 1. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

2. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code); or
 3. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code), divided by 1.05.
- c. The actuary may adjust the 415(b) limit at the annuity starting date in accordance with subsections a. and b. above.
- (3) *Benefits Not Taken into Account.* For purposes of this Section, the following benefits shall not be taken into account in applying these limits:
- a. Any ancillary benefit which is not directly related to retirement income benefits;
 - b. Any other benefit not required under §415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1); and
 - c. That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity.
- (4) *COLA Effect.* Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "Limit"), the following will apply:
- a. A member's applicable limit will be applied to the member's annual benefit in the member's first calendar limitation year of benefit payments without regard to any automatic cost of living adjustments;

- b. thereafter, in any subsequent calendar limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but
- c. in no event shall a member's benefit payable under the system in any calendar limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.

Unless otherwise specified in the system, for purposes of applying the limits under Code Section 415(b), a Member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Code and applicable Treasury Regulations.

(5) *Other Adjustments in Limitations.*

- a. In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) annual benefit beginning at age sixty-two (62).
- b. In the event the member's benefit is based on at least fifteen (15) years of credited service as a full-time employee of the fire or police department of the City, the adjustments provided for in (5)a. above shall not apply.
- c. The reductions provided for in (5)a. above shall not be applicable to disability benefits pursuant to Sec. 24-107, or pre-retirement death benefits paid pursuant to Sec. 24-106.
- d. In the event the member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limit set forth in subsection (1) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(6) *Less than Ten (10) Years of Participation ~~or Service~~.* The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of ~~credited service with the City~~ participation shall be the amount determined under subsection (1) of this section multiplied by a fraction, the numerator of which is the number of the member's years of ~~credited service~~ participation and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to Sec. 24-107, or pre-retirement death benefits paid pursuant to Sec. 24-106.

(7) *Participation in Other Defined Benefit Plans.* The limit of this section with respect to any member who at any time has been a member in any other defined benefit plan as defined in Code Section 414(j) maintained by the City shall apply as if the total benefits payable under all City defined benefit plans in which the member has been a member were payable from one plan.

- (8) *Ten Thousand Dollar (\$10,000) Limit; Less Than Ten Years of Service.* Notwithstanding anything in this section 24-103(f), the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this subsection (f)(8) of section 24-103 if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000) for the applicable ~~plan~~ limitation year ~~and or~~ for any prior ~~plan~~ limitation year, and the City has not at any time maintained a qualified defined contribution plan in which the member participated; provided, however, that if the member has completed less than ten (10) years of credited service with the City, the limit under this subsection (f)(8) of section 24-103 shall be a reduced limit equal to ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten (10).
- (9) *Reduction of Benefits.* Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.
- (10) *Service Credit Purchase Limits.*
- a. Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the system, as allowed in Sec. 24-101, then the requirements of this section will be treated as met only if:
 1. the requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b), or
 2. the requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).

~~3. For purposes of applying subparagraph (10)a.1., the System will not fail to meet the reduced limit under Code Section 415(b)(2)(C) solely by reason of this subparagraph ~~e.~~, and for purposes of applying subparagraph (10)b.2. the system will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Code solely by reason of this subparagraph ~~e.~~~~
 - b. For purposes of this subsection the term "permissive service credit" means service credit—

1. recognized by the system for purposes of calculating a member's benefit under the plan,
2. which such member has not received under the plan, and
3. which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by the system, include service credit for periods for which there is no performance of service, and, notwithstanding clause (10)b.2., may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

(11) Contribution Limits.

- c a. For purposes of applying the Code Section 415(c) limits in this subsection (10) which are incorporated by reference and for purposes of this subsection (11), only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a calendar limitation year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the system, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).
1. However, for calendar limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For calendar limitation years beginning after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Code Section 132(f)(4).
 2. For limitation years beginning on and after January 1, 2007, compensation for the calendar limitation year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the calendar limitation year that includes the date of the employee's severance from employment if:
 - (i) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or

other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

(ii) the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.

3. Back pay, within the meaning of Treasury Regulations Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

~~d~~ b. Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Code Section 415 by using the following methods:

1. If the law requires a lump sum payment for the purchase of service credit, the board may establish a periodic payment deduction plan for the member to avoid a contribution in excess of the limits under Code Sections 415(c) or 415(n).

2. If payment pursuant to subparagraph (10)d.1. will not avoid a contribution in excess of the limits imposed by Code Section 415(c), the board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

~~e~~ c. If the annual additions for any member for a ~~plan~~ limitation year exceed the limitation under section 415(c) of the code, the excess annual addition will be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).

~~f~~ d. For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this subsection ~~(f)(10)~~ (f)(11) shall not exceed the annual limit under section 401(a)(17) of the code.

~~(11)~~ 12 *Additional Limitation on Pension Benefits.* Notwithstanding anything herein to the contrary:

a. The normal retirement benefit or pension payable to a retiree who becomes a member of the system and who has not previously participated in such system, on or after January 1, 1980, shall not exceed one hundred percent (100%) of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

b. No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter ~~67~~ 1223, Title 10, U.S. Code.

(13) Effect of Direct Rollover on 415(b) Limit. If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

* * * * *

SECTION 6: That Chapter 24, Personnel, Article II, Pensions, Division 4, General Employees, of the Code of Ordinances of the City of Sarasota is hereby amended by amending Section 24-107, Disability Benefits, subsection (a)(2), to read as follows:

* * * * *

(a) (2) With ten (10) or more years of credited service: Any member who ceases to be a permanent employee prior to his normal retirement date due to his becoming totally and permanently disabled as disability is defined herein after completing at least ten (10) years of credited service shall, upon application, be entitled to a disability benefit equal to the full amount of pension accrued under section 24-103(a), calculated as if such date of disability were the member's normal retirement date. Such pension shall be first paid on the last day of the first month after the board of trustees determines such entitlement; however, the monthly disability payment shall be payable as of the date the board determines such entitlement, and any portion due for a partial month shall be paid together with the first full payment.

Such monthly payments shall cease upon recovery from disability if prior to the employee's normal retirement date and shall continue for life if the employee is still disabled at his normal retirement date. Terminated persons are not eligible for disability benefits, ~~except that terminated vested persons who are terminated by the city for medical reasons may apply for a disability within thirty (30) days after termination.~~ Notwithstanding the previous sentence, if a member is terminated by the city for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.

* * * * *

SECTION 7: That Chapter 24, Personnel, Article II, Pensions, Division 4, General Employees, of the Code of Ordinances of the City of Sarasota is hereby amended by amending Section 24-108, Minimum Distribution of Benefits, subsection (b)(2)d., to read as follows:

* * * * *

(b) (2) d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this subsection (b)(2) other than subsection (b)(2)a, will apply as if the surviving spouse were the member.

For purposes of this subsection (b)(2) ~~and subsection (e)~~, distributions are considered to begin on the member's required beginning date or, if subsection (b)(2)(d) applies, the date of distributions are required to begin to the

surviving spouse under subsection (b)(2)a. If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (b)(2)a.), the date distributions are considered to begin is the date distributions actually commence.

* * * * *

SECTION 8: That Chapter 24, Personnel, Article II, Pensions, Division 4, General Employees, of the Code of Ordinances of the City of Sarasota is hereby amended by amending Section 24-117, Deferred Retirement Option Plan, to read as follows:

(a) *Definitions.* As used in this section 24-117, the following definitions apply:

DROP means the City of Sarasota General Employees' Deferred Retirement Option Plan.

DROP account means the account established for each DROP participant under subsection (c).

(b) *Participation.*

(1) *Eligibility to participate.* In lieu of terminating his employment as an employee, any member who is eligible for normal retirement under the plan may elect to defer receipt of such service retirement pension and to participate in the DROP.

(2) *Election to participate.* A member's election to participate in the DROP must be made in writing in a time and manner determined by the board and shall be effective on the election date.

(3) *Period of participation.* A member who elects to participate in the DROP under subsection (b)(2), shall participate in the DROP for a period not to exceed sixty (60) months beginning at the time his election to participate in the DROP first becomes effective. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the city not later than the date provided for in the previous sentence. A member may participate only once.

(4) *Termination of participation.*

a. A member's participation in the DROP shall cease at the earlier of:

1. The end of his period of participation in the DROP as determined under subsection (b)(3); or

2. The termination of his employment as an employee.

b. Upon the member's termination of participation in the DROP pursuant to subsection 1., above, all amounts provided for in subsection (c)(2), including monthly benefits and interest, shall cease to be transferred from the plan to his DROP account. Any amounts remaining in his DROP account shall be paid to him in accordance with the provisions of subsection (d) when he terminates his employment as an employee.

c. A member who terminates his participation in the DROP under subsection (b)(4) shall not be permitted to again become a participant in the DROP.

(5) *Effect of DROP participation on the plan.*

- a. A member's credited service and his accrued benefit under the plan shall be determined on the date his election to participate in the DROP first becomes effective. The member shall not accrue any additional credited service or any additional benefits under the plan (except for any additional benefits provided under any cost-of-living adjustment in the plan) while he is a participant in the DROP. A member shall not be eligible for disability or pre-retirement death benefits while he is a participant in the DROP. After a member commences participation, he shall not be permitted to again contribute to the plan.
- b. No amounts shall be paid to a member from the plan while the member is a participant in the DROP. Unless otherwise specified in the plan, if a member's participation in the DROP is terminated other than by terminating his employment as an employee, no amounts shall be paid to him from the plan until he terminates his employment as an employee. Unless otherwise specified in the plan, amounts transferred from the plan to the member's DROP account shall be paid directly to the member only on the termination of his employment as an employee.

(c) *Funding.*

- (1) *Establishment of DROP account.* A DROP account shall be established for each member participating in the DROP. A member's DROP account shall consist of amounts transferred to the DROP under subsection (c)(2), and interest on those amounts.
- (2) *Transfers from retirement plan.*
 - a. As of the last business day of each month of a member's period of participation in the DROP, the monthly retirement benefit he would have received under the plan (including any cost of living adjustments) had he terminated his employment as an employee and elected to receive monthly benefit payments thereunder shall be transferred to his DROP account, except as otherwise provided for in subsection (b)(4)b. A member's period of participation in the DROP shall be determined in accordance with the provisions of subsections (b)(3) and (b)(4), but in no event shall it continue past the date he terminates his employment as an employee.
 - b. Except as otherwise provided in subsection (b)(4)b., a member's DROP account under this subsection (c)(2) shall be credited on the last day of each quarter, based on the balance in the account determined on the last business day of the previous quarter's ending balance and credited to the member's DROP account as of such date (to be applicable to all current and future DROP participants). The accounts of members that entered the DROP prior to December 28, 2011, will be credited with interest at an effective rate of six and one-half (6½) percent per annum compounded quarterly. The accounts of members that enter the DROP on or after December 28, 2011, will be credited with interest at an effective rate of two (2) percent per annum compounded quarterly.
 - c. A member's DROP account shall only be credited with interest and monthly benefits while the member is a participant in the DROP. A member's final DROP account value for distribution to the member upon termination of

participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter and prior to distribution. If a member fails to terminate employment after participating in the DROP for the permissible period of DROP participation, then beginning with the member's first month of employment following the last month of the permissible period of DROP participation, the member's DROP account will no longer be credited with interest, nor will monthly benefits be transferred to the DROP account. All such nontransferred amounts shall be forfeited and continue to be forfeited while the member is employed by the city and no cost-of-living adjustments shall be applied to the member's benefit during such period of continued employment.

(d) *Distribution of drop accounts on termination of employment.*

(1) *Eligibility for benefits.* A member shall receive the balance in his DROP account in accordance with the provisions of this subsection (d) upon his termination of employment as an employee. Except as provided in subsection (d)(4), no amounts shall be paid to a member from the DROP prior to his termination of employment as an employee.

(2) *Form of distribution.*

- a. Distribution of a member's DROP account shall be made in a lump sum, subject to the direct rollover provisions set forth in subsection (d)(5). Elections under this paragraph shall be in writing and shall be made in such time or manner as the board shall determine.
- b. If a member dies before distribution of his DROP account, his DROP account shall be paid to his beneficiary. If no beneficiary designation is made, the DROP account shall be distributed to the member's estate.

(3) *Date of payment of distribution.* Except as otherwise provided in this subsection (d), distribution of a member's DROP account shall be made as soon as administratively practicable. Distribution of the amount in a member's DROP account will not be made unless the member completes a written request for distribution and a written election, on forms designated by the board, to either receive a cash lump sum or a rollover of the lump sum amount.

(4) *Distribution limitation.* Notwithstanding any other provision of subsection (d), all distributions from the DROP shall conform to the "minimum distribution of benefits" provisions as provided for herein.

(5) *Direct rollover of certain distributions.* Notwithstanding any provision of the DROP to the contrary, a distributee may elect to have any portion of an eligible rollover distribution paid in a direct rollover as otherwise provided under the plan in section 24-115.

(e) *Administration of DROP.*

(1) *Board administers the DROP.* The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the board.

- (2) *Individual accounts, records and reports.* The board shall maintain records showing the operation and condition of the DROP, including records showing the individual balances in each member's DROP account, and the board shall keep in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The board shall prepare and distribute to members participating in the DROP and other individuals or file with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code, the applicable portions of the act and any other applicable laws.
- (3) *Establishment of rules.* Subject to the limitations of the DROP, the board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law.
- (f) General provisions.
- (1) *The DROP is not a separate retirement plan.* Instead, it is a program under which a member who is eligible for normal retirement under the system may elect to accrue future retirement benefits in the manner provided in this section 24-117 for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a member is entitled to a lump sum distribution of his or her DROP account balance or may elect a rollover. The DROP account distribution is in addition to the member's monthly benefit.
- (2) *Notional account.* The DROP account established for such a member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member until the member's termination from the DROP. The member has no control over the investment of the DROP account.
- (3) *No employer discretion.* The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.
- (4) *IRC limit.* The DROP account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).
- (+ 5) *Amendment of DROP.* The DROP may be amended by an ordinance of the city at any time to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP account of any member.
- (2 6) *Facility of payment.* If a member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the board shall direct that any benefit due him shall be made only to a duly appointed legal representative. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.

- (3 7) *Information.* Each member, beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the board the information that it shall require to establish his rights and benefits under the DROP.
- (4 8) *Benefits not guaranteed.* All benefits payable under the DROP shall be paid only from the assets of the DROP and neither the city nor the board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.
- (5 9) *Forfeiture of retirement benefits.* Nothing in this section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the plan. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.
- (6 10) *Right to elect and serve as a trustee.* A member's election to participate in the DROP shall make him ineligible to vote for member trustees or be elected to serve as a member trustee. However, if a member trustee enters DROP, he may complete his term, but shall not run for re-election.
- (7 11) *Effect of DROP participation on employment.* Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

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SECTION 9: If any provision of this Ordinance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed to be separate and independent of all other provisions contained herein.

SECTION 10: All ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict.

SECTION 11: This ordinance shall take effect upon second reading and adoption.

PASSED ON FIRST READING by title only after posting on the bulletin board at CITY HALL for at least three (3) days prior to first reading as provided by Article IV, Section 2, of the Charter of the City of Sarasota, Florida, this 5th day of December, 2016.

PASSED ON SECOND READING and finally adopted this 20th day of March, 2017.

ATTEST:

Willie Charles Shaw
MAYOR

Pamela M. Nadalini, MBA, BBA, CMC
CITY AUDITOR AND CLERK

- _____ Mayor Willie Charles Shaw
- _____ Vice Mayor Shelli Freeland Eddie
- _____ Commissioner Liz Alpert
- _____ Commissioner Suzanne Atwell
- _____ Commissioner Susan Chapman