

ORDINANCE 95-10

AN ORDINANCE AMENDING THE RETIREMENT PLAN FOR POLICE OFFICERS AND FIREFIGHTERS OF THE CITY OF NORTH MIAMI BEACH TO PROVIDE FOR THE ADOPTION OF AN EARLY RETIREMENT INCENTIVE PLAN; TO PROVIDE FOR A COST OF LIVING ADJUSTMENT; TO PROVIDE A THIRD OPTIONAL FORM OF RETIREMENT INCOME; TO PROVIDE FOR THE ADOPTION OF THE ANNUAL COMPENSATION LIMITS TO COMPLY WITH SECTION 401(a)(17) OF THE INTERNAL REVENUE CODE; TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR CODIFICATION OF THIS ORDINANCE.

WHEREAS, City of North Miami Beach Ordinance No. 89-18, adopted March 6, 1990, provided for enhanced pension benefits for police officers in settlement of all outstanding issues as of the date of passage thereof concerning use of Section 185 funds; and

WHEREAS, Section 185 funds collected and accumulated in the Police Officers' and Firefighters' Pension Fund since adoption of Ordinance 89-18 are currently available to fund additional pension benefits for active participants of the Police Officers Pension Fund and those eligible participants who retired subsequent to the adoption of Ordinance 89-18; and

WHEREAS, the active participants of the Police Officers Pension Fund have approved, in a vote of their membership, the utilization of those accumulated Section 185 funds together with any Section 185 funds to be received by the pension fund in future years to the extent that they are actuarially required, to fund a cost of living benefit for eligible retirees as further provided herein; and

WHEREAS, the trustees of the Police Officers Pension Fund and all active participants therein have voted to accept the aforementioned COLA benefit in settlement and resolution of all pending issues regarding use of Section 185 funds; and

WHEREAS, in further settlement of all outstanding Section 185 fund issues between the City and the Police Officers and Firefighters Retirement Fund, the City of North Miami Beach hereby commits to the funding of the COLA benefit granted herein by underwriting the cost thereof, as may be determined to be actuarially necessary, in the event the state discontinues distribution of Section 185 funds or reduces the amount thereof and fails to provide an alternate source of funding for municipal police pension benefits; and

WHEREAS, the City Council determines that it is in the best interest of the City to encourage senior members of the Police Department to retire by March 31, 1996; and

WHEREAS, the City Council wishes to encourage said members to retire by augmenting the retirement benefit otherwise available under the Retirement Plan for Police Officers and

Firefighters of the City of North Miami Beach; and

WHEREAS, the City Council determines that the opportunity for augmented retirement benefits can only be offered for a limited amount of time and to a limited number of participants, based upon years of service within the police department, in order to maximize the payroll savings to be realized through augmented early retirement benefits while preventing disruption to the essential services provided by the City; and

WHEREAS, the City Council desires to further amend the Retirement Plan to comply with recent federal legislation and provide a cost of living adjustment to preserve the purchasing power of police retirees; and

WHEREAS, the City Council has received, reviewed, and considered an actuarial impact statement describing the actuarial impact of the augmented benefits provided herein.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach Florida.

SECTION 1. Section 6.01 of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following language as subsection (f) thereto:

§6.01 NORMAL RETIREMENT

(f) Early Retirement Incentives

Alternate A. Notwithstanding the provisions of subsection 6.01(c) above, those police officer participants who, as of March 31, 1996, are eligible for regular retirement under Section 6.01 hereof, and those participants who lack 36 or fewer months of service in order to be eligible for normal retirement pursuant to Section 6.01 shall be permitted to retire on or before April 1, 1996, on a date designated by the City Manager, and upon retirement, shall receive a service pension equal to the following percentages of the participant's final monthly compensation as defined below, for each year of service as defined in Section 3.02 hereof, according to their years of service as of their retirement date:

less than 10 years	4.22%
10 but less than 20 years	3.76%
20 but less than 21 years	3.53%
21 but less than 22 years	3.51%
22 but less than 23 years	3.49%
23 but less than 24 years	3.47%
24 but less than 25 years	3.46%
25 but less than 26 years	3.45%
26 but less than 27 years	3.44%
27 but less than 28 years	3.42%
28 but less than 29 years	3.41%
29 but less than 30 years	3.40%

rather than the 3 percent provided by subsection (c) above, under the terms and conditions set forth below.

Alternate B. Also, notwithstanding the provisions of section 6.02 below, those police officer participants who, as of March 31, 1996, lack three or fewer years of age in order to be eligible for normal retirement pursuant to section

6.01(b), shall be permitted to retire on or before April 1, 1996 on a date designated by the City Manager, at a rate of 3.03% of the participant's final monthly compensation, as defined below, for each year of service as defined in §3.02 hereof. and shall not suffer the reduction factor set forth in section 6.02(b)(2) provided that the participant complies with the terms and conditions set forth below.

Should a participant be eligible for both alternate early retirement incentives above, the participant's benefit shall be the greater of the two. The first payment to participants retiring hereunder on or before October 4, 1995, will be made on the participant's retirement date. For participant's retiring after October 4, 1995, the first payment shall be made in accordance with §6.01(d).

For purposes of determining a police officer participant's average final compensation under this subsection, for both Alternates A and B above, such compensation shall be computed for the twelve (12) month period immediately preceding the participant's retirement date.

Terms and conditions for early retirement incentive.

(1) The application for retirement must be received by the Retirement Plan no later than 5:00 p.m. on September 25, 1995, unless extended by the City Manager;

(2) As a condition of receiving a pension at the rates set forth above, the participant shall make an irrevocable application to the Retirement Plan for normal retirement on a date designated by the City Manager which must be before April 1, 1996 and shall retire on the date so designated unless the retirement date is extended by the mutual agreement of the participant, the Retirement Committee and the City Manager; and

(3) Any accrued leave remaining due to a participant as of his or her designated retirement date, with a limit of 320 hours of annual leave, and otherwise pursuant to the Contract provisions relevant to each applicant, shall be paid to the participant in three (3) equal annual installment payments, without interest, commencing after participant's designated retirement date, with the remaining two (2) installment payments to be made in January, 1997 and January, 1998.

(4) Participants who lack four or fewer years of credited service in order to be eligible for the Early Retirement Incentive set forth in sub-section (e), above, or are eligible for and retire under said Early Retirement Incentive may purchase credits for military service. The years or fractional parts of years that such a participant served full-time active duty in the military service of the Armed Forces of the United States, voluntarily or involuntarily, prior to the participant's first or initial employment with the City shall be added to the participant's years of credited service only for participants who retire under the Early Retirement Incentive, provided that:

(i) The participant did not receive a dishonorable discharge from the Armed Forces.

(ii) The participant did not receive credited service for the time spent in the Armed Forces from any other private, governmental or military retirement or pension system.

(iii) The participant contributes to the Retirement Plan the full actuarial cost of all service credits purchased.

(iv) The purchase of credited service under this subsection by a participant shall be paid in full prior to the

participant's retirement date or, at the participant's option, in three equal annual installment payments, without interest, commencing on the participant's designated retirement date, with the remaining two installments payable on the first and second anniversary dates of the participant's designated retirement date, and in accordance with all terms, rules, procedures or regulations established by the Retirement Committee.

(v) The maximum credit which may be purchased by a participant for any military service in the Armed Forces of the United States under this section shall be four years.

SECTION 2. Section 6.01 of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended to renumber the current subsections (c) and (d) as subsections (d) and (e), and to add the following language as subsection (c):

§ 6.01(c). Cost of Living Adjustments.

Commencing October 1, 1998, and on the first day of each October thereafter, the monthly income payable hereunder to each police participant who retired under Section 6.01 hereof on or after December 30, 1988, and who as of that October 1st has been retired for three or more years, or who retired under the Early Retirement Incentive set forth in Section 6.01(e), above, or to any such participant's surviving beneficiary, shall be increased by two and one-quarter percent, increasing to 2.5% commencing October 1, 2002.

SECTION 3. Section 6.02(b) of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended to renumber the current paragraphs (2) and (3) thereof as paragraphs (3) and (4) thereto, and to add the following language as paragraph (2):

§ 6.02(b)(2). Cost of Living Adjustments.

Commencing October 1, 1998, and on the first day of each October thereafter, the monthly income

(1) payable hereunder to each police participant who retired under Section 6.02 hereof on or after December 30, 1988, after completing at least twenty years of credited service, who has attained age 52, and who, as of that October 1st has been retired for three or more years, shall be increased by two and one-quarter percent, increasing to 2.5% commencing October 1, 2002, or

(2) payable to the surviving beneficiary of a participant who retired under Section 6.02 hereof on or after December 30, 1988, after completing at least 20 years of credited service and who died before reaching age 52, shall be increased by two and one-quarter percent and commencing October 1, 2002, by 2.5%, on the October 1st after the participant, had she or he survived, would have attained age 52 and would have been retired for three or more years and on the 1st day of each October thereafter.

SECTION 4. Section 6.03(a) of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by deleting the words and figures shown in struck-through type, as follows:

(a) Definition - An actively employed participant may retire

from the service of the City under the plan if he becomes totally and permanently disabled as defined in Paragraph (b) of this section 6.03, on or after the effective date of the plan ~~but prior to his attainment of age 52~~. Such retirement from the service of the City shall herein be referred to as disability retirement.

SECTION 5. Section 6.03(f)(1) of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by deleting same in its entirety and substituting in its place the following:

(1) The monthly income payable to a participant who retires from the service of the City under the provisions of this Section due to total and permanent disability is 60% of the participant's final monthly compensation at the date of termination of the participant's service due to disability, payable for the life of the participant, or the participant's accrued benefit as of the date of termination, whichever is greater. Commencing October 1, 1998, and on the first day of each October thereafter, the monthly benefit payable hereunder to each participant who retired due to disability on or after December 30, 1988, has attained age 52, has been retired for 3 or more years, and has received Social Security monthly disability income benefits for the same condition which caused the participant to receive disability benefits from this retirement plan, shall be increased by two and one-quarter percent, increasing to 2.5% commencing October 1, 2002.

SECTION 6. Section 6.03(f)(2) of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by deleting same in its entirety.

SECTION 7. Article VI of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended to add Section 6.08A, which provides as follows:

§ 6.08A ANNUAL COMPENSATION LIMITS PROVIDED BY SECTION 401(a)(17) OF THE INTERNAL REVENUE CODE

Notwithstanding any other provision of this Retirement Plan to the contrary, a participant's annual compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. However, for those participants who commence participation in the Retirement Plan prior to the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount that was allowed to be taken into account under the Retirement Plan as in effect on July 1, 1993.

SECTION 8. Section 6.06(a) of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following as a third optional form of retirement benefit:

Option 3: A retirement income of modified monthly amount, payable to the participant during the joint lifetime of the participant and a joint pensioner designated by the participant, and following the death of the participant, a percentage of such monthly benefit (either 50%, 66.667%, 75% or 100%, as selected by the participant) to the joint pensioner for his or her lifetime. There shall be no reduction of the participant's benefits in case of death of the joint pensioner.

SECTION 9. Any cross-references in the Retirement Plan which are affected by changes in section number designations shall be adjusted accordingly.

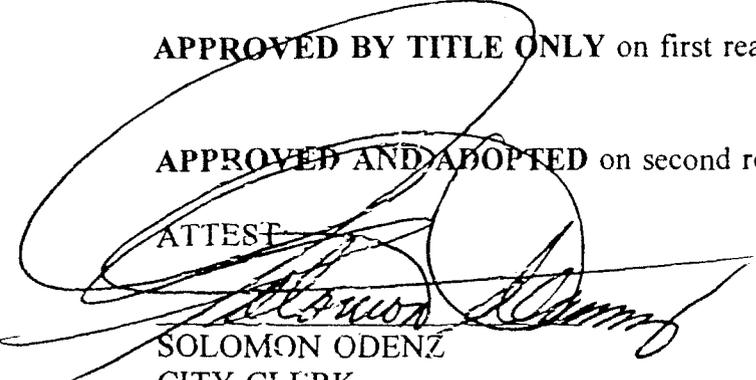
SECTION 10. All ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 11. If any section, subsection, clause or provision of this Ordinance be held invalid, the remainder shall not be affected by such invalidity.

APPROVED BY TITLE ONLY on first reading this 15th day of August, 1995.

APPROVED AND ADOPTED on second reading this 2nd day of October, 1995.

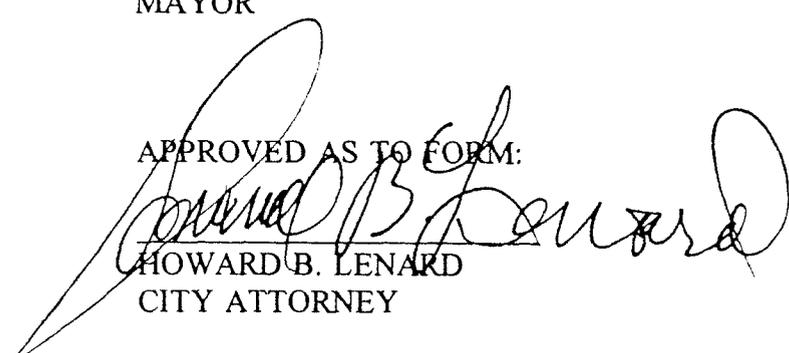
ATTEST


SOLOMON ODENZ
CITY CLERK

(CITY SEAL)


JEFFREY A. MISHCON
MAYOR

APPROVED AS TO FORM:


HOWARD B. LENARD
CITY ATTORNEY

SPONSORED BY: Retirement Committee
Mayor and City Council

STATE OF FLORIDA
COUNTY OF DADE:
CITY OF NORTH MIAMI BEACH:

I, SOLOMON ODENZ, City Clerk of the City of North Miami Beach, do hereby certify that the attached and foregoing is a true and correct copy of the original thereof on file in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this _____ day of _____ A.D. 19____

SOLOMON ODENZ
City Clerk of the City of North Miami Beach, Florida

By: _____
City Clerk