

ORDINANCE NO. 2002-29

AN ORDINANCE AMENDING SECTION 3.04(e) OF THE RETIREMENT PLAN FOR POLICE OFFICERS AND FIREFIGHTERS OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, CONCERNING PURCHASE OF CERTAIN TYPES OF CREDITED SERVICE; PROVISION FOR SEVERABILITY, PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE.

WHEREAS, the Mayor and the City Council of the City of North Miami Beach have determined that the City benefits from prior military and law enforcement service performed by members of the City's Police Department; and

WHEREAS, the Mayor and City Council desire to permit police officers to purchase credited service for such prior military and law enforcement service to be utilized in the City's Retirement Plan provided that said police officers pay the full costs thereof; and

WHEREAS, the Retirement Committee, at its public meeting of November 21, 2002 has reviewed and recommended for adoption the following amendment; and

WHEREAS, the Mayor and City Council have determined that it would be in the best interest of the police officers to provide a pick-up of employer contributions under Section 414(h)(2) of the Internal Revenue Code for contributions that are made for the purpose of purchasing such credited service pursuant to a binding, irrevocable payroll deduction authorization; and

WHEREAS, the contributions picked up by the City must be payable from the same source as is used to pay compensation to the employee; and

WHEREAS, the Mayor and City Council have received and reviewed an actuarial impact statement prepared by the Retirement Plan's actuary prior to the final adoption of this Ordinance; and

WHEREAS, the active police officer participants of the Police Officer and Firefighters Retirement Plan have approved the proposed amendment by the required positive vote.

NOW, THEREFORE,

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

Section 1. The foregoing recitals are true and correct.

Section 2. Section 3.04 of the Police Officers and Firefighters Pension Plan of the

City of North Miami Beach is hereby amended by adding the following subsection (e):

(e) Purchase of Credited Service for Prior Military or Law Enforcement Services - For a Participant who has completed ten years of credited 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, or performed law enforcement service prior to the Participant's first or initial employment with the City, shall be added to the Participant's years of credited service under the following terms and conditions:

~~1. The Participant contributes to the Retirement Plan the full actuarial cost of all service credits purchased hereunder. A Participant may make such contributions commencing upon successful completion of the probationary period for newly hired police officers; however, the service purchased shall not be recognized or credited by the Pension Plan until the Participant has completed ten years of credited service. If the Participant terminates employment before completing ten years of service, all contributions made by the Participant for prior military or law enforcement service shall be refunded to the Participant.~~

1. The Participant contributes to the Retirement Plan the full actuarial cost of all service credits purchased hereunder. As part of the application for the purchase of such credited service, the Participant shall elect either to contribute to the Retirement Plan the cost of such purchased credited service or to have all or a portion of the contributions for the cost of said purchased credited service picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the employee shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Retirement Plan and the employee while employed by the City shall not be able to make payment directly to the Retirement Plan for such purchased credited service. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption of this ordinance or the execution of the payroll deduction authorization form. This pick-up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the purpose of purchasing credited service hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such credited service as of the effective date of this ordinance are void. The contributions made pursuant to this section are designated as being picked up by the

City and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased service credits is not paid in full prior to the termination of the Participant's employment, then the balance due to the Retirement Plan for the purchased credited service shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick up from termination pay is allowed only if said form was signed three (3) months or more before the employee's termination date. Should, after termination of the Participant's employment and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pickup) a balance still remain due for the purchase of credited service, then, at the Participant's option, the Retirement Plan shall reduce the amount of service purchased to conform with the amount of contributions therefore picked up by the City and paid to the Retirement Plan or the Participant may elect to make a lump-sum contribution for the balance due subject to the limitations of Section 415 of the Internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant prior to the date that the Participant's first monthly pension benefit payment is due. The service purchase shall not be recognized or credited by the Pension Plan until the Participant has completed ten (10) years of credited service. If the Participant terminates employment before completing ten (10) years of service, all contributions made by the Participant for prior military or law enforcement service shall be refunded to the Participant.

~~2. The purchase of credited service under this subsection by a Participant shall be paid in full no later than the December 31st prior to retirement in accordance with the terms, rules, procedures and regulations established by the Retirement Committee. If full payment is not made prior to the December 31st prior to retirement, then the Participant, upon retirement, shall not receive payment from the City for the value of the Participant's accrued unused leave equal to the balance due to the Retirement Plan from the Participant hereunder; such unused accrued leave shall be forfeited by the Participant and the value of same shall be paid over to the Retirement Plan by the City.~~

32. For purchase of military service, the Participant did not receive a dishonorable discharge from such service from the Armed Forces.

43. The Participant did not receive credited service for the time spent in the Armed Forces or other law enforcement service from any other governmental or military retirement or pension system.

54. The maximum credit which may be purchased by a Participant for any prior military service in the Armed Forces of the United States or other law enforcement service under this section shall be four years.

~~6. If, upon adoption of this ordinance, a Participant or early retirement incentive retiree has not made full payment for credited service previously purchased and is due payment for accrued unused leave, then the Participant or early retirement incentive retiree shall not receive payment from the City for the value of his or her accrued unused leave which is equal to the balance due to the Retirement Plan from the Participant or early retirement incentive retiree; such unused accrued leave shall be forfeited by the Participant or early retirement incentive retiree and the value of same shall be paid over to the Retirement Plan by the City.~~

5. If, upon adoption of this Ordinance, a Participant has previously agreed to purchase credited service but has not yet made full payment for that credited service, then the Participant may elect City pick-up of the contribution remaining due to the Retirement Plan pursuant to the procedures and provisions set forth in section 1, above. The irrevocable payroll deduction authorization form electing such City pick-up must be signed within three months after the adoption of this ordinance.

6. A Participant who purchases service credits shall make the following series of elections with regard to these actions:

(i.) The Participant may elect a lump sum payment, installment payments, or a partial lump sum payment ("down payment") followed by installments;

(ii.) If installment payments are elected by the Participant, the Participant shall execute a binding irrevocable payroll deduction authorization to have these installment contributions picked up by the City.

Section 3. Any cross-reference in the Retirement Plan which are affected by changes in section number designations shall be adjusted accordingly.

Section 4. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 5. A copy of this Ordinance and the actuarial statement in support thereof shall be furnished to the State of Florida Division of Retirement prior to second public hearing hereon pursuant to state law. Any changes required by the Division to bring the plan/plan amendment into compliance with state requirements shall be incorporated into this Ordinance, which shall then be approved and adopted at a final special third reading, if required.

Section 6. If any section, subsection, clause or provision of the Ordinance is held invalid, the remainder shall not be affected by such invalidity.

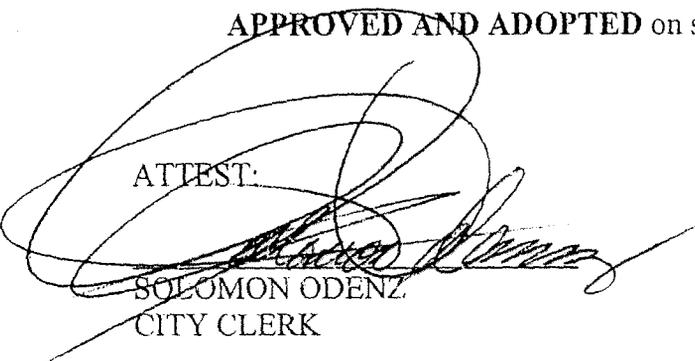
Section 7. It is the intention of the City Council of the City of North Miami each and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance

may be renumbered or lettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article", or other appropriate word as the Codifier may deem fit.

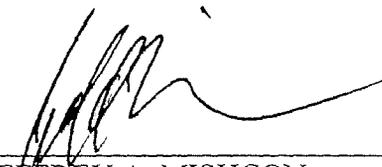
APPROVED BY TITLE ONLY on first reading this **17th day of December 2002.**

APPROVED AND ADOPTED on second reading this **7th day of January, 2003.**

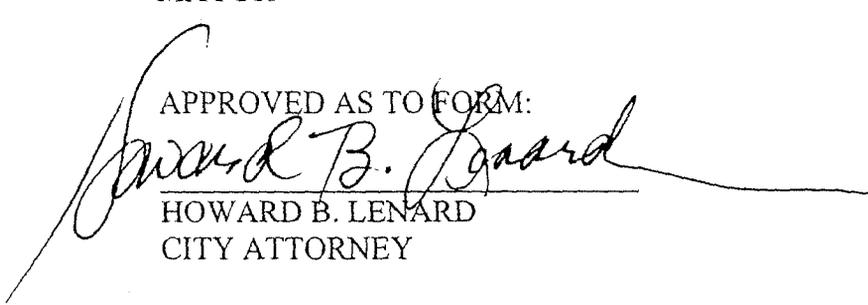
ATTEST:


SOLOMON ODENZ
CITY CLERK

(CITY SEAL)


JEFFREY A. MISHCON
MAYOR

APPROVED AS TO FORM:


HOWARD B. LENARD
CITY ATTORNEY

SPONSORED BY: Mayor and City Council
Police Officers and Firefighters Retirement Committee