



**ADD-ON AGENDA
NORTH MIAMI CITY COUNCIL**

Regular Meeting

**Tuesday, April 14, 2015
7:00 P.M.**

ADDITION(s) TO APRIL 14, 2015 COUNCIL AGENDA:

Honorable Mayor and City Council Members, I respectfully request that the item(s) below be added UNDER:

9.B.2 ORDINANCES – FIRST READING

[TAB I]

PROPOSED ORDINANCE (*FIRST READING*) OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 15 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED, "PERSONNEL, PENSIONS AND RETIREMENT," ARTICLE IV "CLAIR T. SINGERMAN EMPLOYEES RETIREMENT SYSTEM," TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 15-85.1 "MILITARY SERVICE CREDIT; CONTRIBUTIONS FOR MILITARY SERVICE"; SECTION 15-93 "DEATH BENEFITS"; SECTION 15-98 "DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

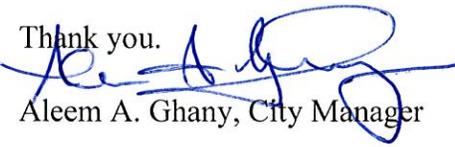
Sponsored by: Pension Board

[TAB J]

PROPOSED ORDINANCE (*FIRST READING*) OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 15 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "PERSONNEL, PENSIONS AND RETIREMENT," ARTICLE V "NORTH MIAMI POLICE PENSION PLAN," TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 15-101 "DEFINITIONS"; SECTION 15-103 "MISCELLANEOUS PROVISIONS"; SECTION 15-132 "DEATH BENEFITS"; SECTION 15-137 "DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Sponsored by: Pension Board

Thank you.


Aleem A. Ghany, City Manager

c: Regine M. Monestime, Esq., City Attorney
Michael A. Etienne, Esq., City Clerk

TAB I

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF NORTH MIAMI, FLORIDA ("CITY"), AMENDING THE CITY CODE BY AMENDING CHAPTER 15, "PERSONNEL, PENSIONS AND RETIREMENT," ARTICLE IV "CLAIR T. SINGERMAN EMPLOYEES RETIREMENT SYSTEM," TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 15-85.1 "MILITARY SERVICE CREDIT; CONTRIBUTIONS FOR MILITARY SERVICE"; SECTION 15-93 "DEATH BENEFITS"; SECTION 15-98 "DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Clair T. Singerman Employees Retirement System (the "System") has received a determination letter from the Internal Revenue Service which requires amendments to the System to comply with the Internal Revenue Code (Exhibit "A"); and

WHEREAS, the City of North Miami has determined that amending the System to comply with the Internal Revenue Code is in the best interests of the employees and citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH MIAMI AS FOLLOWS:¹

Section 1. **Recitals.** The above recital is true and correct and are incorporated herein by this reference.

Section 2. **City Code Amended.** Section 15-85.1 "Military service credit; contributions for military service." of the City Code is hereby amended by adding a paragraph to the end of such section to read as follows:

Sec. 15-85.1 – Military service credit; contributions for military service.

* * *

For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined in Section 3401(h)(2) of the Internal Revenue Code, shall be treated as an employee of the employer making the payment, (ii) the differential wage

¹ Words in *strikeout* type are deletions from existing text and words in underline type are additions

payment shall be treated as compensation, and (iii) the plan shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Internal Revenue Code by reason of any contribution or benefit which is based on the differential wage payment.

Section 3. City Code Amended. Section 15-93 “Death benefits” of the City Code is hereby amended by adding subsection (c) to read as follows:

Sec. 15-93. - Death benefits.

* * *

(c) Death During Qualified Military Service. In the case of a death or disability occurring on or after January 1, 2007, if a participant dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment by the City on account of death.

Section 4. City Code Amended. Section 15-98 “Direct transfers of eligible rollover distributions.” of the City Code is hereby amended by adding a sentence to the end of subsection (b)(4) to read as follows:

Sec. 15-98. – Direct transfers of eligible rollover distributions.

* * *

(4) Direct rollover. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse beneficiary may make a direct rollover only to an “inherited” individual retirement account as described in section 408(b) of the Internal Revenue Code. If a non-spouse Beneficiary receives a distribution from the plan, the distribution is not eligible for a 60-day (non-direct) rollover.

Section 5. Severability. Should this ordinance or any part thereof be declared invalid by a Court of competent jurisdiction, the invalidity of any part of this ordinance shall not otherwise affect the validity of the remaining provisions of this ordinance, which shall be deemed to have been enacted without the invalid provision.

Section 6. **Inclusion in the Code.** It is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of the City of North Miami, and that the word “ordinance” may be changed to “section,” “article,” or other such appropriate word or phrase in order to accomplish such intentions.

Section 7. **Effective Date.** This Ordinance shall become effective immediately upon its passage.

PASSED AND ADOPTED on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED on second reading this _____ day of _____, 2015.

Mayor

Date Signed

ATTEST:

City Clerk

I HEREBY CERTIFY that I have approved
this Ordinance as to form:

City Attorney



April 1, 2015

Mr. Miguel A. Codorniu
Pension Plan Administrator
City of North Miami
776 Northeast 125th Street, 3rd Floor Pension
North Miami, Florida 33161

Re: City of North Miami Clair T. Singerman Employees Retirement System

Dear Miguel:

As requested, we have reviewed the proposed ordinance for the City of North Miami Clair T. Singerman Employees Retirement System which incorporates the changes that are being required by the IRS pursuant to the Favorable Determination Letter. This proposed ordinance would amend the Plan as follows:

- Amending Section 15-85.1, Military Service Credit, to add language regarding the treatment of differential wage payments to comply with the Internal Revenue Code.
- Adding Section 15-93(c), Death Benefits, to reflect the changes under the Heroes Assistance and Relief Tax Act of 2008 (HEART).
- Amending Section 15-98(b), Direct Transfers of Eligible Rollover Distributions, to update the definition of Direct Rollover.

Under HEART, if a member dies or becomes disabled while in the military, the Plan would provide certain benefits. The value of these benefits would result in an actuarial loss in the year in which the death or disability occurred. Because of the very low probability that this provision will be utilized, we do not feel that an estimate for advanced funding is necessary.

In our opinion, these changes will not have a significant actuarial impact on the cost of the Pension Plan. Therefore, it is our opinion that a formal Actuarial Impact Statement is not required. However, we recommend that you send a copy of this letter and the ordinance to the Bureau of Local Retirement Systems.

The undersigned actuary is a member of the American Academy of Actuaries and meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein. The undersigned actuary is independent of the plan sponsor.

Mr. Miguel A. Codorniu
April 1, 2015
Page 2

We welcome your questions and comments.

Respectfully submitted, _____



Jeffrey Amrose, MAAA
Enrolled Actuary No. 14-6599

Circular 230 Notice: Pursuant to regulations issued by the IRS, to the extent this communication (or any attachment) concerns tax matters, it is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) marketing or recommending to another party any tax-related matter addressed within. Each taxpayer should seek advice based on the individual's circumstances from an independent tax advisor.

This communication shall not be construed to provide tax advice, legal advice or investment advice.

TAB J

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF NORTH MIAMI, FLORIDA ("CITY"), AMENDING THE CITY CODE BY AMENDING CHAPTER 15, "PERSONNEL, PENSIONS AND RETIREMENT," ARTICLE V "NORTH MIAMI POLICE PENSION PLAN," TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 15-101 "DEFINITIONS"; SECTION 15-103 "MISCELLANEOUS PROVISIONS"; SECTION 15-132 "DEATH BENEFITS"; SECTION 15-137 "DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the North Miami Police Plan (the "Plan") has received a determination letter from the Internal Revenue Service which requires amendments to the Plan to comply with the Internal Revenue Code (Exhibit "A"); and

WHEREAS, the City of North Miami has determined that amending the Plan to comply with the Internal Revenue Code is in the best interests of the employees and citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH MIAMI AS FOLLOWS:¹

Section 1. **Recitals.** The above recital is true and correct and are incorporated herein by this reference.

Section 2. **City Code Amended.** Section 15-101 "Definitions." of the City Code is hereby amended by adding a sentence to the end of the definition of Compensation to read as follows:

Sec. 15-101 – Definitions.

* * *

Compensation means total compensation payable to an employee working the full normal working period for his position and shall include contributions made by the city on behalf of a member in satisfaction of the member's mandatory contributions to the system. Effective January 1, 1989, the compensation of an employee for purposes of this article shall not exceed two hundred thousand dollars (\$200,000.00) per year adjusted for cost of living increases in accordance with [section] 415(d) of the Code.

¹ Words in ~~strikeout~~ type are deletions from existing text and words in underline type are additions

Except as otherwise provided in the preceding sentence, for the plan years beginning on or after January 1, 1996, the annual compensation of each employee taken into account under the plan shall not exceed the annual compensation limit in section 401(a)(17) of the Code, as adjusted by the commissioner for increases in the cost-of-living in accordance with section 401(a)(17)(B) of the Code. For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined in Section 3401(h)(2) of the Internal Revenue Code, shall be treated as an employee of the employer making the payment, (ii) the differential wage payment shall be treated as compensation, and (iii) the plan shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Internal Revenue Code by reason of any contribution or benefit which is based on the differential wage payment.

Section 3. City Code Amended. Section 15-103 “Miscellaneous provisions” of the City Code is hereby amended by correcting a typo in subsection (c)(4)(b) to read as follows:

Sec. 15-103. - Death benefits.

* * *

b. If the system is terminated or the full current costs thereof have not been met at any time within ten (10) years after effective date, the benefits which any of the members described in this section may receive from the city's contribution shall not exceed the benefits set forth in section (c)(4) of this section. If at the end of the first ten (10) years the full current costs are not met, the restrictions will continue to apply until the full current costs are funded for the first time. If a member described in this section leaves the employ of the city or withdraws from membership in the system when the full current costs have been met, the benefits which he may receive from the city contributions shall not at any time within the first ten (10) years after the effective date exceed the benefits set forth above except as provided in the case of a lump sum distribution described below. These conditions shall not restrict the ~~full~~ full payment of any survivor's benefits on behalf of a member who dies while in the system and the full current costs have been met. These conditions shall not restrict the current payment of full retirement allowance called for by the system for any retired member while the system is in full effect and its full current costs have been met, provided an agreement, adequately secured, guarantees the repayment of any part of the distribution that is or may become restricted.

Section 4. City Code Amended. Section 15-132 “Death benefits.” of the City Code is hereby amended by adding subsection (c) to read as follows:

Sec. 15-132. – Death benefits.

* * *

(c) *Death During Qualified Military Service.* In the case of a death or disability occurring on or after January 1, 2007, if a participant dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment by the City on account of death.

Section 5. City Code Amended. Section 15-137 “Direct transfers of eligible rollover distributions.” of the City Code is hereby amended by adding a new subsection (b) and a sentence to the end of subsection (c)(4) to read as follows:

Sec. 15-137. – Direct transfers of eligible rollover distributions.

* * *

(b) *Retiree medical premiums for public safety officers.* The plan may allow a public safety officer to elect a tax free distribution of up to \$3,000 annually directly to a retiree accident or medical plan or long-term care insurance contract on a pre-tax basis, so long as the public safety officer separates from service either at the plan’s normal retirement age or due to his or her disability. Insurance premiums may be paid for the public safety officer, his spouse or his dependents while he is alive, but once he is deceased, the benefit ceases and may not be used by his spouse or beneficiaries to pay for their insurance premiums. Insurance premiums payments may only be made directly to the provider of the accident or health plan or qualified long-term care insurance contract. “Public safety officers” include law enforcement officers, firefighters, chaplains, rescue crew members or ambulance crew members.

(c) *Definitions.*

* * *

(4) *Direct rollover:* A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse beneficiary may make a direct rollover only to an "inherited" individual retirement account as described in section 408(b) of the Internal Revenue Code. If a non-spouse Beneficiary receives a distribution from the plan, the distribution is not eligible for a 60-day (non-direct) rollover.

Section 6. Severability. Should this ordinance or any part thereof be declared invalid by a Court of competent jurisdiction, the invalidity of any part of this ordinance shall not otherwise affect

the validity of the validity of the remaining provisions of this ordinance, which shall be deemed to have been enacted without the invalid provision.

Section 7. Inclusion in the Code. It is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of the City of North Miami, and that the word "ordinance" may be changed to "section," "article," or other such appropriate word or phrase in order to accomplish such intentions.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage.

PASSED AND ADOPTED on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED on second reading this _____ day of _____, 2015.

Mayor

Date Signed

ATTEST:

City Clerk

I HEREBY CERTIFY that I have approved this Ordinance as to form:

City Attorney



April 1, 2015

Mr. Miguel A. Codorniu
Pension Plan Administrator
City of North Miami
776 Northeast 125th Street, 3rd Floor Pension
North Miami, Florida 33161

Re: North Miami Police Pension Plan

Dear Miguel:

As requested, we have reviewed the proposed ordinance for the North Miami Police Pension Plan which incorporates the changes that are being required by the IRS pursuant to the Favorable Determination Letter. This proposed ordinance would amend the Plan as follows:

- Amending Section 15-101, Definitions, to add language to the definition of Compensation to comply with the Internal Revenue Code.
- Amending Section 15-130, Maximum Annual Benefit, to update the reference to the applicable mortality table.
- Adding Section 15-132(c), Death Benefits, to reflect the changes under the Heroes Assistance and Relief Tax Act of 2008 (HEART).
- Adding Section 15-137(b), Direct Transfers of Eligible Rollover Distributions, to indicate that the Plan may allow a member who retires under normal or disability retirement to elect a pre-tax deduction of up to \$3,000 annually for direct payment of medical or long term care insurance premiums while the retiree is living.
- Amending Section 15-137(c), Direct Transfers of Eligible Rollover Distributions, to update the definition of Direct Rollover.

Under HEART, if a member dies or becomes disabled while in the military, the Plan would provide certain benefits. The value of these benefits would result in an actuarial loss in the year in which the death or disability occurred. Because of the very low probability that this provision will be utilized, we do not feel that an estimate for advanced funding is necessary.

In our opinion, these changes will not have a significant actuarial impact on the cost of the Pension Plan. Therefore, it is our opinion that a formal Actuarial Impact Statement is not required. However, we recommend that you send a copy of this letter and the ordinance to the Municipal Police Officers and Firefighters' Retirement Trust Funds Office and to the Bureau of Local Retirement Systems.

Mr. Miguel A. Codorniu
April 1, 2015
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We welcome your questions and comments.

Respectfully submitted,



Jeffrey Amrose, MAAA
Enrolled Actuary No. 14-6599

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