

ORDINANCE NO. 08-19

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, CREATING THE CITY OF KEY WEST POLICE OFFICER'S AND FIREFIGHTER'S RETIREMENT FUND, SECTION 46-327 PROVIDING FOR CREATION OF A SHARE PLAN TO BE FUNDED BY FLORIDA STATUTE CHAPTER 175 AND 185 MONIES RECEIVED EACH YEAR; PROVIDING FOR THE BOARD OF TRUSTEES TO DISTRIBUTE NON-DEDICATED FUNDS PAYABLE SOLELY FROM STATE OF FLORIDA CHAPTER 175 AND 185 MONIES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the granting of additional benefits will allow the Fund to continue to receive insurance premium tax rebate monies from the State of Florida; and

WHEREAS, the granting of these benefits can be accomplished without increasing the liability of the City for employer contributions and maintaining the City cost within the aggregate sum of the contributions received from the State of Florida; and

WHEREAS, the City of Key West Police Officer's and Firefighter's Retirement Fund receives insurance premium monies from the State of Florida each year that must be used to provide benefits for members of the Fund; and

WHEREAS, it is the intention of the City of Key West that the assets of this Fund be used for the exclusive benefit of the members and beneficiaries of the Fund and for the purpose of defraying the reasonable expenses of the Fund; and

WHEREAS, the Trustees of the Fund have received advice from the Fund actuary indicating that a share plan may be established if payable solely from the receipt of Chapter 175 and 185 monies from the State of Florida which will not create any cost to the taxpayers of the City of Key West; and

WHEREAS, the Key West City Commission has determined that the passage of this ordinance is in the best interest of the citizens of the City of Key West;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA THAT:

Section 1: Section 46-327 of the Code of the City of Key West is hereby created to read as follows:

Section 46-327. Share Accounts.

- A. The purpose of this Section is to implement the provisions of Chapters 175 and 185, Florida Statutes, and to provide a mechanism to pay required "Chapter 175 and 185 monies" to police officers, firefighters and retirees based on the growth of premium tax revenue pursuant to Chapters 175 and 185. The fund created by this Section, hereinafter the City of Key West Police Officer's and Firefighter's Retirement Fund Share Plan, shall be derived exclusively from monies received from the state and not from any additional taxes levied by the City and shall be in addition to the police officer and firefighter defined benefit pension paid by the City of Key West Police Officer and Firefighter Retirement Fund. The Share Plan shall be administered by the Board of Trustees of the City of Key West Police Officer and Firefighter Retirement Fund (hereinafter the "Retirement Fund").
- B. In each year, after receipt of the annual distribution of Chapter money from the state, the Board of Trustees, with the advice of their actuary, shall determine the amount of non-dedicated Chapter money received by the City during the current fiscal year pursuant to F.S. §175.131 and § 185.11. The sum of these amounts shall be known as the "available funds." Allocation of shares shall be made within 30 days after approval by the Board, or as soon as is practicable thereafter. With regard to the available funds for share plan distribution on or before June 1, 2008, retirees separated from employment with the City shall receive the sum of \$5,000.00, and the remaining available funds shall be equally distributed between the active members and DROP participants. All subsequent distributions will be made in equal shares to all active and inactive members.

- C. An individual share account shall be established for each active and retired member on the effective date of this ordinance. Available funds for active members shall be invested by the Board of Trustees and may be commingled for investment purposes with the other assets of the Retirement System. The individual balances and earnings or losses for each participant in the share plan shall be clearly identified on the monthly statements prepared by the plan administrator. Each active member will recognize investment gains or losses at the same rate as the rest of the plan's assets as invested by the plan investment managers. The calculation of interest and the rate shall clearly be identified each month on the statements prepared by the plan's administrator. The City of Key West shall not incur any financial obligation in any manner relative to the share plan.
- D. After premium tax distributions are received from the state, the expense of administering the Share Plan for the preceding year shall be determined by the Board of Trustees and charged against monies received during such year.
- E. Available funds shall be allocated to each qualified participant in shares. Available funds shall be allocated to each active member by credit to the active member's individual account. An active member will not be entitled to his or her share account until fully vested in the Plan with ten years of service. Any members separating from service with less than ten years of service will forfeit their share account. Available funds shall be allocated and paid directly to each inactive member if he or she has retired under the terms of the Retirement Fund.
- F. The account balance for each active participant with at least ten years of credited service shall be payable to the active members within 30 days after retiring under the provisions of the Retirement Fund.
- G. The Board of Trustees shall be authorized to adopt any rules necessary for the administration of the Share Accounts.

Section 2: This Section and any Ordinance approved pursuant to this Section, shall be codified and made a part of the Code of Ordinances of the City of Key West. In any such codification, the editor shall have the authority to re-number or re-letter any section of this ordinance as may be necessary provided, however,

that no such editorial change shall alter the substantive language of this ordinance.

Section 3: Should any provision of this ordinance be declared invalid by a court of competent jurisdiction the remaining provisions of this ordinance shall remain in full force and effect as if the invalid provision had not been enacted.

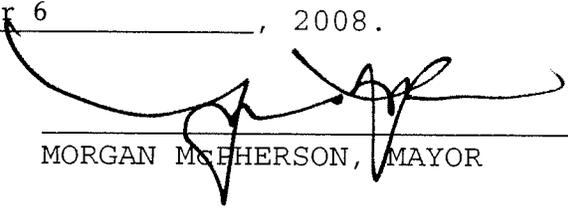
Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 21 day of October, 2008.

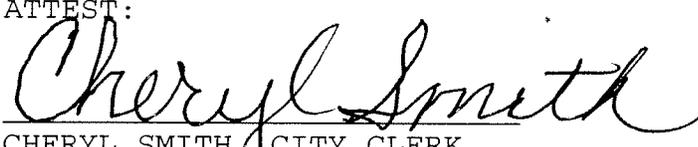
Read and passed on final reading at a regular meeting held this 5 day of November, 2008.

Authenticated by the presiding officer and Clerk of the Commission on 6 day of November, 2008.

Filed with the Clerk November 6, 2008.


MORGAN McPHERSON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

M E M O R A N D U M

TO: Jim Scholl, City Manager
City of Key West

FROM: Stuart A. Kaufman, Esquire
Klausner & Kaufman, P.A.
Counsel for the City of Key West Police
Officers and Firefighters Retirement Plan

RE: Executive Summary Regarding Police and Fire Share Plan
Ordinance

FILE: 900343

DATE: September 29, 2008

The Board of Trustees of the City of Key West Police and Fire Retirement Plan have recommended approval of an ordinance creating a share plan for all active and retired members of the City of Key West Police and Fire Retirement Plan. Each year the Pension Fund receives monies from the State of Florida pursuant to Florida Statutes, Chapters 175 and 185. All insurance companies doing business in the State of Florida pay a premium tax to the State of Florida for doing business in the State. These monies are forwarded by the State to the appropriate municipalities to be used to provide benefits for police and fire retirement plan members. Florida Statute mandates that these monies be used to provide additional benefits for police and fire pension plan members.

Florida Statutes also provide that a majority of the pension fund members determine what benefits to purchase with these tax monies.

The firefighters and police Officers of the City of Key West have determined that a share plan should be established for its members and retirees. A share plan in effect sets up a share account for

September 29, 2008

Page 2

every member of the Pension Fund and the premium tax monies are distributed evenly between all members and retirees. For the first year distribution, since retirees have not received a cost-of-living adjustment in many years, the current police officers and firefighters from the City of Key West determined to give the retirees an initial \$5,000.00 payment, with a lesser amount to be given to current police and fire employees of the City of Key West. In all years going forward the premium tax monies will be distributed evenly between members and retirees. Retirees will receive a direct distribution from the Pension Fund, less applicable withholding taxes. The members will have their monies accounted for separately and invested with the assets of the Pension Fund until such time as they separate from service with the City of Key West.

The actuary for the Pension Fund has prepared an actuarial impact statement showing that creation of the share plan will not cost the City any money. As stated in the ordinance, "the City of Key West shall not incur any financial obligation in any manner relative to the share plan." All administrative expenses, which will be minimal in nature, will be paid for with the premium tax monies before distributions are made to members of the Pension Fund.

If the premium tax monies are not used to provide extra benefits for police officers and firefighters, the State of Florida can cease paying the premium tax monies to the Pension Fund. This would lead to additional funding requirements for the City of Key West to fund the benefits past and prior years with the premium tax monies. The police officers premium tax distribution for 2007 for Key West was \$179,666.04. The premium tax distribution for firefighters for 2007 in the City of Key West was \$285,116.38.