



## Legislation Text

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File #: 20-761, Version: 1

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### CITY COUNCIL AGENDA ITEM

Memo Date: October 28, 2020  
Agenda Date: November 10, 2020  
Prepared By: Tammy B. Gemmati, PHR, Administrative Services Director  
Through: Stockton Whitten, City Manager

Requested Action:

Approval of Ordinance No. 19-2020/2<sup>nd</sup> and final reading: Related to Amending Chapter 2, Administration, Article VI General Employees' Retirement Plan due to legislative, Internal Revenue Code compliance changes, and board composition changes amending Section 2-107, Board of Trustees; Section 2-110, Benefit Amounts and Eligibility; Section 2-111, Pre-Retirement Death; Section 2-120, Miscellaneous Provisions; Providing for incorporation into the Code; Providing for severability of provisions; Repealing all ordinances and resolutions in conflict herewith and providing an effective date.

#### **BACKGROUND:**

The City of Cocoa General Employees' Retirement Plan is currently a closed retirement plan with only two active employee participants, which both are in the Deferred Retirement Option Plan (DROP). All other covered members are already retired from employment. In September 2020, pension board member Vincent Knowles separated from the City upon the end of his DROP, which brought an issue to the pension board's attention that the language in the City's Code involving the make-up of the Board of Trustees needs to be updated due to the low number of active employees in the General Employees' Retirement Plan.

Additionally, in December 2019, United States Congress and President Trump signed into law the "Setting Every Community Up for Retirement Enhancement (SECURE) Act. This Act includes a number of federal tax law changes with the most significant change to increase the age for required minimum distributions in retirement plans from 70 ½ to 72.

Both of these proposed changes were presented and discussed at the August 19, 2020 pension board meeting and then the board's pension attorney Stu Kaufman drafted an ordinance proposing code changes under Chapter 2, Administration, Article VI, General Employees' Retirement Plan of the Code. Also, included in the plan's proposed changes was to add a section that would allow the board to adopt an administrative policy to allow plan amendments related to Internal Revenue Code without taking an ordinance change to council.

This proposed ordinance was submitted to the City's pension attorney Jim Linn of Lewis, Longman & Walker for review. After this review, the proposed changes related to the board composition and SECURE Act were kept after slight tweaking of the language. However, Mr. Linn does not share the same opinion of the pension board making amendments related to the Internal Revenue Code

without those plan amendments being adopted by City Council.

On October 2, 2020, Mr. Kaufman accepted Mr. Linn's recommendations; therefore, City staff recommends moving forward with the proposed ordinance.

A summary of the amendments to the pension plan in the proposed ordinance include:

1. Section 2-107, Board of Trustees - Since there are few active members of the plan, this section is amended to provide a change in the make-up of the trustees. Currently one of the members must be a full-time general employee. The requested change is to remove the requirement of one full-time general employee and instead have three members who are appointed by city council and two members shall be chosen by majority of the other three trustees. The current list of board trustee members is attached for information.
2. Section 2-110, Benefit Amounts and Eligibility, subsection (g) - Required distribution date is amended to ensure compliance under SECURE Act which amended Internal Revenue Code Section 401(a)(9) modifying the minimum age to require minimum distributions from the plan, from age 70 ½ to age 72 for members who attain age seventy and one-half (70 ½) before January 1, 2020 and age seventy-two (72) for members who attain age 70 ½ on or after January 1, 2020.
3. Section 2-111, Preretirement death, subsection (b) - has also been amended for compliance under the SECURE Act where distributions to a qualifying spouse beneficiary will take place in which the member would have attained age seventy and one-half (70 ½) for members who attained such age before January 1, 2020 and age seventy-two (72) for members who attained age seventy-two (72) who attain age seventy and one-half (70 ½) after January 1, 2020.
4. Section 2-120, Miscellaneous Provisions, subsection (c) - administrative change that states the plan will comply with Treasury Regulations applicable to a government defined benefit retirement plan.

City Administration recommends approval of Ordinance No. 19-2020, due to legislative, Internal Revenue Code compliance changes, and board composition changes in the General Employees' Retirement Plan. The pension plan's actuary has provided a "no impact" statement, which has been provided to the State of Florida Division of Retirement Services.

City Council passed the first reading of Ordinance No. 19-2020 at the Regular City Council Meeting on October 27, 2020. There have been no additional changes since the first reading. The Ordinance shall be effective immediately upon adoption by the City Council after the second reading and the changes will be incorporated into the City's Code.

### **STRATEGIC PLAN CONNECTION:**

Containing the retirement plan costs helps maintain financial sustainability for the City. Moreover, maintaining this closed retirement plan helps retain employees at the City of Cocoa for a long tenure and meet the City's obligation to retirees.

**BUDGETARY IMPACT:**

Budgeted: N/A

The Plan's actuary has provided a no impact letter that will be provided to the State upon adoption of the ordinance after the second hearing.

**PREVIOUS ACTION:**

At a Regular City Council Meeting on October 27, 2020, City Council approved the first reading of Ordinance No. 19-2020, related to Amending Chapter 2, Administration, Article VI General Employees' Retirement Plan due to legislative and Internal Revenue Code compliance changes amending Section 2-107, Board of Trustees; Section 2-110, Benefit Amounts and Eligibility; Section 2-111, Pre-Retirement Death; Section 2-120, Miscellaneous Provisions; Providing for incorporation into the Code; Providing for severability of provisions; Repealing all ordinances and resolutions in conflict herewith and providing an effective date

At a Regular City Council Meeting on May 10, 2016, Council approved Ordinance No. 7-2016 amending several sections of the General Employees' Retirement Plan due to legislative and Internal Revenue Code compliance changes.

**RECOMMENDED MOTION:**

Approval of Ordinance No. 19-2020/2<sup>nd</sup> and Final Reading: Related to Amending Chapter 2, Administration, Article VI General Employees' Retirement Plan due to legislative, Internal Revenue Code compliance changes, and board composition changes, amending Section 2-107, Board of Trustees; Section 2-110, Benefit Amounts and Eligibility; Section 2-111, Pre-Retirement Death; Section 2-120, Miscellaneous Provisions; Providing for incorporation into the Code; Providing for severability of provisions; Repealing all ordinances and resolutions in conflict herewith and providing an effective date.