

Item 7
Other Business

Item 7.A.

**Proposed Ordinance 10-24
Fire Chief and Police Chief Provisions**

ORDINANCE NO. 10-24

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, CHAPTER 35 "EMPLOYEE POLICIES AND BENEFITS", SUBHEADING "RETIREMENT PLAN", BY AMENDING SECTION 35.089, "DEFINITIONS" TO PROVIDE FOR THE PARTICIPATION OF THE POLICE CHIEF AND FIRE CHIEF IN THE GENERAL EMPLOYEES' RETIREMENT PLAN UPON THE CHIEF'S WRITTEN ELECTION NOT TO PARTICIPATE IN THE POLICE OFFICERS' RETIREMENT PLAN OR FIREFIGHTERS' RETIREMENT PLAN; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach General Employees' Retirement Plan ("Plan") was established by ordinance of the City Commission many years ago to provide retirement and disability benefits to city employees and their beneficiaries; and

WHEREAS, the City Commission has determined it to be in the best interest of the City and its employees to amend the General Employees' Retirement Plan to provide for the participation of the Police Chief and Fire Chief in the General Employees' Retirement Plan upon the Chief's written election not to participate in the Police Officers' Retirement Plan or Firefighters' Retirement Plan; and

WHEREAS, to implement such changes, it is necessary to adopt an ordinance amending the City's Code of Ordinances.

IT IS HEREBY ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That Section 35.089 of the City Code of Ordinances is hereby amended to read as follows:

Sec. 35.089. DEFINITIONS

Credited service. The period of continuous City employment from the employee's most recent date of hire to the date of termination of City employment up to a maximum of thirty (30) years, except as otherwise provided in Section 35.093 or Section 35.094 of this subchapter. Credited service shall include all periods of paid leave, and unpaid leave up to and including thirty (30) days in any calendar year. Unpaid leave in excess of thirty (30) days in any calendar year shall be excluded from credited service, except as otherwise required by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as amended from time to time. The credited service of any participant whose City employment is terminated by reason of the participant's death within thirty (30) days prior to attaining five (5) years of credited service shall be deemed to include the period between the participant's death and the date on which the participant would have attained five (5) years of credited service.

* * *

Credited service shall also include, for purposes of vesting and determining eligibility for normal retirement only, the years and completed months of a participant's full-time employment with the City as a police officer or firefighter subsequent to membership in this plan. Such service shall not be considered in determining the amount of a participant's benefits under this plan.

Credited service shall also include, for purposes of vesting and determining eligibility for normal retirement only, the years and completed months of employment with the City as a police officer and in the position of Police Chief prior to the Police Chief's election not to participate in the Police Officers' Retirement System; and the years and completed months of employment with the City as a firefighter and in the position of Fire Chief prior to the Fire Chief's election not to participate in the Firefighters' Retirement System. Such service shall not be considered in determining the amount of benefits under this plan.

Employee. Any regular full-time employee of the City, except as otherwise provided herein.

- (1) The term "employee" shall not include: City Commissioners; the City Manager (and assistants); the City Attorney (and assistants); department heads upon their written election not to participate in the plan; former department heads who have elected not to participate in the plan; any person not classified by the City as a regular, full-time employee; any participant who retires and receives early or normal retirement benefits under the plan, is subsequently re-employed by the City, and elects to continue receiving retirement income during the period of employment pursuant to Section 35.090(E) of this subchapter; and firefighters and police officers employed by the City who participate in another retirement plan.
- (2) Effective January 7, 2003, the term "employee" shall include the City Manager (and assistants) upon their written election to participate in the plan; the City Attorney (and assistants) upon their written election to participate in the plan; department heads; and the Sustainability Officer/Public Information Officer who previously elected not to participate in the plan, upon their written election to participate in the plan. Such written election shall be irrevocable.
- (3) Effective [effective date of this ordinance], the term "employee" shall include the Police Chief, upon the Police Chief's written election not to participate in the Police Officers' Retirement System and written election to participate in this plan; and the Fire Chief, upon the Fire Chief's written election not to participate in the Firefighters' Retirement System and written election to participate in this plan.

Section 2. All ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 3 Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 4. Specific authority is hereby given to codify this Ordinance.

Section 5. This Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the
____ day of _____, 2024.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

First Reading _____

Second Reading _____