



THE VOICE OF LAW ENFORCEMENT

**DADE COUNTY POLICE BENEVOLENT ASSOCIATION, INC.**

March 10, 2015

Via Telecopier (305) 809-3886  
and U.S. Mail

James K. Scholl, City Manager  
City of Key West, Florida  
3132 Flagler Avenue  
Key West, Florida, 33040

**RE: PBA's Notice of No Objection to Changes to City of Key West Police Officers' and Firefighters' Pension Plan- Amending Chapter 46, Section 246 and Creating Chapter 46, Section 328 of the Code of Ordinances**

Dear Mr. Scholl:

Please let this letter serve as the PBA's official written notice that we have no objection to the City amending and enacting the changes to the City of Key West, Florida Police Officers' and Firefighters' Pension as set forth in the attached proposed ordinance.

Thank you for your consideration of this matter look forward to hearing from you.

Sincerely,

Michael Braverman, Esq.

enc. Copy of Proposed Amended Ordinance

cc: John Rivera, DCPBA President  
Andrew Axelrod, Esq., DCPBA General Counsel  
Lt. Areka Jewels, DCPBA Representative  
Det, Marcus Delvalle, DCPBA Representative  
Lt. Alfrado Vazquez, Pension Board Member  
Shawn Smith, Esq. City Attorney

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 46, SECTION 246 OF THE CODE OF ORDINANCES TO INCREASE THE POST RETIREMENT SUPPLEMENT PAID TO RETIREES OF THE POLICE OFFICERS' AND FIREFIGHTERS' RETIREMENT PLAN; CREATING CHAPTER 46, SECTION 328 OF CODE OF ORDINANCES TO PROVIDE FOR AN AD-HOC THIRTEENTH CHECK TO BE PAID FUNDED BY NET INVESTMENT RETURNS OF THE PLAN OVER NINE PERCENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of Trustees of the Police Officers' and Firefighters' Retirement Plan has recommended increasing and extending the current post retirement supplement paid; and

WHEREAS the City Commission finds that this ordinance will best serve the interest of the citizens of Key West.

NOW, THEREFORE, BE IT ORDAINED by the City of Key West, Florida:

**Section 1:** That Section 46-246 of the Code of Ordinances is hereby amended to read as follows:

**Section 46-246 Post Retirement Supplement**

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- (a) In addition to the monthly retirement benefits provided by this plan, there shall be a supplemental payment of \$300.00 ~~\$269.00~~ per month. This benefit shall commence on the first day of the month following separation from service, providing the member is in a pay status with the plan, and shall cease in the month immediately preceding the member's 65th birthday. This benefit shall apply on a retroactive basis to all retirees who had attained the age of 62 prior to July 1,

2007, including retroactive payments for the retirees back to the time they had reached age 62.

- (b) The board, by uniform rule, shall establish a procedure for the distribution of this benefit. The board may, in its discretion, provide for the direct payment of this benefit to an insurance provider or other tax qualified method of distribution.

**Section 2:** Section 46-328 of the Code of the City of Key West is hereby created to read as follows:

**Section 46-328. Ad-hoc Thirteenth Check.**

- (a) Ad-hoc Thirteenth Check.

A benefit is hereby created to be provided in the form of an ad-hoc thirteenth check to be paid on June 1 to each beneficiary and retiree of the Plan in pay status as of September 30<sup>th</sup> of the prior year. Payment shall only be made in those years in which the net investment gain is in excess of nine (9%) percent for the prior fiscal year ended September 30. The ad-hoc thirteenth check shall solely be funded by investment returns of the plan in excess of the nine (9%) percent net investment gain. The minimum 13<sup>th</sup> check payable to each beneficiary and retiree shall be \$2,000.00.

- (b) Distribution of Benefits; Limitations.

Once certified by the actuary, the Board shall notify retirees and beneficiaries, in pay status as of September 30<sup>th</sup> of the prior year, regarding the availability of an ad-hoc thirteenth check distribution for the current year.

- (c) Non-Guarantee of Benefits.

By acceptance of an ad-hoc thirteenth check distribution under this Section, each retiree and beneficiary acknowledges that they have no right, title or interest in any such benefits except as may be determined by the Board of Trustees. The payment of an ad-hoc thirteenth check in any year shall not create any right, title or interest in any person to the payment of an ad-hoc thirteenth check in any other year. The Board of Trustees reserves the exclusive right to alter the manner of payment of this benefit or, to decline the payment of such benefit in any year in which the Board, in the exercise of its fiduciary responsibility and its sole discretion, determines it is in the best interest of the Plan to forego such payment.

(d) Rule-Making Authority.

The Board of Trustees shall have authority to make such uniform rules as it deems appropriate to facilitate the payment of benefits under this Section.

**Section 3:** It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Key West, that the sections of the Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 4:** If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full force and effect.

**Section 5:** All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6:** This Ordinance shall be effective as of September 30, 2014.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Read and passed on final reading at a regular meeting held  
this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Authenticated by the presiding officer and the Clerk of the  
Commission on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Filed with the Clerk on this \_\_\_\_\_ day of \_\_\_\_\_,  
2014.

\_\_\_\_\_  
CRAIG CATES, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK