

ORDINANCE NO. 2020-10

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING SECTION 8 OF ORDINANCE NO. 2017-26, ADOPTED OCTOBER 12, 2017; AMENDING SECTION 8 PROVIDING FOR THE COMPOSITION OF THE BOARD OF TRUSTEES; PROVIDING FOR THE DUTIES OF CERTAIN OFFICERS AND OF THE BOARD OF TRUSTEES GENERALLY; PROVIDING FOR CERTAIN HEARING PROCEDURES; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR PUBLICATION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council desires to modify the composition of the Board of Trustees of the Village of Palm Springs General Employees Pension Fund;

NOW, THEREFORE, IT IS ORDAINED By the Village Council of the Village of Palm Springs, Florida:

Section 1. Section 8 of Ordinance No. 2017-26 is amended to read as follows:

Section 8. Creation of the Board of Trustees.

The trustee of such fund shall consist of five (5) members, who shall be selected as follows:

a. One member shall consist of an elected Village Council Member, appointed by a majority vote of the Council, to serve at the pleasure of the Council, so long as said Member shall remain a Member of the Village Council, as an ex-officio duty.

b. ~~The Finance Director of the Village, who shall serve as long as he/she shall continue to hold such position, and upon vacancy in the position, the successor Finance Director shall succeed to the position of Member of the Board.~~ One member shall be the Village Manager, who will serve as long as he or she remains Manager. Subject to Council approval, the Village Manager may appoint a designee, who will serve at the pleasure of the Manager.

c. Two active Employee Participants elected by a majority of the voting active Employee pension plan Participants, to serve for a period of four (4) years, or until such member leaves the Village's full time employment or resigns from the Board, whereupon

an election shall be held to fill an unexpired term. An Employee so elected may succeed himself/herself in office.

d. A resident of the Village or person engaged in business, which means owning a business, practicing a profession, or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged, within the boundaries of the Village. (not connected with the Municipal Government), elected Such person shall be nominated by a majority of the other four (4) Board Members and subject to approval by vote of the Village Council. This member shall serve for a period of four (4) years, or until such time as he/she terminates residency within the Village or ceases to be engaged in business within the boundaries of the Village, at which time a successor shall be selected nominated by the majority of the remaining Board Members and approved by vote of the Village Council. Preference shall be given to a candidate who can demonstrate to the satisfaction of the Board that he or she possesses significant educational or experiential qualifications in the field of pension, tax, finance, or other closely related field. This member may succeed himself/herself in office. This member shall not be a current or former Village employee; or such a person's spouse, parent, child, or sibling; or a present or designated beneficiary of the Fund.

Section 2. Section 9 of Ordinance No. 2017-26 is amended to read as follows:

Section 9. Officers of Pension Board.

The five (5) Board Members shall elect a Chairperson, Vice-Chairperson, and a Secretary. The Chairperson shall preside at all the meetings of the Board, ~~and the~~ and shall approve the agenda prior to distribution to the Board. The agenda and all supporting materials shall be distributed to all Board members at least one week before the meeting. The Vice-Chairperson shall perform the duties of the Chairperson in the Chairperson's absence. The Secretary shall keep a complete minute book of the proceedings of the Board. The Board may retain the services of an Administrator to prepare and retain custody of the minutes on behalf of the Secretary.

Section 3. Section 25 of Ordinance No. 2017-26 is amended to read as follows:

Section 25. Hearing Procedures.

a. The Chairperson shall preside over the hearing and shall with the advice of legal counsel, rule on all evidentiary and other legal questions that arise during the hearing.

b. Either party, the claimant or the Board, may file pleadings within the time limits set herein. Procedural motions are to be determined by the Chairperson of the Board at any time. All parties are to furnish copies of all pleadings to the opposing parties and exchange lists with names and addresses of witnesses expected to be called to testify at the hearing, as well as the list of exhibits that are intended to be introduced, at least forty-five (45) days prior to the hearing. Testimony of witnesses shall be under oath or affirmation. Depositions or affidavits shall not be admissible unless upon stipulation by all parties. The Chairperson, any Member of the board, the attorney for the Board, the claimant and the claimant's attorney, upon recognition by the

Chairperson, may direct questions to any witness during the proceedings. Each party shall have the right to present evidence relevant to the issues, to cross-examine witnesses, to impeach witnesses and to respond to the evidence presented against the party. Each party shall have the right to represent any opening and closing arguments. Any party may secure the services of a court reporter to record the proceedings with the cost to be borne by the party requesting the court reporter or requesting the transcription of the proceedings.

c. In all cases, unless otherwise provided in this section, the burden of proof shall be on the claimant.

d. In all cases, the Village shall have a right of intervention as a Party and to have and exercise all rights of a Party, including, but not limited to, the right of judicial review.

Section 4. Repeal of Conflicting Ordinances.

All ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 5 Effective Date; Retention of Board Members.

This Ordinance shall become effective upon adoption.

(THIS SPACE INTENTIONALLY LEFT BLANK)

Council Member Beady offered the foregoing Ordinance and moved its adoption. The motion was seconded by Council Member Waller and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
BEV SMITH, MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PATTI WALLER, VICE MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GARY M. READY, MAYOR PRO TEM	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOUG GUNTHER, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JONI BRINKMAN, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VILLAGE OF PALM SPRINGS, FLORIDA

BY: 

BEV SMITH, MAYOR

First Reading June 11, 2020

Second Reading July 9, 2020

ATTEST:

BY: 
KIMBERLY M. WYNN, VILLAGE CLERK



REVIEWED FOR FORM AND LEGAL SUFFICIENCY

BY: 
GLEN J. TORCIVIA, VILLAGE ATTORNEY



Village of Palm Springs

Executive Brief

AGENDA DATE: July 9, 2020

DEPARTMENT: Administration

ITEM 9.5: Ordinance No. 2020-10 - Village of Palm Springs General Employees Pension Fund (SECOND READING)

SUMMARY: The Village Council is requested to consider various amendments to the Village's General Employee Pension Fund board:

1. Appoint the Village Manager or the Manager's designee to the General Employee Pension Fund as a Trustee
2. Enables the 5th Member Trustee to be either a resident or person engaged in business within the Village. This appointment would require approval by the Village Council and would provide preference to those candidates who maintain significant educational or experiential qualifications in the field of pension, tax, finance or other closely related field.

Note: This proposed language/requirement is similar to the language approved for the recently approved Palm Springs CRA to ensure that a wider range of applicants were available to participate. Further, this member would not be eligible to serve if they are a current or former Village employee or such a person's spouse, parent, child, or sibling or a present or designated beneficiary of the Fund.

3. The Plan Chairperson would be required to approve the Plan's meeting agendas prior to distribution to the Board and the agenda and all supporting materials shall be distributed to all Board members at least one week before the meeting.
4. The Village would have a right of intervention as a Party and to have and exercise all rights of a Party, including, but not limited to, the right of judicial review, if ever necessary.

The proposed ordinance was prepared by the Village's Pension Attorney and reviewed by the Village Attorney.

The proposed ordinance was approved by the Village Council on June 11, 2020 and is being presented for 2nd and final reading..

Note: The Village has made a formal request (E-mail sent on June 5, 2020) to the General Employee Pension Fund's Plan Administrator to forward the proposed ordinance to the Plan's actuary to review and provide the Village and the General Employee Pension Fund's Board with an Actuarial Impact Statement (AIS), which provides whether the proposed changes outlined within the proposed ordinance will have any impact on the funded status of the plan. Following the 1st Reading of the proposed Ordinance No. 2020-10, the Plan Administrator received and provided the Village with the Plan Actuary's AIS, which provided a "statement of no impact with regards to the attached proposed ordinance" (See Attached).

Note: Additionally, the Village requested (E-mail sent on June 18, 2020) that the Plan Administrator provide the proposed ordinance and Actuarial Impact Statement to the State of Florida - Division of Retirement prior to 2nd reading of the proposed Ordinance No. 2020-10. The General Employee Pension Fund's Plan Administrator (E-mail sent on June 18, 2020) did forward the ordinance to the state and we have received notification/acknowledgement that the state has received these documents.

Note: Finally, the Village's Pension Attorney provided the Plan's Administrator with a revised ordinance following 1st reading that only removed language that was not proposed to be changed (Section 12 - Powers and Duties of Trustees). This section included new language related to proposed requirements that the Board follow the Village's Purchasing Code; however, this requested new language was ultimately removed from the proposed ordinance prior to 1st reading by the Village Council at the request of the Plan's Attorney. Thus, the remaining language was the original language for the original ordinance and was not being proposed to be changed; thus, it was determined by our Pension Attorney to be unnecessary and it has been removed from the proposed ordinance as it had no impact on the proposed ordinance (without the proposed new language that was removed) (See Attached).

FISCAL IMPACT:

The proposed ordinance does not have a direct fiscal impact to the Village.

ATTACHMENTS:

Proposed Ordinances No. 2020-10 - General Employee Pension (Board Composition) (Final Version)

E-mail from Plan's Attorney Regarding Proposed Ordinance No. 2020-10 - June 2020

Previous Version (Prior to the Review by the Plan's Attorney) - Proposed Ordinance No. 2020-10 - General Employee Pension (Board Composition)

E-mail from Pension Attorney - Removing Unchanged Procurement Language from Proposed Ordinance No. 2020-10 (Following 1st Reading)

Final Actuarial Impact Statement - Freiman Little Actuaries

E-mail Requesting an Actuarial Impact Statement Regarding Ordinance No. 2020-10 - Sent to the Plan's Pension Administrator - June 2020

Proposed Ordinance No. 2020-10 - General Employee Pension (Board Composition) - Lake Worth Herald Advertisement

E-mail Confirming Proposed Ordinance No. 2020-10 has been Received by the State of Florida

E-mail Requesting Proposed Ordinance No. 2020-10 & Actuarial Impact Statement be Submitted to the State of Florida

Village Attorney Opinion - Pension Ordinance Properly Added to Agenda - June 2020