

ORDINANCE NO. 2020-27

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;

WHEREAS, the Village Council has previously approved Ordinance 2020-10, with first reading on June 11, 2020 and second reading on July 9, 2020;

WHEREAS, the City Attorney has previously issued an opinion that the Ordinance 2020-10 was properly adopted;

WHEREAS, a citizen questioned the validity of the enactment of said Ordinance; and

WHEREAS, out of the abundance of caution, the Village Council will again consider this Ordinance;

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 Waller offered the foregoing Ordinance and moved its adoption. The motion was seconded by Council Member Ready 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"/>
DOUG GUNTHER, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JONI BRINKMAN, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VILLAGE OF PALM SPRINGS, FLORIDA

BY: [Signature]
BEV SMITH, MAYOR

First Reading August 20, 2020

Second Reading September 10, 2020

ATTEST:

BY: [Signature]
KIMBERLY M. WYNN, VILLAGE CLERK



REVIEWED FOR FORM AND LEGAL SUFFICIENCY

BY: [Signature]
GLEN J. TORCIVIA, VILLAGE ATTORNEY