

ORDINANCE 02-06

AN ORDINANCE OF THE CITY OF SANIBEL, FLORIDA, AMENDING ORDINANCE NO. 02-05, TO PROVIDE FOR ADMINISTRATION OF THE PLAN BY A BOARD OF TRUSTEES; SETTING FORTH THE SELECTION OF THE MEMBERS OF THE BOARD OF TRUSTEES; SETTING FORTH THE POWERS OF THE BOARD OF TRUSTEES; PROVIDING FOR CONFLICT AND SEVERANCE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Sanibel has restated the terms of the City of Sanibel General Employees' Retirement Plan; and

WHEREAS, under that restatement, the City of Sanibel City Council remains the administrator of the retirement plan; and

WHEREAS, the City Council is desirous of turning over the administrative and fiduciary duties for operating the retirement plan to a Board of Trustees;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Sanibel as follows:

Section 1 – Section 1. of Ordinance 02-05 is hereby amended to add the following definitions:

BOARD OF TRUSTEES means the Board of Trustees provided for in Section 8.

TRUSTEE means a member of the Board of Trustees.

Section 2 - DESIGNATION OF BENEFICIARIES (a) shall be amended to read

- (a) The participant shall make designations of beneficiaries called for in this section in writing. The Board of Trustees may require such individual to complete and sign any necessary documents in connection herewith.

Section 3 - POWERS OF THE BOARD OF TRUSTEES shall be amended to read:

The Board of Trustees shall have the following investment powers and authority:

- (1) The Board of Trustees shall be vested with full legal title to said fund, subject however, and in any event, to the authority and power of the City Council to amend or terminate this trust, provided that no amendment or fund termination shall ever result in the use of any assets of this fund except for payment of regular expenses and benefits under this system. All contributions from time to time paid into the fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board or its agent in the fund and the Board shall not be required to segregate or invest separately any portion of the fund.
- (2) The fund may be invested and reinvested in such securities or property, real or personal, wherever situated and of whatever kind, as shall be approved by the Board of Trustees, including but not limited to stocks, common or preferred, and bonds, and other evidences of indebtedness or ownership.
- (3) The Board of Trustees may retain in cash and keep, unproductive of income, such amount of the fund, as it may deem advisable, having regard for the cash requirements of the system.

Section 4 - BOARD OF TRUSTEES, shall be amended to read as follows:

- (1) The general administration and responsibility for the proper administration of the fund and for making effective the provisions of this section are hereby vested in a Board of Trustees consisting of seven (7) persons, as follows:
 1. Two (2) members of the Board shall be elected by all the members of the City of Sanibel General Employees' Retirement Plan who are active participants in the Retirement Plan.
 - (a) One (1) of these members shall have full-time tenure in the City's employ of 1 to 15 years; and
 - (b) The other member shall have full-time tenure in the City's employ of 15 or more years.
 2. One (1) member who shall be a Department Director who shall be appointed by the City Manager.
 3. Three (3) members of the Board shall be appointed by City Council from applications submitted to the City of Sanibel.
 4. The seventh (7th) member of the Board shall be chosen by the other six (6) Board members. Such member's name shall be submitted to the City

Council, and as a ministerial duty, City Council shall appoint such member to the Board of Trustees.

- (2) Terms of office: The initial term of office for the Department Director shall be three (3) years. The initial term of office for the member chosen by the other six members shall be three (3) years. The initial term of office for one (1) of the three (3) members appointed by the City Council from applications submitted to the City Council shall be three (3) years. The City Council shall designate which of its appointments is for a three (3) year term. The initial term of office for all other members shall be two (2) years. The initial term of office shall begin immediately after election and/or appointment and shall end on September 30, 2004 for those members serving an initial two (2) year term and shall end on September 30, 2005 for those members serving an initial three (3) year term. All terms of office thereafter shall be two (2) years, beginning on October 1 and ending on September 30.
- (3) Notwithstanding the length of the terms of office as set forth above, all Trustees appointed by the City Council may be replaced during their term of office by the City Council, at whose pleasure they serve.
- (4) Notwithstanding the terms of office as set forth above, all Trustees elected by the active participants of the Plan, who leave the employment of the City of Sanibel during the term of office, will cease to be Trustees upon leaving the employ of the City of Sanibel.
- (5) A Trustee may succeed himself or herself in office.
- (6) Each Trustee who is elected or appointed, except for the participant trustees who have left the employ of the City of Sanibel, shall hold over until a successor is appointed and takes office.

If a successor does not take office upon the first day of the new term of office, the term of the person who is ultimately appointed to that position shall end two years from the date that the term would have begun, had a successor been appointed on the first day of the new term, which immediately preceded the actual appointment date.

- (7) The Board shall establish and administer the election procedure for each election except for the initial election, which shall be administered by the City Manager.
- (8) The Trustees shall, by majority vote, elect from their number a chair and a secretary. The secretary of the Board shall keep a complete minute book of the actions, proceedings or hearings of the Board.

- (9) The Trustees shall serve without compensation, but they may be reimbursed from the fund for all necessary expenses, which they may actually expend through service on the Board.
- (10) Each Trustee shall, within ten (10) days after his appointment or election, take an oath of office before the City Clerk of the City, that he or she will diligently and honestly administer the affairs of the said board and that he or she will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the system. Such oath shall be subscribed to by the members and certified by the said Clerk and filed in the office of the City Clerk.
- (11) Each Trustee shall be entitled to one (1) vote on the Board. Four (4) affirmative votes shall be necessary for a decision by the Trustees at any meeting of the Board. The chairman shall have the right to one (1) vote only.
- (12) Subject to the limitations of this section, the Board of Trustees shall from time to time establish uniform rules and regulations for the administration of funds created by this ordinance and for transaction of its business, including provisions for expulsion due to nonattendance of its members, which could result in a vacancy.
- (13) The Board of Trustees shall engage such actuarial and other services as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the retirement system shall be paid at such rates and in such amounts, as the Board of Trustees shall agree. Funds may be disbursed by the City Finance Department or other disbursing agent as determined by the Board, but only upon written authorization by the Board of Trustees.
- (14) The Board of Trustees shall meet at least quarterly each year. The Board of Trustees has authority to hire an attorney who is not the City Attorney.
- (15) The duties and responsibilities of the Board of Trustees shall include, but not necessarily be limited by, the following:
 - a. To construe the provisions of the system and determine all questions arising thereunder.
 - b. To determine all questions relating to eligibility and participation.
 - c. To determine and certify amount of all retirement allowances or other benefits hereunder.

- d. To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the system.
 - e. To distribute, at regular intervals to employees, information concerning the system.
 - f. To receive and process all applications for participation and benefits.
 - g. To authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the system and fund.
 - h. To have performed actuarial studies and annual actuarial valuations, and make recommendations to the City Council regarding changes in the provisions of the system.
 - i. To review reports of and have meetings with the custodian and investment agent or advisor; to require written reports from the custodian or fund assets and transactions on a quarterly or more frequent basis if deemed advisable by the Board; to require written and oral reports from the investment agent or advisor on at least a semi-annual basis, such reports to reflect fund investment performance, investment recommendations and overall review of fund investment policies.
 - j. To take all actions necessary for the proper operation of this fund and for making the effective the provisions of this ordinance.
 - k. To make recommendations to the City Council concerning the operation of the City of Sanibel General Employees' Retirement Plan.
 - l. The Board of Trustees shall submit minutes of all meetings and an annual report to the City Council.
- (16) In the event that any claim is denied, the Board of Trustees shall provide a written explanation of such denial to the members involved. At the request of the member, a full and fair review of such denial shall be held at the next regularly scheduled board meeting.

Section 5. Conflict.

All ordinances or part of ordinances in conflict herewith shall be and the same are repealed. If any part of this ordinance conflicts with any other part, it shall be severed and the remainder shall have full force and effect and be liberally

construed.

Section 6. Severance.

If any section, subsection, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

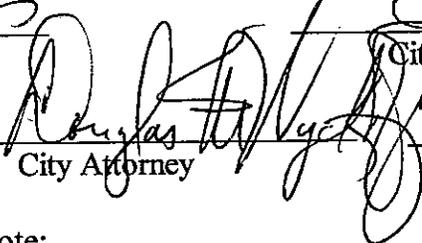
Section 7. Effective date. This Ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Lee County, Florida, this 4th day of June, 2002.

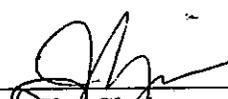
AUTHENTICATION:



 Mayor



 City Attorney



 City Clerk

APPROVED AS TO FORM: _____ 5/28/02

 Date

Record of Council members vote:

Theiss Aye
 Walsh Aye
 Brown Aye
 Harrity Aye
 Workman Aye

Date filed with City Clerk: June 5, 2002

First Reading: March 19, 2002
 Publication Notice: March 21, 2002
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