

TOWN OF GOLDEN BEACH, FLORIDA

ORDINANCE NO. 595.20

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AMENDING CHAPTER 24, "PERSONNEL," ARTICLE II, "RETIREMENT," DIVISION 2 "POLICE OFFICERS" TO TERMINATE THE TOWN OF GOLDEN BEACH POLICE OFFICERS RETIREMENT FUND; TO ADOPT PROCEDURES AND CRITERIA FOR TERMINATING THE FUND BY AMENDING SECTION 24-63 "TERMINATION OF THE FUND"; PROVIDING FOR CONFLICTS; PROVIDING FOR STAFF DIRECTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Golden Beach (the "Town") maintains a supplemental retirement benefit plan for its certified police officers ("Members"), which is known as the Town of Golden Beach Police Officers Retirement Fund (the "Fund"), and which is codified in Chapter 24 of the Town's Code of Ordinances (the "Code"); and

WHEREAS, by Memorandum of Understanding, the Town and the Florida State Lodge, Fraternal Order of Police, Inc., upon a vote of the active Police Officers, mutually agreed to terminate the Fund in accordance with Section 24-63 of the Code and Florida Statutes §185.37; and

WHEREAS, the Fund's Board of Trustees has approved the termination of the Fund; and

WHEREAS, Section 24-63 of the Code and Florida Statutes §185.37 both provide that the accrued benefits of the Members are nonforfeitable in the event the Fund is terminated; and

WHEREAS, the Town Council desires to amend and clarify the provisions of the Fund related to its termination as provided for in this Ordinance, but only if such

amendments will take effect in a way that includes the distribution of nonforfeitable accrued benefits to the Members and any Beneficiaries.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF GOLDEN BEACH, FLORIDA:

Section 1. Recitals. That the recitals set forth above are hereby adopted and confirmed.

Section 2. Code Amended. That Section 24-63 "Termination of the Fund" of Division 2 "Police Officers" of Article II "Retirement" of the Town Code is hereby amended to read as follows:¹

Sec. 24-63. – Repeal and Termination of the Fund and Distribution of the Fund.

~~In the event that the Fund is terminated by the Town, each Participant shall become fully vested in his Share Account regardless of his length of service. Accumulated Contributions and Share Accounts shall be updated as of the date of the Fund's termination in keeping with the allocation procedures specified in Section 24-60 of this Division. Once the final allocation has been completed, distributions of the respective accounts to each Participant shall be completed.~~

- (a) Except as otherwise provided herein with respect to the winding-up of the Fund by the Board of Trustees, this Division establishing the Fund, and any subsequent ordinances pertaining to said Fund, is hereby repealed and terminated, with the amount of Accumulated Contributions accrued to the Member or Beneficiary being fully vested (nonforfeitable), and each Member becoming fully vested in his Share Account regardless of his length of service.
- (b) Accumulated Contributions and Share Accounts shall be updated and valued as of September 30, 2020 in keeping with the allocation procedures specified in Section 24-60 of this Division as that Section existed immediately prior to the termination.
- (c) The Board shall continue to exist and to administer the Fund for the sole purpose of liquidating the assets of the Fund for the sole benefit of the then Members, any Beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits until all nonforfeitable benefits have been distributed. As such, this Fund shall remain in existence until the final benefit payment has been made

¹ Additions to the text are shown in underline. Deletions to the text are shown in ~~strikethrough~~. Additions added between first and second reading are shown in double underline.

to the last Member or Beneficiary and shall then be closed and terminated in accordance with the provisions in this section.

(d) Assets of the Fund shall be distributed in accordance with the following procedures and criteria:

(1) The Board of Trustees shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits to be distributed, after taking into account the expenses of such distribution. The Board shall inform the City if additional assets are required, in which event the City shall continue to financially support the Fund until all nonforfeitable benefits have been funded.

(2) The method of distribution of the asset value shall be by eligible rollover payment in cash or by direct trustee to trustee transfer to an eligible retirement plan (as that term is defined in Subsection 402(c) of the Internal Revenue Code) to each Member entitled to benefits under the Fund as specified in subsection (3).

(3) The Board of Trustees shall distribute the asset value as of September 30, 2020. The amount payable to each member may not be less than the member's Accumulated Contributions, with interest if provided by the Fund, less the value of any plan benefits previously paid to the employee.

(4) If there is asset value remaining after the full distribution specified in subsection (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the City less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the City and the state to date of termination of the Fund, such excess shall be divided proportionately to the total contributions made by the City and the state.

(5) The Board of Trustees shall distribute, in accordance with subsection (2), the amounts determined apportioned under subsection (3). Such amounts must be approved by the Members prior to distribution.

(e) Once all liabilities of the Fund have been paid, the Board of Trustees shall proceed with the liquidation of any residual assets of the Fund in accordance with federal and state law. Following the distribution of residual assets, the Board shall, as its final act, prepare a summary of the actions taken to terminate the Fund and liquidate its residual assets.

(f) By mutual consent of the union and Town, each year following the termination of the Fund, the premium tax monies thus received by the Town under Chapter 185 shall be deposited into the Town of Golden Beach Employees Pension Plan to reduce the Town's required contribution for any unfunded actuarial liabilities. The Town shall thereafter make a separate contribution to the Section 457 accounts of all plan members in an amount equal to the total amount of the premium tax monies

contributed to Pension Plan, which shall be equally divided by the number of members employed by the Town.

- (g) If, after 24 months after the date the Fund terminated, the City or the Board of Trustees has not complied with all the provisions in this section, the Department of Management Services shall effect the termination of the Fund in accordance with F.S. Ch. 185.37.

Section 3. Repealer. All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Direction to Staff. The Town Manager and the Town Attorney are directed to work with the Board of Trustees to wind up its affairs.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Codification. That it is the intention of the Town Council, and hereby ordained, that the provisions of the Ordinance shall become and be made a part of the Code of the Town of Golden Beach; that the sections of this Ordinance may be re-numbered and/or re-lettered to accomplish such intentions; and that the word, "Ordinance," shall be changed to "Section" or such other appropriate word.

Section 7. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading, except that the calculations of the Fund's asset value shall be based on a retroactive date.

The Motion to adopt the foregoing Ordinance was offered by Councilmember Lusskin, seconded by Councilmember Mendal, and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice-Mayor Bernard Einstein	<u>Aye</u>
Councilmember Jaime Mendal	<u>Aye</u>
Councilmember Kenneth Bernstein	<u>Aye</u>
Councilmember Judy Lusskin	<u>Aye</u>

PASSED AND ADOPTED on first reading this 20th day of October, 2020.

The Motion to adopt the foregoing Ordinance was offered by Councilmember Lusskin, seconded by Councilmember Bernstein, and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice-Mayor Bernard Einstein	<u>Aye</u>
Councilmember Kenneth Bernstein	<u>Aye</u>
Councilmember Jaime Mendal	<u>Aye</u>
Councilmember Judy Lusskin	<u>Aye</u>

PASSED AND ADOPTED on second reading this 24th day of November, 2020.



MAYOR GLENN SINGER

ATTEST:



LISSETTE PEREZ
TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY