

COUNCIL MEMBERS

MOTION YES NO ABSENT

4 have on the City in the long run. The latter is of particular concern, he said, in light of how certain the continuance of state contributions from insurance premium taxes would be in the future. In addition, each member's share of the excise tax could be reduced when staff levels were increased.

When Mr. Nichols arrived, he asked if the Council had questions regarding his review.

Councilman Graver asked if anyone had checked with Tallahassee regarding any possible changes in policy with reference to premium rebates, and if the City would be responsible for funding shortfalls. He further stated that the City shouldn't become involved in pension benefit changes if there is uncertainty of this funding.

City Manager Jones responded that the City would use other revenue or reduce other activities to make up the cost. He further explained his assessment of the situation to be considered: 1) the actual need of the pension plan changes, and 2) where funds would come from if the state were to discontinue funding.

Mr. Nichols gave his opinion that increasing pension plan benefits just because there is an excess of funds is illogical and recommended that time be spent matching Naples benefits with other cities throughout the state in order for Naples to remain competitive in attracting competent employees. He suggested that instead of adding to the existing pension plan benefits, thereby utilizing all extra state funds, City employees should look into the International City Management Association (ICMA) plan.

In response to Mayor Putzell, Mr. Jones explained the optional plan as follows: Section 457 of Internal Revenue Service Code allows employees to defer up to \$7,500 of their salary without paying income tax, the money is then deposited in a savings investment plan of the employees' choice. Later, as the funds are withdrawn, they are taxed as income. ICMA, like the pension plans, is a payroll deduction and is similar to an updated version of profit sharing, he added.

Mr. Nichols stated that, due to possible lack of understanding on the employees' part, participation in the ICMA plan was not as great as it should be.

In further discussion, it was determined that, in fact, only six members of the Police Department and five members of the Fire Department are currently enrolled in the ICMA plan while 59 members of the Police Department and 37 members of the Fire Department are members of their respective pension plans.

Councilman Bledsoe asked if there was a penalty for early withdrawal from ICMA, and Mr. Nichols stated that he didn't believe so. Mr. Nichols went on to recommend that the ICMA plan be made well known to both the Fire and Police Department employees who would then see its advantages.

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Mr. Bledsoe said he felt that Mr. Nichols had delivered his comments in a forthright manner and had made his position clear; and Mayor Putzell thanked him and asked that he remain for further input.

Mayor Putzell noted that police officers Mark Middlebrook and Tim Cully had requested to be heard at this meeting.

Police Officer Cully began his statement by explaining that in 1985, the pension plan members reinvested their funds for the first time, when actuary Stephen Palmquist had discovered that there were excess funds not being put to use. The police officers had felt that this money should be used for better benefits, Mr. Cully stated, and explained that officers now contribute 6% of base pay to their pension. The Collier County Sheriff's Department, Florida Highway Patrol and Marine Patrol pension plans provide the same benefits, but at no personal cost, he said. If City police officers are paying more; therefore, they should receive more benefits, he concluded. To equalize state contributions for the state officers mentioned with municipal officers, he explained, Chapter 185, F.S., provides for state funding to municipal plans. He then outlined the following proposed benefit changes: 1) an increase in the multiplier from 2% to 3%; 2) an increase in the final average compensation; 3) an escalating clause which would not exceed 4% per year; 4) a cost of living clause; and 5) a lower retirement age. The estimated cost for the total new pension benefits would be \$140,000, with the present costs being \$57,000.

Mr. Cully pointed out further that the State had contributed this money for 30 years and that in 1984, the amount was \$157,000; in 1985, \$180,000; and in 1986, \$227,000. With the proposed benefits, there would be an excess of \$140,000, he added. He acknowledged that there was the possibility that employees might from that point have to accept reduced benefits, or that as a result of the 10% contributions from the police officers, the 2% to 3% excess should help absorb the lessening of State funds. If funds are not reduced, he observed, they could be used to add other benefits.

Councilman Anderson-McDonald arrived at 2:30 p.m.

Mr. Stephen Palmquist of Kruse, O'Konnor & Ling, Inc., then responded on Councilman Crawford's question as to the 5% inflation level, saying that although it is a high amount, it is more realistic to think in higher as opposed to lower terms. A conservative figure, however, would be 2 1/2%. He also pointed out that the State is, in fact, considering making payroll deductions standard throughout the State, rather than letting the City make the decision. Mr. Palmquist then made the following statement as clarification of his position: "Another thing I would like to mention is that, although we have provided these figures to the police officers and firemen, the benefits they are asking for are those that they have put together themselves...we (and I told this to the policemen) don't want to be seen as an advocate to

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their cause...I have no problem with most of the benefits they are asking for, but I don't want you to think of us as an advocate for what they are pushing for...I feel we are here trying to provide information. Our firm is very expert in this area and we like to provide you with any information we can about what's being presented here."

Mr Graver then asked Mr. Cully if the 10% proposed contribution rate was considered high. Mr. Cully confirmed this, but said their goal is to increase benefits to be compatible with the better plans in the State. Mr. Cully also confirmed that all employees would be required to contribute.

Mayor Putzell suggested cutting back on that amount instead of raising it and using the excess in state funds to make up the difference. He also expressed concern that scaling back retirement income would present a hardship to the families once they become accustomed to a certain level. He further stated that the plan makes the City less responsible than he would like it to be.

Mr. Crawford suggested keeping the state money in a trust fund, not to spend it just because it is there. Since no one in the Police or Fire Departments were ready to retire, this matter should be considered at the time this occurs, he added.

Mr. Palmquist disagreed, stating that the annual cost is less now than later. Right now the plan is overpaying for the existing benefits, he said, and chances would be that in future years the existing Council would still question the continuance of state funds.

Police Lieutenant Barrie Kee then advised Council that the insurance premium is a separate fund for the police and fire retirement benefits. Retirement benefits come from the member contributions and excise tax. He stated that 7% of insurance premiums is assessed to fund one plan for the police and 3% is used for a general fund. ICMA, he said, is unknown to most officers. They want to put an additional 2% contribution into the pension plan (making the employee contribution 10%) so the City would not have to pay more. He said he feels that the City does not contribute to the pension plan, anyway, that it is made up of employee contributions plus excise tax, which they feel is not the City's contribution.

In response to Mr. Bledsoe, City Manager Jones said that the excise taxes on fire insurance premiums are for firefighters' benefits and property and casualty insurance funds police officer benefits. He further explained that some years ago funding was cut to 1/2 of the taxes collected. In the case of the firefighters, a full 2 1/2% is omitted. Wherever the tax is omitted, these monies are retained by the State and the overall intention is to fund the State's plan for firefighters.

In light of the fact that citizens are paying these taxes on insurance premiums, Mayor Putzell observed that they should not feel guilty about the City not contributing directly to those plans.

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Mr. Kee further stated that he feels benefits need to be increased, and as an aside, noted his opinion that an officer at age 50 should not have patrol duty but should be allowed to retire. He said the state money has been there for 30 years and would be there for 30 more years. The current City plan is for retirement at age 52 with a 2% multiplier. They would like to make it optional that they have 25 years to retire at age 50. There currently is a 75% retirement benefit until social security takes effect at age 62, he added.

Mayor Putzell asked how many cities have 50 as a retirement age. Mr. Kee said he had no statistics.

Mayor Putzell then asked Mr. Kee how many organizations receive 75% of money earned for retirement.

Mr. Kee responded that 50% is more common, with the military being one of the few at 75%, but stressed that cities like Cape Coral had 100% at 2% of pay, and Sanibel also had 100% retirement.

City Attorney Dave Rynders said that this information pertains to a lawsuit now pending, against the City by the Fraternal Order of Police (F.O.P.), represented by Attorney Michael McDonnell. He further stated that one of the problems in accepting the proposed pension plan is that if Council takes action now, and the Court also makes a decision for increased benefits, the City may be responsible for paying double.

Mayor Putzell asked the difference between the police pension plan and ICMA to which Mr. Kee responded that there was none except that the police officers must pay into the City pension plan where the ICMA is optional.

Jerry Nichols said that in his report, he did not discourage increasing benefits and felt the benefits should be brought up to the higher state standards, but stressed that the Council consider each benefit separately.

As a member of City Council, Mr. Barnett said he agreed, but as a member of the pension boards, he was aware that the police officers and firefighters wanted the plans to be considered as a whole.

Councilman Anderson-McDonald agreed and added that she would feel comfortable with the Boards coming back with specific items that are very cut and dried.

Councilman Lyle Richardson arrived at 3:15 p.m.

Fire Marshall Wayne Martin, on behalf of the fire pension board, asked that their proposals be considered separately from the police, especially due to the pending lawsuit. They, conversely, feel that the excise tax is being spent fairly and equitably. He provided a report on: 1) their recommendations; 2) comparisons of Naples' Fire Department pension with other Collier County departments; and 3) funding. A copy of this report is provided as an attachment to these minutes.

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Mr. Martin said line-of-duty disability is based on accrued earnings (10-year employee would receive 2% X 10). Mr. Martin continued that an employee is eligible for non-line of duty disability except in the case of drug abuse, war or injury while working for another employer.

Mr. Palmquist further explained that the minimum benefits were 42% of pay for line-of-duty disability and 25% of pay for non-line-of-duty disability.

Councilman Barnett asked if there would be any objection in coming back with an item for the Council to review, and Fire Marshall Martin said he feels that this would be fine and since they have already been working on this for 18 months, another month to prepare for this, as suggested by Councilman Barnett, would be appropriate.

Mr. Nichols said that there have been four studies made on this pension issue and the Fire Department's figures were based on the latest study. He also pointed out that Officer Cully had commented on 75% of income at time of retirement, not the 65% requested by the Fire Department which was the figure mentioned in the report presented during the September 30 workshop.

Mr. Martin commented that the firefighters had realized that they couldn't afford the 75%.

Mr. Palmquist said the fifth study was the final recommendation. Amendments to Chapters 175 and 185 earlier this year contain a provision for minimum disability benefits for police officers and firefighters, he continued. It is the opinion of the office in Tallahassee which distributes the money, as well as the number of attorneys throughout the state who work for pension boards, he said, that those new minimums apply to plans like Naples' called "local law plans". He further suggested that Council have the City Attorney look into this law; but if it applies the City has until December 31, 1986, to decide on this pension plan issue.

Mr. Bledsoe observed that Mr. Rynders had made it clear that the City shouldn't settle anything until the pending lawsuit is resolved with the F.O.P.

However, Mayor Putzell pointed out that the December 31 deadline could arrive before the suite is settled and asked Mr. Rynders to report on the nature of the lawsuit, including Mr. Rynder's opinion.

City Manager Jones recommended that any implementation of decisions on the police plan await the outcome of the suit. This would not slow down the progress of the Fire Department's pension plan while trying to accommodate the Police Department, as the lawsuit has no bearing on the Fire Department, he added.

CITY OF NAPLES, FLORIDA

City Council Minutes

Date October 14, 1986

| COUNCIL MEMBERS | M O T I O N | S E C O N D | VOTE | | A B S E N T |
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Councilman Bledsoe recommended that Council fully look at the figures and then make a decision.

Mr. Jones proposed that Mr. Palmquist provide up-to-date costs so they would be comparable, with the Boards' requests which would take a few weeks. Council agreed.

Mayor Putzell then spoke on the "Let's Keep Naples Green" program, and said the weeds around the abandoned gas station across from Kelly's Fish House should be cut.

Mr. Jones said there was an ordinance that would allow the City to do it, but that this property might not qualify because it isn't within 100 feet of improved residential property. He suggested that City Attorney Rynders, nevertheless, write the property owner requesting cooperation.

Mr. Rynders pointed out that it may qualify under that ordinance, which requires notice, so it may take a few weeks. Mayor Putzell, however, suggested that if there is not an applicable ordinance, he would like the staff to make recommendations on it.

Mayor Putzell adjourned the meeting at 3:55 p.m.

Edwin J. Putzell, Jr.
Mayor

JANET CASON
CITY CLERK

HOLLIE BROOKS
SECRETARY

These minutes of the Naples City Council approved
NOV 05 1986



City of Naples

--- MEMO ---

TO: CITY MANAGER'S OFFICE

FROM: WAYNE J. MARTIN, TRUSTEE, FIREFIGHTER'S PENSION

SUBJECT: SUMMARY OF TWO PERCENT STATE EXCISE TAX

DATE: OCTOBER 20, 1986

WJM
10/20/86

Florida Statutes Chapter 175 Municipal Firefighter's Pension Trust Funds was established to provide better retirement benefits to the firefighters in the State of Florida.

To fund these benefits municipalities may (175.091) and in the case of the City of Naples, we have (175.101) placed on every insurance company writing policies on property in the City of Naples a two percent (2%) excise tax.

The funds are received by the Insurance Commissioner and Treasurer (175.101) annually on March 01 of each year, on or before June 01, (175.121) of each year, the funds are sent to the City and are to be placed into the Municipal Firefighters Pension Trust Fund. (175.131)

There is a limitation on the disbursement of funds.(175.122) We are limited to receiving one half of the excise tax (or 1% of the tax imposed) until the excise tax being received is less than 6% of the Fire Department Payroll. It currently equals approximately 10% of payroll. Therefore, we would be eligible to receive up to another \$89,000 or 6% percent of payroll if the current excise tax was to become less than 6% of payroll.

If you need additional information or have any questions, please feel free to call upon us.

Attachments.

175.122 Limitation of disbursement.—Any municipally participating in the municipal firefighters' pension trust fund pursuant to provisions of this chapter shall be limited to receiving any moneys from such fund in excess of that produced by one-half of the excise tax, as provided for in s. 175.101; however, any such municipality receiving less than 6 percent of its fire department payroll from such fund shall be entitled to receive from such fund the amount determined under s. 175.121, in excess of one-half of the excise tax, not to exceed 6 percent of its fire department payroll.

175.131 Funds received by municipality; deposit in municipal firefighters' pension trust fund.—All funds received by any municipality under the provisions of this chapter shall be by such municipality paid immediately into the municipal firefighters' pension trust fund of that municipality, as described in s. 175.041 or s. 175.351(13).

175.091 Creation and maintenance of fund.—The municipal firefighters' pension trust fund in each municipality shall be created and maintained in the following manner:

(1) By payment to the fund of the net proceeds of the 2-percent excise or license or other similar tax, which may be imposed by the respective municipalities upon fire insurance companies, fire insurance associations, or other property insurers on their gross receipts on premiums from holders of policies, which policies cover real or personal property within the corporate limits of such municipalities, as is hereinafter expressly authorized.

(2) By the payment to the fund of 5 percent of the salary of each uniformed firefighter who is a member or duly enrolled in the fire department of any municipality, which 5 percent shall be deducted by the municipality from the compensation due to the firefighter and paid

over to the board of trustees of the municipal firefighters' pension trust fund wherein such firefighter is employed. A firefighter participating in the old age survivors insurance of the Federal Social Security Law may limit his contribution to the municipal firefighters' pension trust fund to 3 percent of his annual compensation and receive reduced benefits as set forth in s. 175.211 and s. 175.191(5). No firefighter shall have any right to the money so paid into the fund except as provided in this act.

(3) By all fines and forfeitures imposed and collected from any firefighter because of the violation of any rule and regulation promulgated by the board of trustees.

(4) By mandatory payment by the municipality of a sum equal to the normal cost and the amount required to fund over a period of 40 years or on a 40-year basis, any actuarial deficiency shown by a quinquennial actuarial valuation. The first such actuarial valuation shall be conducted for the calendar year ending December 31, 1967.

(5) By all gifts, bequests, and devises when donated to the fund.

(6) By all accretions to the fund by way of interest or dividends on bank deposits, or otherwise.

(7) By all other sources or income now or hereafter authorized by law for the augmentation of such municipal firefighters' pension trust fund.

CS for SA 207

First Engrossed

1 within the corporate limits of such municipalities, as is hereinafter expressly authorized.

2 181. Under no circumstances shall a municipality conduct

3 the excise contribution to less than 1 percent of salary.

4 Section 6, section 175.101, Florida Statutes, is amended to read:

5 175.101 Two-percent excise tax on property

6 insurance premiums authorized procedure.—Each municipality in this state described and classified in s. 175.011, having a

7 lawfully established municipal firefighters' pension trust fund or municipal fund providing pension benefits to

8 firefighters by whatever name known, may assess and impose on every insurance company, corporation or other insurer now

9 engaged in or carrying on, or who shall hereinafter engage in or carry on, the business of property insurance as shown by

10 the records of the Department of Insurance, an excise or license tax in addition to any lawful license or excise tax

11 now levied by each of the municipalities, respectively, amounting to 2 percent of the gross amount of receipts of

12 premiums from policyholders on all premiums collected on property insurance policies covering property within the

13 corporate limits of such municipalities, respectively. In the case of multiple peril policies with a single premium for both

14 the property and casualty coverages in such policies, 70 percent of such premium shall be used as the basis for the 2-

15 percent tax. This excise or license tax shall be payable annually on March 1 of each year after the passage of an

16 ordinance assessing and imposing the tax herein authorized. Every insurance company, corporation or other insurer paying

17 such tax shall receive credit for the amount thereof, when paid, on the amount payable by such insurer to the state for

18

for SA 207

First Engrossed

be similar state excise tax now imposed by other provisions of law provided, however, that this chapter shall not be construed to require the payment of any excise tax by an insurance company that does not now pay such tax.

Section 7, section 175.121, Florida Statutes, is amended to read:

175.121 Moneys received by Insurance Commissioner and Treasurer to their accounts of disbursements shall be

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COILING: Words stricken are deletions; words underlined are additions. CORING: Words stricken are deletions; words underlined are additions.

BENEFIT

Disability
Retirement
F/F Contribution
Employer Contribution
Excise Tax
Maximum Final Average
Compensation

OTHER
FIRE DEPARTMENTS

42%
55
0
15.11%
NO
100%

CITY OF NAPLES
FIRE DEPARTMENT

Yrs. of Service
Times 2 percent
55
6%
0
YES
60%

CITY OF NAPLES FIREMEN'S RETIREMENT TRUST FUND

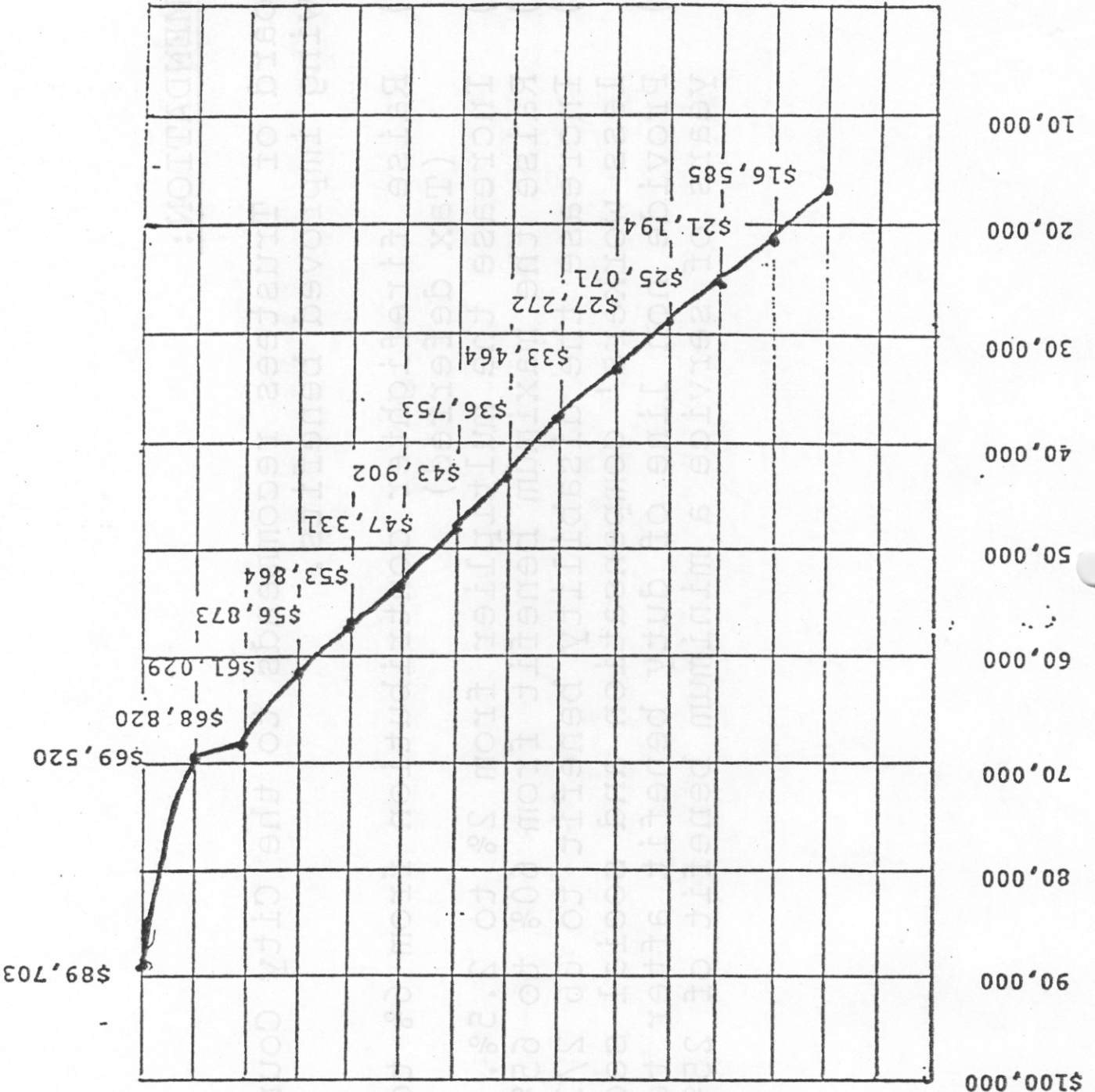
| | <u>STUDY #5</u> |
|---|-----------------|
| A. Annual Payroll | |
| 1. Active Members | \$ 732,547 |
| 2. Active Members Below the Assumed Retirement Age | 690,879 |
| B. Actuarial Present Value of Projected Benefits | |
| 1. For Active Members | 2,496,855 |
| 2. For Service Retirees | 0 |
| 3. For Disability Retirees | 22,120 |
| 4. For Beneficiaries Receiving Benefits | 0 |
| 5. For Terminated Vested Members | 0 |
| 6. Total | 2,518,975 |
| C. Actuarial Value of Assets | 1,278,897 |
| D. Unfunded Frozen Actuarial Accrued Liability (UFAAL) | 0 |
| E. Actuarial Present Value of Projected Member Contributions | 567,844 |
| F. Actuarial Present Value of Projected Employer Normal Costs: B6 - C - D - E | 672,234 |
| G. Actuarial Present Value of Projected Covered Payroll | 8,111,900 |
| H. Employer Normal Cost as a Percentage of Covered Payroll: $(100 \times F / G) + 2.25\%$ for Administrative Expenses | 10.54% |
| I. Annual Employer Normal Cost: $A2 \times H$ As % of A1 | 72,819 9.94% |
| J. Expected Member Contributions As % of A1 | 48,360 6.60% |
| K. Annual Payment Needed to Liquidate the UFAAL Over the Number of Years Left in the Amortization Period As % of A1 | 0 NA |
| L. Expected Premium Tax Refund to be Received From the State As % of A1 | 69,520 9.49% |
| M. Minimum Required Annual Employer Contribution if Paid at the End of the Valuation Year: $(I + K) \times 1.08 - L$ As % of A1 | 9,125 1.25% |

RECOMMENDATION:

The Board of Trustees recommends to the City Council the following improved benefits.

- 1) Raise firefighter contribution from 6% to 7%.
- 2) Increase the multiplier from 2% to 2.5%.
(Tax deferred)
- 3) Raise the maximum benefit from 60% to 65%.
- 4) Increase the disability benefit to 66 2/3%
less workers' compensation and social security.
- 5) Provide non line of duty benefit after ten (10)
years of service a minimum benefit of 25%.

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EXCISE TAX CONTRIBUTED TO FIREMAN'S PENSION PLAN

(EXHIBIT 1)

| CITY | VEST YEARS | DISABILITY INSERVICE | DISABILITY NON SERVICE | MULTIPLIER | MAX FAC | FF TAX | | CITY BEST RETIREMENT | |
|--------------------|------------|--------------------------|------------------------|------------|---------|--------|---------|----------------------|------------------|
| | | | | | | CN | CN | CN | CN |
| DELRAY BEACH | 10 | 75% | 20% Min 10 Years | 2.5% | 75% | 6% | Yes | 2 | - 55 52/20 Years |
| LARGO | 10 | 60% | 50% Min 5 Years | 2.5% | 100% | 3% | Yes | 3 | 55 |
| PALM BEACH GARDENS | 5 | 42% | 42% Min 10 Years | 2.0% | 85% | 5% | No | 5 | 55 52/25 Years |
| PEMBROOK PINES | 10 | 40% | 20% Min 10 Years | 2.65% | 80% | 6% | Yes | 5 | 55 55/20 Years |
| SEMINOLE | 10 | 75% | 40% Min 10 Years | 2.5% | 75% | 5% | Yes | 5 | 55 52/25 Years |
| NAPLES | 5 | Accrued | None | 2.0% | 60% | 6% | No | 3 | 55 |
| NAPLES PROPOSED | 5 | 65% Less WW and SS | 25% Min 10 Years | 2.5% | 65% | 7% | No | 3 | 55 |
| | | | | | | | Yes | 3 | 55 |
| | | | | | | | Defered | | |



City of Naples

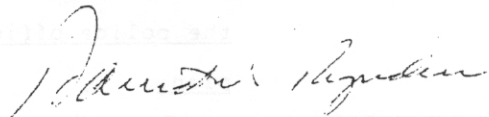
MEMO

TO: HON. MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: DAVID W. RYNDERS, CITY ATTORNEY
DATE: OCTOBER 15, 1986
RE: FRATERNAL ORDER OF POLICE V. CITY OF NAPLES

This suit was filed on June 21, 1984, as a Class Action on behalf of the police officers participating in the Naples Police Officers' Retirement Program. The Complaint alleges that Florida Statutes, Chapter 185, requires the City to use the income from the premium tax to pay extra benefits to the policemen over and above those enjoyed by municipal employees in general.

The City has responded to the Complaint denying that it is so-obligated and also raising 12 Affirmative Defenses, including the fact that this exact issue was previously resolved in City of Hollywood vs. Hollywood Lodge 21 Fraternal Order of Police, 329 So.2d 366 (4th D.C.A. 1976) where the Fraternal Order of Police made the identical claim and the Florida Fourth District Court of Appeal ruled against them.

There are no issues in the suit other than the legal issue as to whether or not the City is required to pay "extra benefits" from the premium tax receipts. In view of (1) the previous decision of the Fourth District Court of Appeal, and (2) the recent amendment of Chapter 185 by the Florida Legislature, which did not change the language relied upon by the Fourth District Court of Appeal in ruling against the FOP, and (3) the plain language of the Statute itself which says that the City "may" use the premium tax receipts to pay extra benefits or "may" place the funds into a separate fund for the exclusive use of the policemen (which is the option selected by the City of Naples), I do not anticipate an adverse ruling on this issue in Court. However, litigation is by its nature fraught with uncertainty. In addition, the Legislature may change the language next year and require that "extra benefits" be paid instead of allowing an option as it now does. Consequently, my recommendation is that the dispute between the parties be resolved prior to approving an increase in the benefits.


David W. Rynders, City Attorney

DWR/plr

ineligible classified according to the reasons for their being ineligible.

5. A statement of the amount the city and other income sources has contributed toward the plan or will contribute toward the plan for the current calendar year.

(2) When a municipality has a police officers' policemen's retirement plan which meets the standards set forth in subsection (1), the board of trustees of the pension plan, as approved by a majority of the police officers of the municipality affected, or the official pension committee, as approved by a majority of the police officers of the municipality affected or agency, may place the income from the premium tax in s. 185.08 in its existing pension fund for the sole and exclusive use of its police officers their policemen (or for firefighters firemen and police officers policemen where included), where it shall become an integral part of said fund, or may use said income to pay extra benefits to the police officers included in the fund policemen.

(4)(a) The membership of the board of trustees for pension plans operated pursuant to this section shall be as follows:

1. When a municipality has a pension plan for police officers only, the provisions of s. 185.05 shall apply.

2. When a municipality has a pension plan for police officers and firefighters, the provisions of s. 185.05 shall apply, except that two members of the board shall be police officers or firefighters who shall be elected by a majority of the police officers and firefighters who are members of the plan.

Additions in text are indicated by underlining; deletions by ~~strikeouts~~