ORDINANCE 08-12124
Meeting of 6/18/08

AN ORDINANCE PERTAINING TO THE POLICE OFFICERS' PENSION AND RETIREMENT SYSTEM; AMENDING SECTION 29-271, DEFINITIONS; SUBSECTION (2) OF SECTION 29-273, MAINTENANCE OF FUND; SECTION 29-311, CONTRIBUTIONS; AND SUBSECTION (2) OF SECTION 29-312, REQUIREMENTS FOR RETIREMENT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Section 29-271 of the Code of Ordinances of the City of Naples is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

ARTICLE V.

POLICE OFFICERS' PENSION AND RETIREMENT SYSTEM*

DIVISION 1.

GENERALLY

Sec. 29-271. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actuarial equivalence or actuarially equivalent means that any benefit payable under the terms of this trust fund in a form other than the normal form of benefit shall have the same actuarial present value on the date payment commences as the normal form of benefit. For purposes of establishing the actuarial present value of any form of payment, other than a lump sum distribution, all future payments shall be discounted for interest and mortality by using such interest rates, group annuity mortality tables and adjustments as are adopted by the board based upon the advice of the trust fund's actuaries.

Credited service means that period of continuous employment with the city as a police officer for which the police officer receives compensation or is entitled to compensation from the date of employment to the date of termination. Time spent in compulsory military service of the United States by the police officer will be credited, provided the police officer reenters the service of the city as a police officer within the time period provided by state and federal law after date of release from such military service and returns to the retirement trust fund all amounts withdrawn therefrom at the time the police officer entered or while in such armed service. During the period of such armed service and until reemployment by the city, the police officer's contributions to the retirement trust fund shall be waived and no payment of such contributions shall be required.

Final average compensation means the final average monthly compensation of the police officer for the period of the highest 3 years of contributing service preceding retirement or the highest 5 of the last 10 years of service, whichever is greater.

Police officer means a fulltime state certified police officer employed by the city as a member of the city's police and emergency services department,
including the chief of the department of police and emergency services, the police chief, captains and other officers and police officers of the police department who are state certified as police officers.

Prior service credit means a member may purchase service credit for service in the Armed Forces of the United States, the United States Merchant Marine or service as a police officer for the city or any employer prior to employment by the city, by depositing into the trust fund the full actuarial costs of such service credit that would have occurred had the member been employed by the city as a police officer for the period of service credit purchased. Such payment for said service credit may be made as a lump sum or, at the member's option by payroll deductions, not to extend beyond 3 years, according to a schedule approved by the board of trustees. Payroll deduction payments shall require interest at the actuarial rate of return for the years purchased. Such purchase of service credit shall take effect upon attaining 5 years of credited service in the pension plan. If a member terminates service prior to attaining 5 years of credited service and receives a refund of member contributions, the amount paid for such prior service credit shall also be refunded.

(1) Prior service credit shall not be granted for service where the member is receiving or is entitled to receive a benefit from another governmental pension system.

(2) Prior service credit under this section shall only be provided for service as a police officer, as defined in F.S. ch. 185, and/or for voluntary or involuntary service in the Armed Forces of the United States, or the United States Merchant Marine.

(3) Prior service credit for police officer service and/or United States Armed Forces and Merchant Marine service, shall not exceed 4 years. Prior service credit purchased shall be added to the years of service with the city.

(4) Election to purchase credited service, for prior service with the city, prior service with any other law enforcement agency or prior service in the United States Armed Forces or Merchant Marine, shall be made in writing to the board of trustees. The cost of credited service purchased for such prior service shall be the full actuarial cost of all credited service purchased hereunder computed as a lump sum payment into the plan. Actual payment may, at the member's option, be extended over a period of time not to exceed 3 years and shall be subject to interest at the actuarial rate of return for the years purchased. Such payment may be by direct in-service transfer from a police officer's deferred compensation account (457 account) pursuant to section 457(e) (17) of the Internal Revenue Code. Full payment of such purchased credited service must be completed prior to the member's actual retirement.

“Compensation” or “salary” means the total remuneration including “overtime up to 300 hours” and “accrued leave lump sum payouts not to exceed
Ordinance 08-12124

$6,700.00” to a police officer for service rendered but not including any payments for extra duty or a special detail work performed on behalf of a second party employer.

Section 2. That Section 29-273(2) of the Code of Ordinances of the City of Naples is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 29-273. Maintenance of fund.

The retirement trust fund created in section 29-272 shall be maintained by:

(2) Five percent of the salary of each police officer which shall be deducted by the city and paid over to the board of trustees of the retirement trust fund effective October 1, 2003, and increased to 5 1/2 percent effective January 1, 2004, and continued until September 30, 2004, unless earlier amended by appropriate legislation, and 5 percent effective October 1, 2004 and thereafter.

Section 3. That Section 29-311 of the Code of Ordinances of the City of Naples is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

DIVISION 3.

MEMBERSHIP AND BENEFITS

Sec. 29-311. Contributions.

Contributions to the police officers' pension and retirement system shall be deducted in the amount of 3 1/2 percent from the gross salary, including "overtime up to 300 hours" and excluding any payments for extra duty or special detail work performed on behalf of a second party employer, of each police officer so long as such police officer shall be employed by the city. Any police officer who enters the service of the city after the effective date of the ordinance from which this section derives shall be required to participate in this plan as a condition of employment, except to an officer first entering service of the city at the rank of chief, who upon appointment to that position, may make an election to participate in this plan or another retirement plan which does not require a greater contribution by the city; provided, however, any officer who elects to participate in any other pension plan shall not be entitled to receive any benefit under F.S. ch. 185 for any service rendered while a participant in such other pension plan. Notwithstanding any part of this section, any police officer may contribute to a voluntary deferred compensation (IRC section 457) plan and may, if eligible, participate in the defined contribution supplemental retirement plan established by article III, division 4, of this chapter, in addition to participating in this plan. The employer agrees to assume and pay member contributions in lieu of direct contributions by the member and such contributions shall accordingly be paid into the fund on behalf of the members. No member subject to such agreement shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer directly to the fund. All such contributions by the employer shall be
deemed and considered as part of the member's accumulated contributions and subject to all sections of this plan pertaining to accumulated contributions of members. The intent of this language is to comply with section 414(h) (2) of the Internal Revenue Code.

Section 4. That Section 29-312 of the Code of Ordinances of the City of Naples is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 29-312. Requirements for retirement.

Any police officer who has attained the age of 50 years or 25 years of service or more and who has been a member of the retirement fund created in this article is eligible for normal retirement benefits. In such event, payment of retirement income will be governed by the following:

(2) The amount of the base monthly retirement income payable to a police officer who retires on or after normal retirement date shall be an amount equal to the number of years and fractions thereof of credited service multiplied by 3 percent of final average compensation. Effective October 1, 2006, the amount of the base monthly retirement income payable to a police officer who retires on or after normal retirement date shall be an amount equal to the number of years and fractions thereof of credited service multiplied by 3.63 percent of final average compensation. For police officers terminating participation in the police officers' pension and retirement system on or subsequent to October 1, 1998, the start of the fiscal year generating funds for benefit improvements, the number of years and fractions thereof of credited service shall be multiplied by 3 3/5 percent. Any vested police officer with at least five years of credited service who was employed on or after September 28, 2007 shall be entitled to purchase an additional benefit of 7.26 percent of final average compensation or such lesser amount as the police officer may choose. The police officer shall pay the full actuarial cost (as determined by the retirement system actuary) of such additional benefit purchased hereunder. Payment for this additional benefit must be completed prior to the police officer's actual retirement and may be made in one or more of the following manners:

a) Cash lump sum payment,

b) Direct transfer or rollover of an eligible rollover distribution from a qualified or eligible plan, including direct in-service transfer from a police officer's deferred compensation account (457 account) pursuant to section 457(e) of the Internal Revenue Code,

c) Installment payments bearing interest at the retirement system's actuarially assumed rate of investment return under such conditions and terms as the retirement system's board of trustees may prescribe.
Section 5. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 6. That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 7. This ordinance shall take effect immediately upon adoption at second reading. Any police officers who retired or applied for retirement on or after October 1, 2006 but before the effective date hereof shall have their monthly retirement benefits retroactively increased to the amount set forth in section 4 hereof and, any police officer who was employed on or after September 28, 2007 shall, if eligible, be allowed to purchase the additional benefit provided in section 4 hereof by September 1, 2008.

APPROVED AT FIRST READING THIS 4TH DAY OF JUNE, 2008.


Bill Barnett, Mayor

Attest:
Tara A. Norman, City Clerk

Approved as to form and legality:

Robert D. Pritt, City Attorney

Date filed with City Clerk: 6/19/08