Sec. 21-330. Administration of the retirement plan.

(a) The sole and exclusive administration of, and the responsibility for, the proper effective operation of the retirement plan and for making the provisions of this division is vested in a board of trustees.

(b) The board of trustees shall consist of five persons; two of whom shall be legal residents of the city and who shall be appointed by the city commission. One member of the board of trustees shall be police officer who shall be elected by a majority of the police officers who are active members of the plan. One member shall be a firefighter who shall be elected by a majority of the firefighters who are active employee members of the plan. In accordance with F.S. § 175.061, when the number of firefighters who are active members of the plan falls below ten, an active firefighter member seat may be held by either a retired member or an active firefighter member of the plan who is elected by the active and retired members of the plan. If there are no active or retired firefighters remaining in the plan or capable of serving, the remaining board members may elect an individual to serve in the active firefighter seat. Such person's name will be submitted to the city commission for appointment as a ministerial duty. A fifth member of the board shall be chosen by a majority of the previous four persons, and such person's name shall be submitted to the city commission for appointment. The city commission shall appoint the fifth member selected by the other four as a ministerial duty.

(c) All trustees shall serve a term of four years. If a vacancy shall occur prior to the expiration of a member's term, a replacement member shall be chosen in the same manner as the person who has left office. A replacement trustee shall serve a full term measured from the date of replacement. All trustees shall serve until their replacements are selected.

(d) The board of trustees shall prescribe a uniform election procedure for the selection of the active member trustee.

(e) All trustees shall serve without compensation, but they shall be reimbursed from the fund for all necessary expenses authorized by the board. The board shall be permitted to prescribe uniform rules for reimbursement for travel expenditures.

(f) The board of trustees shall annually select a chairman and a secretary who shall execute all documents on behalf of the board.

(g) A majority of the members of the board shall constitute a quorum for the transaction of business and shall have full power to act under the terms of the plan. Three concurring votes shall be required of the board to take action.

(h) The board shall keep minutes of all meetings and a record of any action taken by the board shall be kept in written form and maintained by the board.

(i) The board of trustees shall have the authority to make such uniform rules and regulations and to take such action as may be necessary to carry out the provisions of the plan and all decisions of the board of trustees, made in good faith, and shall be final, binding and conclusive on all parties.

(j) The board of trustees shall be deemed the name fiduciary of the plan and shall discharge its responsibilities solely in the interest of the members and beneficiaries of the plan for the exclusive purpose of providing benefits to the members and their beneficiaries and to defray the reasonable expenses of the plan. The trustees shall exercise those fiduciary responsibilities with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims.

(k) The board of trustees shall have the following administrative duties:

    (1) To maintain such records as are necessary for calculating and distributing retirement benefits.

(2) To maintain such records as are necessary for financial accounting and reporting of retirement plan funds.

(3) To maintain such records as are necessary for actuarial evaluation of the retirement plan, including investigations into the mortality, service and compensation experience of its members and beneficiaries.

(4) To compile such other administrative or investment information as is necessary for the management of the retirement plan.

(5) To process, certify and/or respond to all correspondence, bills and statement received by the retirement plan, as well as all applications submitted to the board for retirement benefits.

(6) To establish and maintain communication with city departments and other agencies of government as is necessary for the management of the retirement plan, including preparing, filing and distributing such reports and information as are required by law to be prepared, filed or distributed on behalf of the retirement plan.

(7) To determine all questions relating to and process all applications for eligibility, participation and benefits.

(8) To distribute at regular intervals to employees, a comprehensive summary plan description and periodic reports as required by law.

(9) To retain and compensate such professional and technical experience as is necessary to fulfill its fiduciary responsibilities.

(10) To make recommendations regarding changes in the provisions of the plan.

(11) To assure the prompt deposit of all member contributions, city contributions, Chapter 175 and 185 monies, and investment earnings.

(12) To establish a uniform set of rules and regulations for the management of the trust.

(13) To take such other action as the trustees shall deem, in their sole and exclusive discretion, as being necessary for the efficient management of the plan.

(l) The board shall have the authority to retain its own legal counsel, accountants, actuaries and other professional advisors to assist the board in the performance of its duties. The board may act without independent investigation upon the professional advice of the advisors so retained.

(m) The board is authorized to prosecute or defend actions, claims or proceedings of any nature or kind for the protection of the fund assets or for the protection of the board in the performance of its duties.

(n) Neither the board nor any of its individual members shall have any personal liability for any action taken in good faith. The trustees individually and the board as a whole shall be entitled to the protections of F.S. § 768.28. The trustees shall also be authorized to purchase from the assets of the fund, errors and omission insurance to protect the trustees in the performance of their duties. Such insurance shall not provide protection against a trustee's fraud, intentional misrepresentation, willful misconduct or gross negligence.

(o) No trustee shall be responsible at his or her own expense, to take legal action to correct the misconduct of any other member of the board of trustees. A trustee shall have an affirmative obligation, however, to publicly reveal any misfeasance, malfeasance or nonfeasance by a co-trustee, and upon make such revelation in a public meeting, shall be relieved further individual responsibility of the actions of that co-trustee.

(p) If an action of the board has an impact on the city contribution the action must be approved by the city commission. The city retains the right to obtain independent actuarial services to determine financial impact.

(q) Board of trustees shall not amend the plan.

(1) The board of trustees shall not amend the provisions of the retirement plan without the approval of the city commission. The board of trustees shall administer the retirement plan in accordance with the retirement plan ordinance as written, providing that the authority of the board of trustees to exercise its exclusive authority to administer the plan shall not be diminished or impaired by this provision. Actions required by order of a court of law are excluded.

(2) The board of trustees shall provide the city, union representatives written notice of any action it intends to take that may be reasonably expected to increase the city's contribution at least 60 days prior to the effective date of any such action. Such notice shall specifically describe the action, the reason for the action and an estimate from the actuary of the anticipated cost ("estimated actuarial valuation cost"). This estimated actuarial valuation cost must include the overall change to the UAAL and the dollar impact to the annual contribution for the current year and for the next five years. This notice requirement does not apply to:

a. Board action approving a change to the actuarial assumptions mandated by statute or regulation;

b. Investment-related board action;

c. Adoption of an assumed rate of return;

d. Board action affecting only one member;

e. Actions required by order of a court of law;

f. Actions taken prior to the effective date of the enacting ordinance; or

g. Adoption of the annual actuarial valuation.

(3) Upon receipt of notice as required by subsection (2) above, the city must notify the pension board in writing if it objects to a proposed action of the pension board. Should the board approve any action contemplated as stated in subsection (2) above, and the city's annual contribution, as determined by the estimated actuarial valuation cost, will increase by $125,000.00 or more due to an action or directive of the board of trustees. The employee contribution will be increased by up to five percent of pensionable earnings to offset the increase until the issue is resolved. The maximum increase of five percent is cumulative of all increases and in no event shall the total number of increases pursuant to this paragraph exceed five percent at any given time. This paragraph does not apply to increases resulting from changes to actuarial assumptions mandated by statute or regulation of the division of retirement, increases resulting from investment losses, increases resulting from changes to the assumed rate of return, increases resulting from action of the pension board that affects only one member, actions required by court order, actions taken prior to the effective date of this ordinance, or adoption of the annual actuarial valuation.

(4) The amount of the police member contribution increase required pursuant to subsection (3) above shall be calculated as follows:

a. The total amount of the annual increase shall be divided by half, one half to be considered the "city's additional contribution total"; and one half to be considered the "members' additional contribution total," except that the city's additional contribution total shall not be less than $125,000.00.

b. The members' additional contribution total will be multiplied by the ratio of active police members to active fire members of the plan. (For example, if 70 percent of active plan members are police, the members' additional contribution total will be multiplied by 0.7). This sum will be the police additional contribution total.

c. The police additional contribution total will be divided by one percent of the previous year's active police members' pensionable earnings. The total shall be the percentage of increased employee contribution for the purposes of subsection (3) above.

(Ord. No. 2021-019, § 7, 10-6-2021)