



City of Deltona

CITY COMMISSION WORKSHOP
MONDAY, JULY 28, 2014
5:30 P.M.

Mayor
John Masiarczyk

Vice Mayor
Heidi Herzberg
District 3

Commissioners:

Zenaida Denizac
District 1

Webster Barnaby
District 2

Nancy Schleicher
District 4

Fred Lowry
District 5

Chris Nabicht
District 6

City Manager
William D. Denny

2ND FLOOR CONFERENCE ROOM
2345 PROVIDENCE BLVD.
DELTONA, FLORIDA

AGENDA

1. **CALL TO ORDER:**
2. **ROLL CALL – CITY CLERK:**
3. **PLEDGE TO THE FLAG:**

PUBLIC COMMENTS- Citizen comments limited to items on the agenda and will take place after discussion of each item.
4. **BUSINESS:**
 - A. **Discussion re: Ordinance No. 13-2014, Amending the Firefighter’s Pension Plan by allowing the Fire Chief the option of Opting Out of Participation, at first reading and to schedule second and final reading for July 21, 2014.**
 - B. **Discussion re: Ordinance No. 19-2013, amending Chapter 46, Sections 31, 33, 35, 54, 56, 57 and 58 of Article II, Firefighters' Pension Plan.**
 - C. **Discussion re: Draft medical marijuana ordinance.**
5. **CITY MANAGER COMMENTS:**
6. **ADJOURNMENT:**

NOTE: If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk, Joyce Raftery 48 hours in advance of the meeting date and time at (386) 878-8500.



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 7/28/2014

FROM: William D. Denny, City Manager **AGENDA ITEM:** 4 - A

SUBJECT: Discussion re: Ordinance No. 13-2014, Amending the Firefighter's Pension Plan by allowing the Fire Chief the option of Opting Out of Participation, at first reading and to schedule second and final reading for July 21, 2014.

LOCATION:

N/A

BACKGROUND:

At the present time, the pension ordinance provides that all full-time firefighters shall, as a condition of employment, become participants in this plan as of the later of the October 1, 1997 or his or her date of employment (or reemployment, if applicable) with the city. However, the fire chief shall have the option to participate in the plan or to participate in the City of Deltona General Employees' Pension Plan.

Ordinance No. 13-2014 will amend Chapter 46, "*Pension plans*," Article II, "*Firefighter's Pension Plan*," of the Code of Ordinances of the City of Deltona, Section 46-27, "*Participation – Conditions of eligibility*," amending the Firefighter's Pension Plan by allowing the Fire Chief the option of Opting Out of Participation without participating in the general employee's pension plan. The Deltona general employee's pension plan does not permit a firefighter to belong.

ORIGINATING DEPARTMENT:

City Attorney's Office

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:

City Attorney, City Manager, Fire Chief

STAFF RECOMMENDATION PRESENTED BY:

N/A - For discussion and direction to staff as necessary.

POTENTIAL

MOTION:

N/A - For discussion and direction to staff as necessary.

**AGENDA ITEM
APPROVED BY:**

William D. Denny, City Manager

ATTACHMENTS:

- Ordinance No. 13-2014

ORDINANCE NO. 13 - 2014

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE FIREFIGHTER'S PENSION PLAN BY ALLOWING THE FIRE CHIEF THE OPTION OF OPTING OUT OF PARTICIPATION; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:

SECTION 1. Chapter 46, "*Pension plans,*" Article II, "*Firefighter's Pension Plan,*" of the Code of Ordinances of the City of Deltona is hereby amended by the amendment of Section 46-27, "*Participation – Conditions of eligibility,*" which section shall read as follows:

Sec. 46-27. Participation – Conditions of Eligibility.

All full-time firefighters shall, as a condition of employment, become participants in this plan as of the later of the October 1, 1997 or his or her date of employment (or reemployment, if applicable) with the city. ~~However, the fire chief shall have the option to participate in the plan or to participate in the City of Deltona General Employees' Pension Plan.~~ Notwithstanding the previous sentence, the fire chief may, within the first three months of employment as fire chief, or within thirty (30) days of the effective date of the ordinance adopting this provision, notify the board and the city, in writing, of his election to not be a member of the system. In the event of any such election, he shall be barred from future membership in the system and any contributions made after employment and prior to opting out shall be refunded. Thereafter, contributions to the plan in accordance with Section 46-31 shall not be required, he shall not be eligible to be elected as a member trustee on the board or vote for a member trustee and shall not be eligible for any other benefits from the plan.

SECTION 2. CONFLICTS. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

SECTION 3. CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

City of Deltona, Florida
Ordinance No.13 -2014
Page 2 of 2

SECTION 4. SEVERABILITY. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2014.

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

JOHN C. MASIARCZYK SR., MAYOR

ATTEST:

JOYCE RAFTERY, CITY CLERK

Approved as to form and legality for use
and reliance by the City of Deltona, Florida

GRETCHEN R. H. VOSE, CITY ATTORNEY



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 7/28/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 4 - B
SUBJECT: Discussion re: Ordinance No. 19-2013, amending Chapter 46, Sections 31, 33, 35, 54, 56, 57 and 58 of Article II, Firefighters' Pension Plan.

LOCATION:	N/A
BACKGROUND:	At the Commission Workshop held on Monday, January 27, 2014, the Commission requested additional information from the Firefighter's Pension Board, see attached letter from Foster and Foster dated May 5, 2014.
ORIGINATING DEPARTMENT:	City Manager's Office
SOURCE OF FUNDS:	N/A
COST:	N/A
REVIEWED BY:	Finance Director, City Attorney
STAFF RECOMMENDATION PRESENTED BY:	N/A - For discussion and direction to staff as necessary.
POTENTIAL MOTION:	N/A - For discussion and direction to staff as necessary.
AGENDA ITEM APPROVED BY:	<hr/> William D. Denny, City Manager
ATTACHMENTS:	<ul style="list-style-type: none">• Ordinance No. 19-2013• Letter from Foster & Foster

ORDINANCE NO. 19-2013

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING CHAPTER 46, ARTICLE II, FIREFIGHTERS' PENSION PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF DELTONA BY AMENDING SECTION 46-31, CONTRIBUTIONS; AMENDING SECTION 46-33, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 46-35, DISABILITY; AMENDING SECTION 46-54, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 46-56, RETIREMENT SUBSIDY; ADDING SUBSECTION 46-57, MILITARY SERVICE PRIOR TO EMPLOYMENT; ADDING SECTION 46-58, PRIOR FIRE SERVICE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA;

SECTION 1: That Chapter 46, Article II, Firefighters' Pension Plan, of the Code of Ordinances of the City of Deltona is hereby amended by amending Section 46-31 Contributions, subsection (c), *City contributions*, to read as follows:

* * * * *

(c) *City contributions.* So long as this system is in effect, the city shall make quarterly contributions to the fund in an amount equal to the required city contribution as shown by the applicable actuarial valuation of the system, but in no event shall the City's annual contribution be less than sixteen percent (16%) of the total salary of the Members.

* * * * *

SECTION 2: That Chapter 46, Article II, Firefighters' Pension Plan, of the Code of Ordinances of the City of Deltona is hereby amended by amending Section 46-33, Benefit Amounts and Eligibility, to add subsection (f), *Cost of Living Adjustment*, to read as follows:

* * * * *

(f) *Cost of living adjustment.*

(1) The pension benefit payable to all retirees who retire under early or normal retirement after the effective date of this ordinance with at least twenty-one (21) years of credited service, and those who retire with an In-Line of Duty disability retirement, and their beneficiaries and joint annuitants, shall be annually increased by two and thirty-five one- hundredths percent (2.35%) beginning on the later of the attainment

of age fifty-two (52) or three (3) years after commencement of benefits. This benefit shall not be payable to terminated vested persons. Beneficiaries and joint annuitants of deceased retirees shall receive adjustments as provided for herein, based on the age or years of service of the deceased Retiree. This benefit increase shall also be payable prospectively to all current retirees who meet the eligibility requirements.

- (2) In the event that the total insurance premium tax rebates in any year are reduced such that the original dollar amount attributable to pay for this COLA and the increase in the Retirement Subsidy in Section 46-56 as provided for in this Ordinance No. -2014 is not available, the COLA and the increase in the Retirement Subsidy benefit for future years shall be reduced proportionally to reflect the reduction in the premium tax rebates. In the event that the total amount of the insurance premium tax rebates are subsequently increased, the annual COLA amount and the increase in the Retirement Subsidy shall be proportionately, prospectively increased, but not to an amount greater than two and thirty-five one-hundredths percent (2.35%) for the COLA and \$10/\$250 for the Retirement Subsidy. Reductions in premium tax rebates shall not result in the reduction of any other plan benefits.

* * * * *

SECTION 3: That Chapter 46, Article II, Firefighters' Pension Plan, of the Code of Ordinances of the City of Deltona is hereby amended by amending Section 46-35, Disability, subsection (e), *Disability payments*, to read as follows:

* * * * *

(e) *Disability payments.* The benefits payable to a participant who retires from the service of the city due to total and permanent disability which occurred in the line of duty is the accrued normal retirement benefit paid monthly for life or ten years certain, but shall not be less than 60 percent of his or her average final compensation at the time of disability. If after attaining ten creditable years of service in the plan the disability is other than in the line of duty, the participant's monthly benefit shall be the accrued normal retirement benefit, but shall not be less than 25 percent of their average final compensation at the time of disability. No disability benefits shall be payable to a participant who has less than ten creditable years of service for a disability, other than in the line of duty.

The monthly retirement income to which a participant is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the board determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement and any portion due for a partial month shall be paid together with the first payment. Notwithstanding the previous sentence, in the event the City involuntarily terminates the participant's employment for medical reasons prior to the date the Board determines the entitlement to the disability benefit, the monthly retirement benefits shall be payable retroactively to the later of the date of the application for disability benefits or the date that the City involuntarily terminates the participant's employment for medical reasons. The last payment will be the payment

due next preceding the date of such recovery or, if the participant dies without recovering from the disability, the payment due next preceding his or her death or the 120th monthly payment, whichever is later. In lieu of the benefit payment provided in this paragraph a participant may select an optional form as provided in section 46-37. Any monthly retirement income payments due after the death of a disabled participant shall be paid to the participant's designated beneficiary (or beneficiaries) as provided in section 46-34 or section 46-38, whichever applies.

* * * * *

SECTION 4: That Chapter 46, Article II, Firefighters' Pension Plan, of the Code of Ordinances of the City of Deltona is hereby amended by amending Section 46-54, Deferred Retirement Option Plan, subsections (b)(1), (b)(2), and (b)(3), *Participation*, to read as follows:

* * * * *

- (b) *Participation.*
- (1) *Eligibility to participate.* In lieu of terminating his or her employment as a Firefighter, any participant who is eligible for normal retirement under the system may elect to defer receipt of such service retirement pension and to participate in the DROP ~~provided that the election to participate in the DROP is made within 12 months following the date on which the participant first becomes eligible for normal retirement. A participant who fails to make the election within such 12-month limitation period shall forfeit all rights to participate in the DROP.~~
- (2) *Election to participate.* A participant's election to participate in the DROP must be made in writing in a time and manner determined by the board and shall be effective on the first day of the first calendar month which is at least 15 business days after it is received by the board.
- (3) *Period of participation.* A participant who elects to participate in the DROP under subsection (b)(2), shall participate in the DROP for a period terminating not to exceed later than the earlier of:
- a. ~~36~~ ninety-six (96) months beginning at the time from the date his or her election to participate in the DROP first becomes effective; or
 - b. the completion of thirty-five (35) total years of service (including service while in the DROP and including any years purchased for prior military service or prior fire service); or
 - c. the attainment of age sixty (60) years of age.

An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the city not later than the date provided for ~~in the previous sentence~~ above. A participant may participate only once.

* * * * *

SECTION 5: That Chapter 46, Article II, Firefighters' Pension Plan, of the Code of Ordinances of the City of Deltona is hereby amended by amending Section 46-56, Retirement Subsidy, to read as follows:

Sec. 46-56. Retirement subsidy (RS).

The retirement subsidy (RS) is a monthly supplemental payment to a retired firefighter ~~to help defray the cost of health insurance coverage. This monthly payment, which must be applied for,~~ is calculated by multiplying your total years of service at retirement (up to a maximum of 25 years) ~~by \$5.00 10.00. RS and~~ is only available to firefighters after retirement while not employed by the city. ~~RS is calculated at shall equal \$5.00 10.00 for each full year of creditable service with a maximum RS of \$125.00 250.00 per month. which shall be paid monthly.~~ RS is not to be paid retroactive to the firefighter's date of retirement, but the increase in the benefit to \$10/\$250 shall be applicable prospectively to all current retirees. The increase in the Retirement Subsidy provided for in this Ordinance No. -2014 shall be subject to an adjustment as provided for in Section 46-33(f)(3).

SECTION 6: That Chapter 46, Article II, Firefighters' Pension Plan, of the Code of Ordinances of the City of Deltona is hereby amended by adding Section 46-57, Military Service Prior to Employment, to read as follows:

Section 46-57. Military service prior to employment.

The years or fractional parts of years that a firefighter serves or has served on active duty in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily, and honorably or under honorable conditions, prior to first and initial employment with the City fire department shall be added to his or her years of credited service provided that:

(1) The member contributes to the fund the sum that he or she would have contributed, based on his or her salary and the member contribution rate in effect at the time that the credited service is requested, had he or she been a member of the system for the years or fractional parts of years for which he or she is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the fund plus payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service. The cost of the buyback shall be borne solely by the member and shall not result in any additional cost to the fund or the City.

(2) Multiple requests to purchase credited service pursuant to this section may be made at any time prior to retirement.

(3) Payment by the member of the required amount shall be made within six (6) months of his or her request for credit, but not later than the retirement date, and shall be made in one lump sum payment upon receipt of which credited service shall be given or the Member may elect to make payment for the requested Credited Service over a period of time as provided for in paragraph (6) below.

(4) The maximum credit under this section, combined with any credit purchased pursuant to Section 46-58, shall be a total of five (5) years.

(5) Credited service purchased pursuant to this section shall not count toward vesting or eligibility for not-in-line of duty disability benefits.

(6) In lieu of the lump sum payment provided for in paragraph (3) above, a Member may elect to make payments over a period of time in order to fully pay the amount provided for in paragraph (1). The Member shall be required to notify the Board, in writing, of his or her election to make payments in the manner provided for in this paragraph, The payment plan provided for in this paragraph shall be subject to the following terms:

- a. The principal amount to be paid shall be determined as set forth in paragraph (1) above.
- b. The original principal amount shall be amortized over the period beginning with the first payment and ending no later than twenty-four (24) months from the date of the first payment and shall be re-amortized annually to reflect changes in the interest rate provided for in subparagraph c. below.
- c. Payments shall consist of principal and interest at a rate equal to the actuarially assumed rate of return on plan investments..
- d. Payments shall be made by payroll deduction from each paycheck on an after-tax basis.
- e. In the event that a Member dies, retires (including entry into any Deferred Retirement Option Plan (DROP)) or otherwise terminates his or her employment, without having made full payment of the principal amount necessary to receive all Credited Service requested, the Member shall receive so much of the Credited Service requested, determined using procedures established by the actuary, which could be purchased with the amount of principal paid by the Member to the date of his or her death or termination of employment.
- f. In the event that the Member's employment is terminated for any reason and he or she is not entitled to any benefit from the System other than the return of the amounts he or she has had deducted from his or her paycheck as his or her normal contribution to the System, the amounts which the Member has paid pursuant to this subsection to purchase additional Credited Service, shall be returned to him or her including all interest paid, however, no interest shall accrue on amounts paid to purchase service,

SECTION 7: That Chapter 46, Article II, Firefighters' Pension Plan, of the Code of Ordinances of the City of Deltona is hereby amended by adding Section 46-58, Prior Fire Service, to read as follows:

Section 46-58. Prior fire service.

Unless otherwise prohibited by law, and except as provided for in section (1), the years or fractional parts of years that a member previously served as a firefighter with the city during a period of previous employment and for which period accumulated contributions were withdrawn from the fund, or the years and fractional parts of years that a member served as a full-time firefighter for any other municipal, county or special district fire department in the State of Florida shall be added to his or her years of credited service provided that:

(1) The member contributes to the fund the sum that he or she would have contributed, based on his or her salary and the member contribution rate in effect at the time that the credited service is requested, had he or she been a member of the system for the years or fractional parts of years for which he or she is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the fund plus payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service. The cost of the buyback shall be borne solely by the member and shall not result in any additional cost to the fund or the City.

(2) Multiple requests to purchase credited service pursuant to this section may be made at any time prior to retirement.

(3) Payment by the member of the required amount shall be made within six (6) months of his or her request for credit, but not later than the retirement date, and shall be made in one lump sum payment upon receipt of which credited service shall be given, or the Member may elect to make payment for the requested Credited Service over a period of time as provided for in paragraph (7) below.

(4) The maximum credit under this section for service other than with the City of Deltona, combined with any credited service purchased pursuant to Section 46-57 shall be a total of five (5) years of credited service and shall count for all purposes, except vesting and eligibility for not-in-line of duty disability benefits.

(5) In no event, however, may credited service be purchased pursuant to this section for prior service with any other municipal, county or special district fire department, if such prior service forms or will form the basis of a retirement benefit or pension from a different employer's retirement system or plan as set forth in section 46-43, subsection (1)(2).

(6) For purposes of determining credit for prior service as a firefighter as provided for in this section, in addition to service as a firefighter in this state, credit may be purchased by the member in the same manner as provided above for federal, other state, county or municipal service if the prior service is recognized by the Division of State Fire Marshal, as provided under Chapter 633, Florida Statutes, or the firefighter provides proof to the board that such service is equivalent to the service required to meet the definition of a firefighter under Sec.46-26, above.

(7) In lieu of the lump sum payment provided for in paragraph (3) above, a Member may elect to make payments over a period of time in order to fully pay the amount provided for in paragraph (1). The Member shall be required to notify the Board, in writing, of his or her election

to make payments in the manner provided for in this paragraph, The payment plan provided for in this paragraph shall be subject to the following terms:

- a. The principal amount to be paid shall be determined as set forth in paragraph (1) above.
- b. The original principal amount shall be amortized over the period beginning with the first payment and ending no later than twenty-four (24) months from the date of the first payment and shall be re-amortized annually to reflect changes in the interest rate provided for in subparagraph c. below.
- c. Payments shall consist of principal and interest at a rate equal to the actuarially assumed rate of return on plan investments..
- d. Payments shall be made by payroll deduction from each paycheck on an after-tax basis.
- e. In the event that a Member dies, retires (including entry into any Deferred Retirement Option Plan (DROP)) or otherwise terminates his or her employment, without having made full payment of the principal amount necessary to receive all Credited Service requested, the Member shall receive so much of the Credited Service requested, determined using procedures established by the actuary, which could be purchased with the amount of principal paid by the Member to the date of his or her death or termination of employment.
- f. In the event that the Member's employment is terminated for any reason and he or she is not entitled to any benefit from the System other than the return of the amounts he or she has had deducted from his or her paycheck as his or her normal contribution to the System, the amounts which the Member has paid pursuant to this subsection to purchase additional Credited Service, shall be returned to him or her including all interest paid, however, no interest shall accrue on amounts paid to purchase service,

SECTION 8: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Deltona.

SECTION 9: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 10: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 11: That this Ordinance shall become effective upon its adoption.

PASSED ON FIRST READING, this _____ day of _____, 2014.

PASSED AND ADOPTED ON SECOND READING, this _____ day of _____, 2014.

MAYOR

ATTEST:

CITY CLERK

Approved as to form:

CITY ATTORNEY

dm/del/fire/03-14-14.ord



May 5, 2014

VIA MAIL & EMAIL

Ms. Lisa Spriggs, CPA
 City of Deltona
 Post Office Box 5550
 Deltona, FL 32728-5550

Re: Firefighters' Retirement Plan

Dear Lisa:

As requested by the Board at their April 17 meeting, I am writing in response to the presentation given to the City Council expressing concerns over some of the actuarial methodology utilized by the Pension Board, as well as to address the email written by Mr. Denny to the Board of Trustees requesting additional analysis.

The purpose of this letter is to highlight why the Board is utilizing certain methodology to develop the City's funding requirements. The areas of actuarial concern can be summarized into the following topics:

1. **Investment Return Assumption:** The presentation suggests that not only is the 8% assumed rate of return too high, but also that the Florida Division of Retirement is suggesting that any rate larger than 7.75% is too high. While I will defer to the investment consultant to justify continued use of the 8% assumed rate, I will say that we work for about 200 pension boards in the State of Florida under the purview of the Division of Retirement. While in some cases the Division suggests using a lower rate of return assumption than 8%, in most cases they readily accept the use of 8% as the investment return. It typically depends upon plan performance, and my understanding is (and I defer to Dave West of the Bogdahn Group for additional detail) that our Fund has done quite well since moving away from the Principal Group and restructuring the portfolio.

Additionally, I will tell you that a majority of public funds nationwide still use investment return assumptions between 7% and 8%. While some investment consulting firms may claim that a lower rate may be more appropriate as suggested in the presentation, I know that at least one of the larger firms recently advised my client (who has nearly \$15 Billion in assets) that they expect a 9.5% return over the long term.

If the City believes, however, that a lower rate is more appropriate then they should feel free to contribute amounts in excess of the minimum required contribution shown in our report.

2. **Mortality Assumption (RP2000 with no projection):** This table is the most current mortality table available to actuaries for purposes of performing pension valuations. With that said, the newest Actuarial Standards of Practice language suggests that actuaries should “consider” future mortality improvements when performing actuarial valuations.

Our firm was hired by the State of Illinois Department of Insurance to perform an Experience Study for all 650+ public safety funds in the State. In the study, which produced statistically significant information, we found that the mortality rates exhibited by public safety officers were about 10% worse, on average, than those rates shown in the RP 2000 Table. Absent any evidence to the contrary, it is our opinion that public safety officers in Florida should exhibit similar mortality to those in Illinois, and therefore the static RP 2000 table has enough conservatism to allow for mortality improvements over time. So we believe that the mortality table being used by the Board is appropriate.

3. **Amortization Period:** The Florida Statutes allow for amortization periods of up to 30 years. The Board has historically utilized a 30 year amortization period in order to provide stable, level, and predictable costs over a long term horizon. The concern expressed in the presentation was that the amortization period was too long. While shorter amortization periods are certainly acceptable, changing to this methodology would create increased volatility in the City’s funding requirements.
4. **DROP Program:** The concern with the DROP program is that the interest rate being credited is 6%, the firefighter can enter at any time, and the maximum period is 8 years. It is our opinion that none of these provisions will add material costs to the plan. While we concede that payroll may be higher due to more experienced firefighters continuing to work instead of retiring, it is likely that lower training costs, lower OPEB liabilities and health costs, and higher turnover will probably mitigate any costs due to the higher payroll. Additionally, if the fund earns more than 6%, the City will achieve the arbitrage of excess returns over the 6% credited rate.

Finally, Mr. Denny made reference to our Actuarial Impact Statement which only illustrates the impact on the City’s required contribution for one year. While we do not dispute that a projection over a longer term is a good way to characterize costs, the Florida Division of Retirement has specific requirements surrounding the structure of an Actuarial Impact Statement, and that is to show the cost impact in the first year only. We merely complied with their format and structure. We are certainly equipped and would be happy to comply with the requests of the City expressed in Mr. Denny’s email, but will only do so at the direction of the Board of Trustees.

If you have any questions regarding any of these topics, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bradley R. Heinrichs".

Bradley R. Heinrichs, FSA, EA, MAAA
BRH/hs



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 7/28/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 4 - C
SUBJECT: Discussion re: Draft medical marijuana ordinance.

LOCATION:	N/A
BACKGROUND:	At the Regular Commission Meeting held on February 3, 2014, Commissioner Schleicher requested that staff look at what other cities were doing in case the medical marijuana bill passes and that the City should have a draft ordinance prepared.
ORIGINATING DEPARTMENT:	City Attorney's Office
SOURCE OF FUNDS:	N/A
COST:	N/A
REVIEWED BY:	City Manager
STAFF RECOMMENDATION PRESENTED BY:	N/A - For discussion and direction to staff as necessary.
POTENTIAL MOTION:	N/A - For discussion and direction to staff as necessary.
AGENDA ITEM APPROVED BY:	<hr/> William D. Denny, City Manager
ATTACHMENTS:	<ul style="list-style-type: none">• Ordinance No. 10-2014

ORDINANCE NO. 10 – 2014

AN ORDINANCE AFFECTING THE USE OF LAND IN THE CITY OF DELTONA, FLORIDA, RELATING TO MEDICAL MARIJUANA DISPENSARIES; AMENDING SEC. 110-317. C-3, “HEAVY COMMERCIAL CLASSIFICATION”, OF ARTICLE III, “ESTABLISHMENT OF CLASSIFICATION AND OFFICIAL ZONING MAP”, OF CHAPTER 110, “ZONING”; AND ADDING SEC. 110-833, “MEDICAL MARIJUANA DISPENSARIES”, TO ARTICLE VIII, “SUPPLEMENTARY REGULATIONS”, OF CHAPTER 110, “ZONING”, TO ALLOW MEDICAL MARIJUANA DISPENSARIES AS A CONDITIONAL USE IN THE C-3 ZONING CATEGORY AND; BY SETTING FORTH SITING STANDARDS AND REQUIREMENTS FOR MEDICAL MARIJUANA DISPENSARIES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the State of Florida is considering legalizing the dispensing of marijuana for medical purposes; and

WHEREAS, the City Commission of the City of Deltona has determined that it is in the best interests of the citizenry and general public to regulate the location of medical marijuana dispensaries in the event the State of Florida legalizes said dispensaries; and

WHEREAS, the City Commission of the City of Deltona has the responsibility and authority to determine what uses are best suited to particular zoning categories as well as land use categories within the City; and

WHEREAS, the City Commission of the City of Deltona has determined that given the potential impact on the surrounding area, that medical marijuana dispensaries should be allowed within the C3 – Heavy Commercial Classification in the City, as a special exception, after a hearing and finding by the Planning and Zoning Board that said dispensary meets the requirements for granting a special exception; and

WHEREAS, the City Commission of the City of Deltona has determined that it is advisable and in the public interest to set certain distance and other siting standards in regard to the location of operation of medical marijuana dispensaries; and

WHEREAS, the City Commission of the City of Deltona finds that this ordinance promotes the general welfare.

NOW, THEREFORE, be it ordained by the City Commission of the City of Deltona, Florida, as follows:

SECTION 1. Sec. 70-30. “Definitions”, of Division 1. “Generally”, of Article II, “Land Development Code”, of the Code of the City of Deltona, Florida, is amended to add the following definition:

* * *

Medical marijuana dispensaries: Any locations at which medical marijuana (by whatever name) is sold or dispensed.

* * *

SECTION 2. Sec. 110-317. “C-3, Heavy Commercial Classification”, of Article III, “Establishment of Classification and Official Zoning Map”, of Chapter 110, “Zoning”, of the Code of the City of Deltona, Florida, is amended to read as follows:

Sec. 110-317. C-3, Heavy Commercial classification.

(a) *Purpose and intent.* The purpose and intent of the C-3 Heavy Commercial classification is to provide areas for commercial uses and structures that are not generally compatible with B-4 uses and structures.

(b) *Permitted principal uses and structures.* In the C-3 Heavy Commercial classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

Art, dance, modeling and music schools.

Auction parlors.

Automobile body shops.

Automobile driving schools.

Automobile rental agencies.

Automobile sales, new and used.

Automobile service stations, types A, B and C.

Bars and liquor stores.

Beauty and barber shops.

Boat, truck, motorcycle, trailer, bicycle and mobile home storage, sales, service and rental for off-site use (new and used).

Bowling alleys.

Building material sales and storage.

Car washes.

Catering services.

Communication towers up to 70 feet high, in accordance with the requirements of chapter 82, Code of Ordinances, as it may be amended from time to time.

Contractor's shop, storage and equipment yard.

Cultural art centers.

Dental laboratories.

Employment agencies.

Essential utility services.

Exempt excavations (refer to section 110-817(o))

Exempt landfills (refer to section 110-817(p)).

Financial institutions.

Fire stations.

Funeral homes.

Game rooms or arcades for pool, billiards, pinball machines, jukeboxes or other coin-operated amusements.

General offices.

Government sponsored civic centers.

Home occupations (refer to section 110-807).

Laundry and dry cleaning establishments.

Libraries.

Marine engine repair and service.

Mini-warehouses which meet the requirements of section 110-817(e).

Mobile recreational vehicle and shelter sales, service, storage and repair.

Museums.

Nightclubs.

Outdoor musical event.

Pawnshops.

Pest exterminators.

Printing and engraving, including photostatting and publishing.

Private clubs.

Public schools.

Publicly owned parks and recreational areas.

Publicly owned or regulated water supply wells of less than eight inches in diameter in accordance with the potable water well-field protection requirements of the Land Development Code, [chapter 98](#), article V, Code of Ordinances, as it may be amended from time to time.

Radio and television broadcasting stations.

Recycling collection center.

Restaurants, types A and B.

Retail sales and services.

Retail specialty shops.

Rug cleaning establishments.

Stamp redemption centers.

Tailors.

Tattoo parlors.

Taxicab stands.

Theaters.

Travel agencies.

Veterinary clinics.

Welding and soldering shops.

Wholesale-retail nursery.

(c) *Conditional uses.* Additional regulations/requirements governing permitted conditional uses are located in sections 110-817 and 110-1102 of this chapter.

Communication towers greater than 70 feet high, in accordance with the requirements of chapter 82, Code of Ordinances, as it may be amended from time to time.

Bus garages and repair shops.

Bus stations.

Curb markets.

Drive-in theaters.

Excavations only for stormwater retention ponds of which a permit is required by this chapter.

Flea markets (refer to section 110-817(g)).

Houses of worship (refer to section 110-817(d)).

Medical marijuana dispensaries (refer to section 110-833).

Moving and storage companies.

Outdoor entertainment and recreational uses and structures.

Professional or trade schools related to permitted uses (refer to section 110-817(b)).

Public markets.

Public use not listed as a permitted principal use.

Public utility uses and structures (refer to section 110-817(a)).

Publicly or privately owned municipal or public water supply wells of eight inches diameter or greater.

Schools, parochial or private (refer to section 110-817(d)).

Only one single-family dwelling for the owner or manager of an existing permitted principal use.

Truck and freight transfer terminals.

Truck stops.

Truck storage.

Warehouse.

(d) *Dimensional requirements.*

C-3, Heavy Commercial	
Minimum lot size	
Area (sq. ft.)	15,000
Width (ft.)	100
Minimum yard size	
Front yard (ft.)	35
Rear yard (ft.) ⁽¹⁾	25
Side yard (ft.) ⁽¹⁾	10
Waterfront yard(ft.)	25
Maximum building height (ft.)	75
Maximum lot coverage (%) (<i>with principal and accessory buildings</i>)	35
Maximum floor area ratio (F.A.R.)	0.55
⁽¹⁾ Unless abutting any residentially zoned property, then 35 feet.	

(e) *Off-street parking and loading requirements.* Off-street parking and loading areas meeting the requirements of section 110-828 shall be constructed.

(f) *Landscape buffer requirements.* Landscaped buffer areas meeting the requirements of section 110-808 shall be constructed.

(g) *Final site plan requirements.* Final site plan approval meeting the requirements of the Land Development Code, chapter 74, article II, Code of Ordinances, as it may be amended from time to time, is required.

(h) *Types of signs permitted.* Signs are permitted in accordance with the requirements of the city's sign code chapter 102, Code of Ordinances, as it may be amended from time to time.

SECTION 3. Sec. 110-833. “Medical Marijuana Dispensaries”, of Article VIII, “Supplementary Regulations”, of Chapter 110, “Zoning”, of the Code of the City of Deltona, Florida, is added to read as follows:

Sec. 110-833. Medical marijuana dispensaries.

Medical marijuana dispensaries. Medical marijuana dispensaries shall be allowed as conditional uses in the C3 – Heavy Commercial classification, upon approval of a conditional use application. When considering an application for a medical marijuana dispensary, the Planning and Zoning Board must consider the conditional use criteria listed below. The Planning and Zoning Board may deny the request, approve the request, or approve with conditions the request, based upon a review of these considerations. The Planning and Zoning Board may assign additional conditions and safeguards, as deemed necessary:

a. Controlled Substances. The on-site sale, provision, or dispensing of medical marijuana is prohibited except as specifically authorized by applicable federal or state law.

b. Loitering. Medical marijuana dispensary shall provide adequate seating for its patients and business invitees. The medical marijuana dispensary shall not direct or encourage any patient or business invitee to stand, sit (including in a parked car), or gather or loiter outside of the building where the dispensary operates, including in any parking areas, sidewalks, rights-of-way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart. The medical marijuana dispensary shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.

c. Queuing of vehicles. The medical marijuana dispensary shall ensure that there is no queuing of vehicles in the rights-of-way. The medical marijuana dispensary shall take all necessary and immediate steps to ensure compliance with this paragraph.

d. *No Drive through service.* No medical marijuana dispensary shall have a drive through or drive in service aisle. All dispensing, payment for and receipt of said medical marijuana shall occur from inside the medical marijuana dispensary.

e. *Alcoholic Beverages.* No consumption of alcoholic beverages shall be allowed on the premises, including in the parking areas, sidewalks, or rights-of-way. The medical marijuana dispensary shall take all necessary and immediate steps to ensure compliance with this paragraph.

f. *Separation Distances.* A medical marijuana dispensary shall not operate within two thousand five hundred (2,500) feet of any pre-existing pharmacy, school, as that term is defined in Section 1002.01 or 1003.01, Florida Statutes, as it may be amended, day care center, day care home, playground, another medical marijuana dispensary or religious institution. Distance requirements shall be documented by the applicant and submitted to the Planning and Development Services Department with the application. All distance requirements shall be measured by drawing a straight line from the nearest property line of the pre-existing protected use to the nearest property line of the proposed medical marijuana dispensary. The applicant may request a variance from the requirements of this paragraph as provided in the Deltona Land Development Code.

g. *Operating Hours.* Medical marijuana dispensaries shall only be allowed to operate between 7:00 a.m. and 7:00 p.m., Monday through Friday, and between 7:00 a.m. and 12:00 noon on Saturdays. Medical marijuana dispensaries shall not operate on Sundays.

h. *Compliance with Other Laws.* All medical marijuana dispensaries shall at all times be in compliance with all federal and state laws and regulations, and the Deltona City Code and Land Development Code, as may be amended from time to time.

i. *Growing of Marijuana.* Nothing in this ordinance shall be deemed to allow or permit the growing or cultivating of marijuana in or about a medical marijuana dispensary, or at any other location within the city limits of the City of Deltona.

SECTION 4. CONFLICTS. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

SECTION 5. CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

SECTION 6. SEVERABILITY. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2014.

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

JOHN C. MASIARCZYK SR., MAYOR

ATTEST:

JOYCE RAFTERY, CITY CLERK

Approved as to form and legality for use
and reliance by the City of Deltona, Florida

GRETCHEN R. H. VOSE, CITY ATTORNEY