

#6



City of Hollywood
Staff Summary Request

	R-2011-201
Title:	A Resolution Of The City Commission Of The City Of Hollywood, Florida, Calling For A Special Referendum Election To Be Held On August 30, 2011 With Three Ballot Questions - To Approve An Ordinance Amending The Employees Retirement Plan, To Approve An Ordinance Amending The Fire Retirement Plan, And To Approve An Ordinance Amending The Police Retirement Plan; Specifying Ballot Language; And Other Matters In Connection Therewith; And Authorizing The Appropriate City Officials To Execute The Attached Agreement With The Broward County Supervisor Of Elections Regarding The Hiring Of Poll Workers.
Recommendation:	Approval of the attached resolution.
Explanation:	<p>On May 18, 2011, the City Commission of the City of Hollywood, Florida, declared a financial urgency for fiscal year 2012 pursuant to Florida Statute Section 447.4095. As a result of the declaration of financial urgency, the City and the unions representing the City's five bargaining units negotiated the impact of the financial urgency and at the end of a 14-day period of negotiation, disputes still existed, resulting in an impasse by operation of law.</p> <p>The City Commission is addressing the financial urgency by, among other things, adopting ordinances that would amend the City's three defined benefit pension plans. Each of the City's defined benefit pension plans provides, as one of two methods of amendment, a majority vote of those qualified electors of the City voting in a referendum election called for such purpose by the City Commission.</p>
Submitted by:	Jeffrey P. Sheffel, City Attorney Cathy Swanson-Rivenbark, Interim City Manager

	Patricia Cerny, City Clerk
Recommended for inclusion on the agenda by:	Jeffrey P. Sheffel, City Attorney Cathy Swanson-Rivenbark, Interim City Manager Patricia Cerny, City Clerk
Director Signed Off:	7/12/2011 3:18:40 PM

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, CALLING FOR A SPECIAL REFERENDUM ELECTION TO BE HELD ON SEPTEMBER 13, 2011, WITH THREE BALLOT QUESTIONS – TO APPROVE AN ORDINANCE AMENDING THE EMPLOYEES RETIREMENT PLAN, TO APPROVE AN ORDINANCE AMENDING THE FIRE RETIREMENT PLAN, AND TO APPROVE AN ORDINANCE AMENDING THE POLICE RETIREMENT PLAN; SPECIFYING BALLOT LANGUAGE; AND OTHER MATTERS IN CONNECTION THEREWITH; AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE ATTACHED AGREEMENT WITH THE BROWARD COUNTY SUPERVISOR OF ELECTIONS REGARDING THE HIRING OF POLL WORKERS.

WHEREAS, on May 18, 2011, the City Commission of the City of Hollywood, Florida, declared a financial urgency for fiscal year 2012, pursuant to Florida Statute Section 447.4095; and

WHEREAS, the City Commission is addressing the financial urgency by, among other things, adopting ordinances that would amend the City's three defined benefit pension plans; and

WHEREAS, each of the City's defined benefit pension plans provides, as one of two methods of amendment, a majority vote of those qualified electors of the City voting in a referendum election called for such purpose by the City Commission; and

WHEREAS, in order to conduct the election, it is necessary to enter into the attached agreement with the Supervisor of Elections; and

WHEREAS, funding for the election is available in account 01.1103.00000.512.004993 – Elections;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That a Special Referendum Election with three ballot questions - approval of an ordinance amending the Employees Retirement Plan, approval of an ordinance amending the Firefighters Retirement Plan, and approval of an ordinance amending the Police Retirement Plan - shall be held on September 13, 2011, between the hours of 7:00 o'clock AM and 7:00 o'clock PM, at polling places designated by the Supervisor of Elections.

Section 2: That the ballot language for the questions proposed in Section 1 above shall be as set forth in Exhibits A, B and C attached hereto.

Section 3: That notice of the election on the questions set forth in this resolution shall be given at least thirty (30) days in advance of the election and shall be given in newspaper of general circulation published in Broward County. The notice shall be published at least twice, once in the fifth week and once in the third week prior to the week in which the election is to be held.

Section 4: That if one or more of the ordinances that are the subject of the election are approved by a majority of the electors voting in the election scheduled for September 13, 2011, the approved ordinance(s) shall take effect as of the day immediately following the certification of the results of the election by the Broward County Canvassing Board.

Section 5: That it hereby approves and authorizes the execution by the appropriate City Officials, of the attached agreement between the Broward County Supervisor of Elections and the City of Hollywood, together with such nonmaterial changes as may be subsequently approved by the City Manager and approved as to form and legality by the City Attorney.

Section 6: That this resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2011.

PETER BOBER, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida, only.

JEFFREY P. SHEFFEL
CITY ATTORNEY

EXHIBIT A

EMPLOYEES RETIREMENT PLAN – REFERENDUM
ORDINANCE FREEZING PLAN AND ADOPTING
NEW PLAN WITH REDUCED BENEFITS

To address the City's unfunded pension liability and its related high costs, the proposed ordinance would freeze pension benefits already earned by General Fund employees, other than firefighters and police officers, and revise the benefit structure to reduce benefits for future accruals. Changes include: reducing benefit accrual rate, decreasing compensation to which the accrual rate applies, raising normal retirement age, increasing vesting period, and eliminating the Deferred Retirement Option Plan and Cost of Living Adjustment.

QUESTION

Should future pension benefits, as contained in the City's Employees Retirement Plan be reduced for general fund employees in order to lower City pension costs?

Yes _____

No _____

EXHIBIT B

FIREFIGHTERS RETIREMENT PLAN – REFERENDUM
ORDINANCE FREEZING PLAN AND ADOPTING
NEW PLAN WITH REDUCED BENEFITS

To address the City's unfunded pension liability and its related high costs, the proposed ordinance would freeze the firefighters' pension benefits already earned, and provide a revised structure with reduced benefits for future accruals. Changes include: reducing benefit accrual rate, decreasing compensation to which the accrual rate applies, raising normal retirement age, increasing the vesting period, eliminating the Deferred Retirement Option Plan, eliminating the Cost of Living Adjustment and eliminating the supplemental distribution.

QUESTION

Should future pension benefits be reduced for the City's Firefighters in order to lower City pension costs?

Yes _____

No _____

EXHIBIT C

POLICE OFFICERS RETIREMENT PLAN – REFERENDUM
ORDINANCE FREEZING PLAN AND ADOPTING
NEW PLAN WITH REDUCED BENEFITS

To address the City's unfunded pension liability and its related high costs, the proposed ordinance would freeze the police officers' pension benefits already earned, and provide a revised structure with reduced benefits for future accruals. Changes include: reducing benefit accrual rate, decreasing compensation to which the accrual rate applies, raising normal retirement age, increasing the vesting period, eliminating the Deferred Retirement Option Plan, eliminating the Cost of Living Adjustment and eliminating the supplemental distribution.

QUESTION

Should future pension benefits be reduced for the City's Police Officers in order to lower City pension costs?

Yes _____

No _____

AGREEMENT

THIS AGREEMENT, made and entered into the _____ day of _____, _____ by and between:

Dr. Brenda C. Snipes,
SUPERVISOR OF ELECTIONS OF BROWARD COUNTY
(hereinafter referred to as the "Supervisor")

AND

A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA

(hereinafter referred to as "City", "Town" or "Village")

WITNESSETH:

WHEREAS, BRENDA C. SNIPES, is the Supervisor of Elections of Broward County, Florida, pursuant to the provisions of Article VIII Section 1(d) of the Florida Constitution and serves in that capacity as a Constitutional Officer and under the State of Florida Election Code; and

WHEREAS, the Supervisor has specific duties, functions, and responsibilities described in the State of Florida Election Code contained in Chapters 97 through 106 of the Florida Statutes, as amended from time to time; and

WHEREAS, among the duties and functions of the Supervisor is the engagement, training, and assigning poll workers, including Voting Systems Technicians (VST) in connection with Federal, State, County, and certain Municipal and District elections described in Chapter 102, Florida Statutes, including the appointment of election boards consisting of an inspector and a clerk who shall perform their duties and functions as provided for in the State Election Code; and

WHEREAS, Chapter 75-350, Laws of Florida (Special Acts, 1975 [the "Act"]), as amended, provides for a uniform filing and election date for all municipal elections conducted in Broward County, Florida, in addition to setting forth the requirements for qualification to office, the conducting of elections and other matters affecting all municipalities within Broward County, Florida; and

WHEREAS, during general elections conducted by the Supervisor, poll workers are hired by the Supervisor and function as her employees during the course of such elections; however, in municipal elections, the aforesaid poll workers are selected and hired by the individual municipalities whose compensation is derived and paid for by such municipalities for municipal elections described in the aforementioned Act; and

WHEREAS, for convenience, consistency and the proper and efficient conduct of municipal elections, it is common for municipalities in Broward County to specifically request that the Supervisor select, train, and work directly with the poll workers during municipal elections, however, all payment due municipal election day poll workers is the responsibility of the requesting municipality for these specific services: and

WHEREAS, the Supervisor possesses the requisite legal authority, expertise, personnel, and equipment to assist a municipality in selecting, engaging, training, and working directly with poll workers in the City's election; and

WHEREAS, the City desires to delegate and to assign to the Supervisor the power, duty, and authority to select poll workers for municipal elections pursuant to the terms, conditions, and provisions of this Agreement;

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged by the parties, the parties hereto agree as follows:

ARTICLE 1.0

Recitals

1.1 The above recitals are true and correct and are incorporated herein as if set forth in full hereunder.

ARTICLE 2.0

Duties of Supervisor

2.1 The Supervisor shall conduct the municipal election to be held by the City, Town, Village of _____ on the _____ day of _____, _____, in accordance with the State of Florida Election Code, as amended from time to time.

2.2 At the request of the City, the Supervisor shall select, assign, and train the requisite number of poll workers for the aforesaid election.

2.3 The Supervisor's decision as to placement and location in precincts and polling places for such designated poll workers shall be determined by the Supervisor in her sole and absolute discretion, upon and subsequent to the execution of this Agreement.

2.4 The Supervisor shall provide City with payroll sheets after said election(s) for the purpose of the City's payment of said election day workers.

ARTICLE 3.0 City's Obligations

3.1 The City hereby engages the services of the Supervisor of Elections, as set forth in this Agreement in connection with the engagement and assigning of poll workers for all City elections subject to the terms hereof and unless terminated by either party.

3.2 The City shall properly and timely pay poll workers as required by law and upon City checks or warrants issued directly to the poll workers.

3.3 The City shall set the rate of pay for poll workers. The Supervisor of Elections will advise the City of current pay scale for County elections.

3.4 The City shall permit and hereby authorizes the Supervisor of Elections to engage the Broward County Sheriff to assign and place poll deputies for each of the precincts or polling places for said election referred to in this Agreement. Poll deputies should be considered poll workers for purposes of payment only. The City will also be responsible for directly paying for each of these deputies in the same manner as described in Articles 2.4, 3.2 and 3.4 of this Agreement.

ARTICLE 4.0 Indemnification

4.1 To the extent permitted by law, the City shall indemnify, hold harmless and defend the Supervisor from and against any and all claims, causes of action, which may arise out of the engagement and assignment of poll workers by the Supervisor or the performance of any of the obligations imposed upon the Supervisor by this Agreement. This indemnification and hold harmless provision shall be liberally construed in favor of the Supervisor and shall apply nonetheless to the extent permitted by law. This indemnification shall permit the Supervisor the right to retain legal counsel of her choosing in any matter or proceeding to which or for which this indemnification arises. Nothing contained herein is intended nor shall be construed to waive the City's rights and immunities under the common law or Florida Statutes Section 768.28, as amended from time to time.

ARTICLE 5

Notices

5.1 All notices, consents, approvals, waivers, and elections which any party shall require or shall desire to make or give under this Agreement shall be in writing and shall be sufficiently delivered:

5.1.1 when mailed by certified mail, postage prepaid, return receipt requested;

5.1.2 by hand delivery to the named individuals representing the party to be notified; or

5.1.3 by private parcel delivery services, or facsimile transmission for which a receipt is provided to the notifying party. Notices, including notice of a change of address or number, shall be addressed or transmitted to the addresses and telephone numbers set forth below, that a party may be designated in the manner prescribed herein:

As to the Supervisor: Dr. Brenda C. Snipes, Supervisor of Elections
115 S. Andrews Avenue, Room 102
Fort Lauderdale, FL 33301
Telephone No. (954)357-7061

With Copy To: Burnadette Norris-Weeks, Esq.
Burnadette Norris-Weeks, P.A.
401 North Avenue of the Arts
Fort Lauderdale, FL 33311
Telephone No. (954)768-9770

As to City: _____

With Copy to: _____

5.2 Notices, consents, approvals, waivers, and elections given or made as aforesaid shall be deemed to have been given and received on the date of the mailing, delivery, or transmission. When requested by either party, the other shall furnish receipts, paid bills or documents to reasonably verify facts or representations made or pursuant to the requirements of this Agreement.

ARTICLE 6.0

Disputes

6.1 Should a dispute arise regarding the interpretation of this Agreement, or in performance of either party hereunder, and should a court action be commenced, the ultimate prevailing party shall be entitled to receive reasonable attorney's fees and costs at both the trial and appellate levels, including the cost and expense of paralegals. Any litigation arising from this Agreement shall be prosecuted in Broward County, Florida.

ARTICLE 7.0

Miscellaneous

7.1 It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.2 Any portion of this agreement that is deemed unconscionable, unconstitutional, or otherwise invalid, shall be severed from the agreement and the rest of the agreement shall remain in full force.

7.3 The terms, provisions, covenants, and conditions herein shall be construed solely in accordance with the laws of the State of Florida.

7.4 This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of each of the parties hereto.

7.5 The parties hereto and their successors and assigns shall not record this Agreement amongst the Public Records of Broward County, Florida.

Signed in the presence of:

As to City
CITY, TOWN, VILLAGE OF

A Municipal Corporation of the State of Florida

BY: _____

ATTEST:

, Municipal Clerk

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

THE FOREGOING INSTRUMENT was acknowledged before me this _____ day of _____, _____, by _____, who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

Print or Type Name

My Commission Expires:

As to Supervisor
SUPERVISOR OF ELECTIONS OF
BROWARD COUNTY, FLORIDA

WITNESSES:

Print Name

Print Name

BY: _____
Supervisor of Elections

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

THE FOREGOING INSTRUMENT was acknowledged before me this ____ day of _____, _____, by Brenda C. Snipes, who is personally known to me.

NOTARY PUBLIC

Print or Type Name

My Commission Expires:

**CITY OF HOLLYWOOD
INTEROFFICE MEMORANDUM**

TO: Mayor and Commissioners **DATE:** July 12, 2011
FROM: Jeffrey P. Sheffel, City Attorney
SUBJECT: Proposed Agreement with Supervisor of Elections to Conduct Special Election regarding Pensions

I have reviewed the above-captioned agreement for form and legality, and the general business terms and other significant provisions are as follows:

- 1) Department/Office involved – City Clerk
- 2) Type of Agreement – Agreement to conduct special election.
- 3) Method of Procurement (RFP, bid, etc.) – "Sole source" exemption
- 4) Term of Contract
 - a) initial – The term will last as long as necessary to cover the upcoming special election.
 - b) renewals (if any) -
 - c) who exercises option to renew -
- 5) Contract Amount – The City will pay the Supervisor and the poll workers pursuant to the agreement approximately \$350,000.
- 6) Termination rights – For cause only.
- 7) Indemnity/Insurance Requirements – The City will indemnify the Supervisor.
- 8) Scope of Services – The Supervisor will conduct the special election regarding pensions..
- 9) Other significant provisions – None.

cc: Cathy Swanson-Rivenbark, Interim City Manager

STATEMENT OF BUDGET IMPACT
(Policy Number 94-45)
Budgetary Review of Proposed Resolution &
Ordinances with Financial Implication.

Date: July 18, 2011

BIS 11-206

Proposed Legislation:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, CALLING FOR A SPECIAL REFERENDUM ELECTION TO BE HELD ON SEPTEMBER 13, 2011 WITH THREE BALLOT QUESTIONS – TO APPROVE AN ORDINANCE AMENDING THE EMPLOYEES RETIREMENT PLAN, TO APPROVE AN ORDINANCE AMENDING THE FIRE RETIREMENT PLAN, AND TO APPROVE AN ORDINANCE AMENDING THE POLICE RETIREMENT PLAN; SPECIFYING BALLOT LANGUAGE; AND OTHER MATTERS IN CONNECTION THEREWITH; AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE ATTACHED AGREEMENT WITH THE BROWARD COUNTY SUPERVISOR OF ELECTIONS REGARDING THE HIRING OF POLLWORKERS.

Statement of Budget Impact:

1. No Budget Impact associated with this action;
2. Sufficient resources are identified/available;
3. Budgetary resources not identified/unavailable;
4. Potential Revenue is possible with this action;
5. Will not increase the cost of Housing;
6. May increase the cost of Housing; (CDAB review required)

Explanation:

As a result of the declaration of financial urgency on May 18, 2011, the City and the unions representing the City's five bargaining units negotiated the impact of the financial urgency and at the end of a 14-day period of negotiation; disputes still existed, resulting in an impasse by operation of law.

The City Commission is addressing the financial urgency by, among other things, adopting ordinances that would amend the City's three defined benefit pension plans by a majority vote of those qualified electors of the City voting in a referendum election

called for such purpose by the City Commission. In order to conduct the election, it is necessary to enter into the attached agreement with the Supervisor of Elections.

Funding for the election in the amount of \$400,000.00 will be made available in the FY 2012 budget.

PREPARED BY: Decia A. Burke
Senior Management & Budget Analyst

APPROVED BY: Matthew Lalla
Director, Finance and Information Technology