City of Willoughby Hills
Interoffice Memo

Date: May 19, 2014

To: Mayor and Members of City Council

From: Frank J. Brichacek, Director of Finance FJB

Subject: Request for a Resolution Reaffirming Police and Fire Pension Fund Pickup Plans Using New 2014 and 2015 Employee Contribution Rates

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You may recall that last June, I notified City Council that the Police and Fire Pension Fund would be increasing the employee's pension contribution rate for the next three years, effective July 2, 2013, 2014 and 2015. At that time I requested that City Council adopt legislation reaffirming the City's pickup plan using the new employee pension contribution rates. Because the negotiated labor agreements with the police and fire unions did not extend beyond December 31, 2013, City Council chose to only reaffirm the first year of the pickup plan rate changes by adopting Ordinance No. 2013-31. Council took this action based upon the possibility that the City and the union would not continue the pension pickup plans in the next labor agreement

The new 2014-2016 labor agreements with the Police unions continue the pension pickup plan that existed in the prior agreement. In addition, there has been no mention of not continuing the pension pickup plan in the next labor agreement with the firefighters union that is currently under negotiation. The next change in the Police and Fire Pension employee contribution rate is scheduled to take place on July 2, 2014 when the employee rate will increase from 10.75% to 11.50%.

The City is required by its agreement with the Police unions to maintain the current pension pickup plan. In addition, it appears that the next agreement with the firefighters union also will require that the pension pickup plan be maintained. As such, in order to maintain the pickup plans, the City must reaffirm the existing plans and the pension contribution rates for 2014 and 2015. If this action is not taken, the pension pickup will become taxable income to the police officers and firefighters beginning with the first pay period in July in accordance with IRS regulations and in violation of the labor agreements. It should be noted that this plan exists at no expense to the City. Should the tax exempt pension contribution plan not be continued, the 1% pension pickup payment to the police and firefighters will still have to be paid and the City will have to pay the employers Medicare tax and employers pension contribution on the pickup, two expenses that the City now avoids.

In accordance with IRS Regulations and the rules of the Police and Fire Pension Funds, this action must be completed and effective by no later than July 2, 2014. Accordingly, I would request that legislation similar to Ordinance No. 2013-31 reaffirming the City's pension police and fire pension pickup plans and contribution rates for 2014 and 2015 be drawn up and presented to City Council for its consideration and that the ordinance contain an emergency clause making it effective immediately upon its adoption.

Attachments (2)

C: Tom Lobe, Law Director
Debbie Doles, Assistant Finance Director

DAVID A. REICHELT
President of Council

NANCY E. FELLOWS
Vice President of Council

VICTORIA ANN SAVAGE, CMC
Clerk of Council

City of Willoughby Hills

Council
CHRISTOPHER L. BIRO
DAVID M. FIEBIG
FRANK A. GERMANO
KEVIN D. MALECEK
RAYMOND C. SOMICH

ORDINANCE NO. 2013-31

AN ORDINANCE DECLARING THAT THE CITY OF WILLOUGHBY HILLS HAS DETERMINED TO CONTINUE TO PICK-UP MANDATORY CONTRIBUTIONS BY THE FULL-TIME EMPLOYEES OF THE POLICE DEPARTMENT OCCUPYING THE POSITIONS OF PATROL OFFICER AND SERGEANT WHO ARE MEMBERS OF THE OHIO POLICE & FIRE PENSION FUND; REPEALING CONFLICTING LEGISLATION AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Willoughby Hills, Lake County, Ohio met at a duly called and authorized meeting of the Council on the date set forth below, such meeting being duly called pursuant to a notice stating the time, place and purpose of the meeting received by all Council members, and the following resolutions were made, seconded, and adopted by those present at the meeting; and

WHEREAS, the eligible employees of the Police Department participate in the Ohio Police & Fire Pension Fund; and

WHEREAS, the Council has previously adopted a pick-up of all of the ten percent (10%) mandatory contributions required to be paid under Section 742.31 of the Ohio Revised Code for participating employees of the Police Department who are members of the Ohio Police & Fire Pension Fund; and

WHEREAS, Ohio Police & Fire Pension Fund has adopted new procedures for reporting picked-up contributions in order to properly prepare 1099-R forms for its members; and

WHEREAS, to provide for the City to be in compliance with the terms of the ***"Agreement between the City of Willoughby Hills and the Ohio Patrolmen's Benevolent Association – Patrol Officers, 2011-2013"*** and the ***"Agreement between the City of Willoughby Hills and the Ohio Patrolmen's Benevolent Association – Sergeants 2011-2013"***, the Council of the City of Willoughby Hills adopted Ordinance No. 2011-26; said Ordinance established that effective as of April 1, 2011, the City would pick-up all the ten percent (10%) mandatory contributions by the full-time employees of the Police Department, occupying the positions of Patrol Officer and Sergeant, who are members of the Ohio Police and Fire Pension Fund; nine percent (9%) through payroll reduction and one percent (1%) paying the contributions on behalf of the employee; and

WHEREAS, the OP&F Pension Fund has notified the City that the City Council must reaffirm the City's Pickup Plan using the new contribution rates for without this affirmation, the City's Pickup Plan would become taxable beginning with the first pay period in July; and

WHEREAS, pursuant to Finance Director Brichacek's Interoffice Memo, dated June 24, 2013, consisting of three (3) pages attached hereto as "Exhibit A", the Finance Director requests that legislation be adopted by the Members of Council due to the coming change in the employee contribution rate; and

WHEREAS, based upon the notification of the OP&F Pension Fund and the recommendation of the Finance Director, the Council of the City of Willoughby Hills wishes to reaffirm, amend and/or restate its prior Ordinance No. 2011-26 in order to continue the pick-up under the new procedures, effective as of July 7, 2013.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, STATE OF OHIO THAT:

SECTION 1. **Effective July 7, 2013,** the Council has determined to pick-up all of the ten and three-quarters percent (10.75%) mandatory contributions by the full-time employees of the Police Department, occupying the positions of Patrol Officer and Sergeant, who are members of the Ohio Police & Fire Pension Fund; nine and three-quarters percent (9.75%) through payroll reduction and one percent (1%) paying the contributions on behalf of the eligible employee.

SECTION 2. Said pick-up contributions paid through a payroll reduction and by paying the contributions on behalf of the employee, even though designated as employee contributions for state law purposes, are being paid by the City of Willoughby Hills in lieu of said contributions by the employee.

SECTION 3. Said picked up contributions will not be included in the gross income of the employees for tax reporting purposes, that is, for federal or state income tax withholding taxes, until distributed from the Ohio Police and Fire Pension Fund.

SECTION 4. Said picked up contributions will be included in the gross income of the employees, for employment tax purposes, as the contributions are made to the Ohio Police and Fire Pension Fund.

SECTION 5. Said employees shall not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the City of Willoughby Hills to the Ohio Police and Fire Pension Fund.

SECTION 6. All ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

SECTION 7. The actions of this Council concerning and relating to the passage of this legislation were conducted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

SECTION 8. This Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Willoughby Hills insofar as it provides for the usual daily operation of the Police Department, and further provides for the City to continue the Pick-Up under the new OP&F procedures, effective date as of July 7, 2013; wherefore this Ordinance shall be in full force and effect from and after its adoption and approval by the Mayor.

PASSED: June 24, 2013

David A. Reichelt
President of Council

Submitted to the Mayor for his approval
on this 24 day of June, 2013

Approved by the Mayor
June 27, 2013

ATTEST:

Victoria Ann Savage, CMC
Clerk of Council

Robert M. Weger
Mayor

City of Willoughby Hills
Interoffice Memo

Date: June 24, 2013

To: Mayor and Members of City Council

From: Frank J. Brichacek, Director of Finance FJB

Subject: Police and Fire Pension Fund Pickup Plan Resolution

As a part of the pension reforms being implemented by the Ohio Police and Fire Pension Fund, the employee's contribution rates will be increasing as follows:

- 10.00% - Current Employee Contribution Rate
- 10.75% - Effective July 2, 2013
- 11.50% - Effective July 2, 2014
- 12.25% - Effective July 2, 2015

The City's current contribution rates of 19.50% for police officers and 24.00% for firefighters will remain unchanged.

Under the City's current labor agreements, the City is required to contribute (i.e. pickup) 1.0% of the employee's required contribution. The City benefits from this arrangement because the employee's gross pay does not increase. The employees benefit from the pickup plan because this portion of their compensation is exempt from taxation, thereby increasing their net take home pay.

Because of the coming change in employee contribution rate, the OP&F Pension Fund has notified the City that City Council must reaffirm the City's pickup plan using the new contribution rates. Without this affirmation, the City's pickup plan would become taxable beginning with the first pay period in July. The wording in the attached resolution was drafted by the City's pension fund liaison and satisfies all Treasury requirements to maintain the tax exempt status of our pickup plan.

I would request that this resolution be passed at the June 27th Council meeting in order to meet the July 2nd deadline. I apologize for the lateness of this request. If you have any questions, do not hesitate to contact me.

Attachment

C: Debbie Doles, Assistant Finance Director

PICK–UP RESOLUTION
EXISTING PICK–UP PLAN
RESTATED RESOLUTION OF THE CITY OF WILLOUGHBY HILLS
LAKE COUNTY, OHIO

The Council of the City of Willoughby Hills, Lake County, Ohio met at a duly called and authorized meeting of the Council on the date set forth below, such meeting being duly called pursuant to a notice stating the time, place and purpose of the meeting received by all Council members, and the following resolutions were made, seconded, and adopted by those present at the meeting.

WHEREAS, the eligible employees of the **Willoughby Hills Fire Department** participate in the Ohio Police & Fire Pension Fund;

WHEREAS, the Council desires to pick up all of the mandatory contributions required to be paid under Section 742.31 of the Ohio Revised Code for participating employees of the **Willoughby Hills Fire Department** who are members of the Ohio Police & Fire Pension Fund;

WHEREAS, Ohio Police & Fire Pension Fund has adopted new procedures for reporting picked–up contributions in order to properly prepare 1099–R forms for its members;

WHEREAS, the Council of the City of Willoughby Hills wishes to reaffirm, amend and/or restate its prior resolution in order to continue the pick–up under the new procedures;

NOW, THEREFORE, BE IT RESOLVED, that effective as of **July 7, 2013, July 6, 2014 and July 5, 2015** the Council of the City of Willoughby Hills has determined to continue to pick–up **1.00%** of the mandatory contributions by the employees who are members of the Ohio Police & Fire Pension Fund **by paying the contributions on behalf of the employee. The remaining percentage will be paid through a payroll reduction.**

BE IT FURTHER RESOLVED, that said picked up contributions paid through a payroll reduction, even though designated as employee contributions for state law purposes, are being paid by the City of Willoughby Hills in lieu of said contributions by the employee;

BE IT FURTHER RESOLVED, that said picked up contributions will not be included in the gross income of the employees for tax reporting purposes, that is, for federal or state income tax withholding taxes, until distributed from the Ohio Police and Fire Pension Fund;

BE IT FURTHER RESOLVED, that said picked up contributions will be included in the gross income of the employees, for employment tax purposes, as the contributions are made to the Ohio Police and Fire Pension Fund; and

BE IT FURTHER RESOLVED, that said employees shall not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the City of Willoughby Hills to the Ohio Police and Fire Pension Fund.

Dated this _____ day of _____, 20_____.

_____
(Secretary or Authorized Signature[s])

_____
(Name[s])

_____
(Title[s])