

ITEM E

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 19, 2012 AGENDA**

Subject:	Type:	Submitted By:
AMENDMENT TO POLICE RETIREMENT PLAN	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

An ordinance has been prepared to amend the retirement plan for police officers incorporating changes made by LB 1082 passed during the last session of the Nebraska State Legislature.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval.

BACKGROUND

During the Nebraska Legislatures 102nd legislative session in 2012 changes were made to the police retirement plan including new vesting and contribution schedules beginning on July 1, 2012 and October 1, 2013 respectively. Some changes made by LB 1082 for changes to federal law were included with prior Plan Amendment No. 1 which was approved by the City council in January 2011.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO AMEND THE CITY OF LA VISTA POLICE OFFICERS RETIREMENT PLAN AND TRUST, FOR CHANGES IN APPLICABLE STATE LAWS; TO AUTHORIZE THE MAYOR TO EXECUTE DOCUMENTS AND FURTHER ACTIONS; AND TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Pursuant to Nebraska Statutes, Sections 16-1001 through and including 16-1019 ("Police Retirement Plan Statutes"), the City maintains the City of La Vista Police Officers Retirement Plan and Trust ("Plan"). The City Council is authorized to amend the Plan and an amendment to the Plan has been presented with this Ordinance to incorporate changes made to the Police Retirement Plan Statutes ("Amendment No. 2").

SECTION 2. The City Council hereby adopts and approves Amendment No. 2 for the Plan in form and content presented with this Ordinance.

SECTION 3. The Mayor is hereby authorized to execute said Amendment No. 2 for the Plans and the Mayor or the Mayor's designee from time to time shall take any and all further actions as determined necessary or appropriate to implement said amendment and carry out the actions adopted and approved herein, obtain a determination from the Internal Revenue Service of the affect of said amendment and any other amendments on the qualified status of the Plan under the Internal Revenue Code, if the decision is made to obtain a determination, and otherwise maintain the qualified status of the Plan under the Internal Revenue Code, including, but not limited to, modifying amendments or adopting such further amendments to the Plan as the Mayor or the Mayor's designee determines necessary or advisable.

SECTION 4. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 6. This Ordinance shall be in force and take effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 19TH DAY OF JUNE, 2012.

CITY OF LA VISTA, NEBRASKA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

**CITY OF LA VISTA
POLICE OFFICERS RETIREMENT PLAN AND TRUST ("PLAN")**

AMENDMENT NO. 2

**ARTICLE 1
PREAMBLE**

- I **Plan and amendment authority.** The City of La Vista, a Nebraska municipality, ("City" or "Employer") maintains the City of La Vista Police Officers Retirement Plan and Trust pursuant to Neb. Rev. Stat. Sections 16-1001 through 16-1019 and Internal Revenue Code, Sections 401(a) and 501(a), as set forth in the Adoption Agreement and corresponding Basic Municipal Employees Plan and Trust Agreement, ("Plan"), and, in order to incorporate into the Plan certain changes made to applicable Nebraska statute made by LB 1082 (2012), hereby adopts and approves this Amendment No. 2 to the Plan and authorizes the Mayor or his designee to execute it below.
- II **Effective date of Amendment.** Except as otherwise expressly provided below, this Amendment shall be effective April 16, 2012.
- III **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- IV **Construction.** Except as otherwise provided in this Amendment, any reference to "Article" or "Section" in this Amendment refers only to articles or sections within this Amendment, and is not a reference to the Plan.
- V **Effect of restatement of Plan.** If the City of La Vista restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete.

**ARTICLE 2
APPLICABLE PROVISIONS**

- I **Name of Act.** Neb. Rev. Stat. Sections 16-1001 through 16-1019 shall be known and may be cited as the Police Officers Retirement Act.
- II **Definitions.** Definitions of the following terms found in Section 1.1 of the Basic Municipal Employees Plan and Trust Agreement ("Basic Plan Document") are hereby modified as indicated below.
- A. The definition of Regular Interest in Section 1.1.31 of the Basic Plan Document is hereby deleted and replaced with the following:
- "1.1.31 Regular Interest - The rate of interest earned each calendar year beginning January 1, 1984 which is equal to the rate of net earnings realized for the calendar year from the investments of the Fund. For Fire Plans, the Retirement Committee shall annually report the amount of regular interest earned for each year."
- B. The definition of Regular Pay for Police Plans in Subsection 1.1.32(a) of the Basic Plan Document is hereby deleted and replaced with the following:

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1.1.32 Regular Pay –

- (a) ~~Police Plans - The average Salary of a Participant for the 5 years preceding the date such Participant elects to retire, the five years preceding his or her death, or the 5 years preceding the date of Disability, whichever is earliest, except that for any Participant who retires, dies or becomes disabled after July 15, 1992, Regular Pay shall mean the average Salary of the Participant for the period of 5 consecutive years preceding such elective retirement, death or date of Disability which produces the highest average."~~

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III Contributions.

A. Employee Contributions.

(1) Pre-1984 Transfers. Delete Subsection 3.1(c) of the Basic Plan Document and replace it with the following:

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"(c) Pre-1984 Contributions. With respect to ~~Police and~~ Fire plans only, an Employee's contributions to a qualified plan of deferred compensation maintained by the City prior to January 1, 1984 shall be transferred to his or her Employee Account without interest unless the City, at the time of the Transfer, credited interest on such contributions."

(2) Mandatory Employee Contributions. Mandatory Employee Contributions made by regular payroll deduction from each Participant's periodic Salary and picked up by the City and treated as Employer contributions as permitted under Section 414(h) of the Code shall be required as follows:

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- (a) Through September 30, 2013: Each Participant shall contribute to the Plan a sum equal to six percent (6%) of his or her Salary.

- (b) Beginning October 1, 2013 through September 30, 2015: Each Participant shall contribute to the Plan a sum equal to six and one-half percent (6 ½ %) of his or her Salary.

- (c) Beginning October 1, 2015: Each Participant shall contribute to the Plan a sum equal to seven percent (7%) of his or her Salary.

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B. Employer (City) Contributions. The City shall contribute to the Employer Account of each Participant a sum equal to 100% of the amounts deducted from the Participant's periodic Salary as Mandatory Employee Contributions.

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IV Distributions.

A. Lump Sum Distributions. Optional benefit forms permitted under the Plan shall include a single lump-sum payment of the Participant's Vested Retirement Value, notwithstanding any provision of the Plan to the contrary limiting lump sum distributions to Participants who have a Retirement Date on or after January 1, 1997.

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B. Minimum Benefit - Pre-1984 Hires. Subsection 7.3.1(a)(i) of the Basic Plan Document is deleted and replaced in its entirety with the following:

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"7.3.1 Minimum Retirement Benefits. Participants of Police and Fire Plans, if employed on January 1, 1984 and continuously employed by the City from such date

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through the date of their retirement, shall receive a benefit which, when determined on a Straight Life Annuity basis, shall not be less than:

(a) Police Plan.

(i) 50% of Regular Pay if retirement occurs after reaching 60 years of age and the Participant has completed 25 years of service with the City ~~(or 24 Years of Service if hired prior to November 18, 1965); or~~

C. ~~Death in the Line of Duty.~~ The first sentence of Subsection 7.3.2(a) is deleted and replaced by the following:

~~“(a) Death in the Line of Duty – Police and Fire Plans. A Participant's surviving spouse or minor children shall be paid a benefit of 50% of Regular Pay if the Participant (who, with respect to a Fire Plan, is participating in a Police or the Fire Plan) died in the line of duty or as a result of injuries received while in the line of duty ("Minimum Death Benefit in the Line of Duty").”~~

D. Vesting.

(1) Employer Accounts: Graded Vesting. Each Participant's Employer Account shall be Vested in accordance with the following schedule:

	Through June 30, 2012 (10 Yr Graded)	Beginning July 1, 2012 (7 Yr Graded)
<u>Less Than 2 years</u>	<u>0 %</u>	<u>0 %</u>
<u>2 years but less than 3 years</u>	<u>0 %</u>	<u>40 %</u>
<u>3 years but less than 4 years</u>	<u>0 %</u>	<u>40 %</u>
<u>4 years but less than 5 years</u>	<u>40 %</u>	<u>60 %</u>
<u>5 years but less than 6 years</u>	<u>50 %</u>	<u>80 %</u>
<u>6 years but less than 7 years</u>	<u>60 %</u>	<u>80 %</u>
<u>7 years but less than 8 years</u>	<u>70 %</u>	<u>100 %</u>
<u>8 years but less than 9 years</u>	<u>80 %</u>	
<u>9 years but less than 10 years</u>	<u>90 %</u>	
<u>10 years or more</u>	<u>100 %</u>	

All Participants shall be 100% Vested upon attainment of age sixty (60) while employed by the City as a police officer.

This amendment is hereby executed this _____ day of _____, 2012.

CITY OF LA VISTA, a Nebraska municipality

By: _____
Douglas Kindig, Mayor

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POLICE OFFICERS RETIREMENT PLAN AND TRUST ("PLAN")**

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“1.1.32 **Regular Pay** –

- (a) Police Plans - The average Salary of the Participant for the period of 5 consecutive years preceding elective retirement, death or date of Disability which produces the highest average.”

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A. Employee Contributions.

- (1) **Pre-1984 Transfers.** Delete Subsection 3.1(c) of the Basic Plan Document and replace it with the following:“

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Douglas Kindig, Mayor