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Reply To: Tallahassee

MEMORANDUM

TO: Town Commission, Town of Longboat Key

FROM: Jim Linn and Jennifer R. Cowan

DATE: May 16, 2013

SUBJECT: Revoking Town's Participation under Chapter 175, Florida Statutes

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On April 15, 2013, the Longboat Key Town Commission adopted Ordinance 13-12, which amended section 34.45 of the Town's Code to change the composition of the Firefighters' Retirement System Board of Trustees. The Commission was advised that the revised Retirement Board composition was different from the composition provided for in section 175.061, Florida Statutes, and would result in the Town's firefighter pension plan being out of compliance with Chapter 175. Chapter 175 is the state law governing firefighter retirement plans in those cities and special districts that have opted to participate in a revenue sharing process. The revenue sharing process allows a local government to receive a portion of the state excise tax on property insurance premiums for policies covering property within the local government's boundaries so long as that the local government use those funds to help fund its firefighter pension plan and its plan is in compliance with Chapter 175. Last year the Town of Longboat Key received $274,616 in premium tax revenues, but contributed more than $1.4 million of Town revenues (after applying the premium tax money) to the firefighter retirement plan. Section 175.441, Florida Statutes expressly states that participation in Chapter 175 is voluntary, and a local government may revoke its participation in Chapter 175 at any time. By adopting Ordinance 13-12, the Town Commission signaled its intent to revoke the Town's participation in Chapter 175.

On May 15, 2013, during the first meeting of the newly composed Firefighters' Retirement System Board of Trustees, two Trustees commented that the Town Commission has acted improperly in reconstituting the Board of Trustees. Specifically, one Trustee alleged the current

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Board composition was illegal, any action taken by the current Board would be improper, and litigation would likely result from the Town Commission's actions and any actions taken by the current Board of Trustees. In abundance of caution and to clarify the Town's intention in passing Ordinance 13-12, the Town has prepared an ordinance specifically stating it was voluntarily revoking its participation from Chapter 175. Due to the concerns raised during the Retirement Board's meeting and in an effort to limit any potential exposure to litigation, we recommend that the Board adopt the clarifying ordinance immediately as an emergency measure.

Please feel free to contact us if you have any questions.

ORDINANCE 2013-21

AN EMERGENCY ORDINANCE OF THE TOWN OF LONGBOAT KEY, AMENDING CHAPTER 34, EMPLOYMENT POLICIES, OF THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA; RESCINDING AND REPEALING ALL PRIOR ORDINANCES OR RESOLUTIONS ASSESSING OR IMPOSING THE PREMIUM TAX AUTHORIZED BY SECTION 175.101, FLORIDA STATUTES; WITHDRAWING FROM PARTICIPATION UNDER CHAPTER 175; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 175.441 of the Florida Statutes provides that a municipality may voluntarily revoke its participation in the premium tax revenue sharing program established by Chapter 175, Florida Statutes; and

WHEREAS, the Town Commission of the Town of Longboat Key has determined that it is in the best interest of the Town, its residents, and employees to withdraw from participation in the premium tax revenue sharing program established by Chapter 175, Florida Statutes; and

WHEREAS, on April 15, 2013, the Town Commission adopted Ordinance 2013-12, wherein it amended Section 34.45 of its Code to change the composition of the Firefighters' Retirement System Board of Trustees to one different than that provided for in Section 175.061 of the Florida Statutes, and thereby, effectively withdrawing the Town of Longboat Key from the premium tax revenue sharing program established by Chapter 175, Florida Statutes; and

WHEREAS, Article II, Section 17 of the Town of Longboat Key's Charter provides that an emergency ordinance may be passed when the Town Commission determines it is necessary to provide for the usual daily operations of the Town; and

WHEREAS, the Town Commission has been advised that on May 15, 2013, during the first meeting of the newly composed Firefighters' Retirement System Board of Trustees, one Trustee of that Board alleged that the Town Commission had acted improperly and illegally in reconstituting the Board, any action taken by the current Board of Trustees was improper and subject to challenge, and a lawsuit against the Town alleging non-compliance with Chapter 175 was likely; and

WHEREAS, the Town Commission has determined that an emergency ordinance reaffirming and clearly demonstrating the Town Commission's intention to revoke its participation in the premium tax revenue sharing program established by Chapter 175, Florida Statutes; is necessary to provide for the usual daily operations of the Town, including the operation of the Firefighters' Retirement System Board of Trustees.

THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA THAT:

SECTION 1. Any and all previously adopted ordinances and resolutions imposing the premium tax authorized by Section 175.101, Florida Statutes, or otherwise providing for participation under Chapter 175, Florida Statutes, are hereby rescinded and repealed.

SECTION 2. Notwithstanding any provision of the Town Code of Ordinances to the contrary, the Town of Longboat Key hereby withdraws from participation under Chapter 175, Florida Statutes, pursuant to Section 175.411, Florida Statutes.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 4. 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 phrase under application shall not be affected thereby.

SECTION 5. This Ordinance shall take effect upon adoption on the _____ day of _____, 2013.

_____
James L. Brown, Mayor

ATTEST:

_____
Trish Granger, Town Clerk

End of Agenda Item