

**RESOLUTION NO. 2010-22**

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**A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ADJUSTING THE TERMS AND CONDITIONS OF EMPLOYMENT FOR CONSTANCE HOFFMANN AS INTERIM TOWN MANAGER; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, pursuant to Town Code Section 2-22, the Town Commission shall “by resolution, determine and fix the compensation of . . . all officers and employees of the Town;” and

**WHEREAS**, at a meeting of the Town Commission held April 26, 2010, Constance Hoffmann was appointed to serve in the position of Interim Town Manager for the compensation and for such terms as specified in Exhibit A, until the Town appoints a Town Manager, and Ms. Hoffmann began her service as Interim Town Manager immediately thereafter; and

**WHEREAS**, Resolution 2010-10 was adopted by the Town Commission on April 27, 2010, appointing Ms. Hoffmann as Interim Town Manager and setting her compensation at the biweekly rate of \$5,000.00; and

**WHEREAS**, the Town and Ms. Hoffmann had agreed in Resolution 2010-10 that she would not be a member of the Florida Retirement System for the time that she would serve as the Interim Town Manager, and the initial terms of her employment so specified; and

**WHEREAS**, the Town and Ms. Hoffmann recognized that they made a mutual mistake of fact in setting \$5,000.00 as the rate of compensation, because the intent of the parties was to set the compensation at the equivalent of an annual salary of \$120,000, which is actually a biweekly rate of \$4,615.38, and therefore the Town Commission adopted Resolution 2010-11 on May 11, 2010, setting the proper biweekly rate of compensation and replacing Resolution 2010-10; and

1           **WHEREAS**, the Florida Retirement System has now advised that, pursuant to the  
2 Town's agreement with the State and to Section 121.0515(1)(b), Florida Statutes, the Town is  
3 required to have all part-time and full-time employees in regularly established positions  
4 participate in the Florida Retirement System, including the Interim Town Manager; and

5           **WHEREAS**, the Town and Ms. Hoffmann wish to conform the terms and conditions of  
6 her employment to this state requirement.

7           **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF**  
8 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA THAT:**

9           **SECTION 1. Recitals.** The foregoing "WHEREAS" clauses are true and correct, and  
10 are hereby ratified and confirmed by the Town Commission and incorporated herein.

11           **SECTION 2. Amendment.** The Town Commission hereby amends the terms and  
12 conditions of its employment of Constance Hoffmann to serve in the position of Interim Town  
13 Manager to reflect that she is a mandatory participant in the Florida Retirement System.

14           **SECTION 3. Conflicts.** In all other respects, Resolution 2010-11 remains in effect, and  
15 specifies the terms and conditions of Ms. Hoffmann's employment. All other Resolutions or parts  
16 of Resolutions in conflict herewith, be and the same are repealed to the extent of such conflict.

17           **SECTION 4. Effective Date.** This Resolution is effective immediately upon passage and  
18 adoption.

19           **PASSED AND ADOPTED** by the Town Commission of the Town of Lauderdale-by-the-  
20 Sea, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2010.

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MAYOR ROSEANN MINNET

1 ATTEST:

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June White, Town Clerk

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6 APPROVED AS TO FORM:

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10 \_\_\_\_\_  
Susan L. Trevarthen, Town Attorney

## Connie Hoffmann

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**From:** Finance Director  
**Sent:** Thursday, July 29, 2010 12:58 PM  
**To:** Roseann Minnet; Stuart Dodd; Scot Sasser; Birute Ann Clottey; Chris Vincent  
**Cc:** Connie Hoffmann  
**Subject:** FRS Membership Requirements

**Importance:** High

Mayor and Commissioners - Per your request at Tuesday's regular meeting, I contacted the Florida Retirement System (FRS) as to the feasibility of removing the town manager as a member and obtaining a refund of the town's contributions to date. It was explained to the FRS representative that the current town manager is under a contract which stipulates that she is not eligible for FRS benefits.

The full context of the FRS response can be viewed below. In short, their response was that compulsory membership is required by state law and can only be amended by the state legislature. In addition, the town's agreement with the State that governs covered positions cannot be amended. As we discussed, it never hurts to ask the question but in this case they're not budging on the answer.

Please feel free to call or stop by if you have any further questions on this item.

Thanks,

Doug Haag  
Interim Finance Director  
Town of Lauderdale-By-The-Sea  
4501 Ocean Drive  
Lauderdale-By-The-Sea, FL 33308  
Phone: 954-776-0576  
Email: [FD@lauderdalebythesea-fl.gov](mailto:FD@lauderdalebythesea-fl.gov)

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**From:** Morgan, Joyce [mailto:Joyce.Morgan@dms.myflorida.com]  
**Sent:** Wed 7/28/2010 3:24 PM  
**To:** Finance Director  
**Cc:** Connie Hoffmann; Carr, Sarah; hobart.lawrence@dms.myflorida.com  
**Subject:** RE: Town of Lauderdale-by-the-Sea - FRS Membership Requirements - with attachment

Dear Mr. Hagg:

My answers are entered after your questions. Please let me know if you have any questions about the compulsory membership of employees and elected officials because delinquent fees are assessed when the contributions are not reported timely.

1) What would it take to revise the town's FRS agreement such that membership for the manager is optional instead of compulsory (i.e. the same as the assistant manager and finance director)

Answer: The provisions for compulsory membership are statutorily required by Section 121.0515(1)(b)., of the Florida Statutes. The statutes can only be amended by the Legislature. In addition, your retirement agreement with the State that governs covered positions cannot be amended.

2) What would it take to make it retroactive for Interim Town Manager Connie Hoffmann so that the town could be reimbursed for payments made to date on her behalf.

Answer: Employer contributions are due for all part-time and full-time employees filling regularly established positions. The Town Manager position is a compulsory SMSC full-time position and contributions are required by Section 121.0515(1)(b), of the Florida Statutes. If the Commissioners' employee contracts conflict with the statutory requirements, then the statutory requirements will take precedence.

For the designated SMSC full-time positions of Assistant to the Town Manager and Director of Finance, contributions are due until the member chooses to withdraw from the FRS. The withdrawal may be submitted to me by email. If you forward the written requests for the Assistant to the Town Manager and for the Director of Finance and Budget to withdraw from the FRS today, then it will be effective the first day of the next month and contributions will not be due for the month of August 2010. However, contributions will be due for all months of employment prior to August 2010.

Additionally, please let me know if any other full-time or part-time positions are being excluded from retirement coverage. Employees filling these types of positions are compulsory members of FRS in the regular class unless eligible for other classes.

If you have any additional questions or concerns, please contact me.

Joyce W. Morgan, MBA

Administrator, Enrollment Section

Division of Retirement | Dept. of Management Services Toll Free - 1-877-377-3675 | Voice - 850-414-6386 | Fax 850-410-2061 E-mail - joyce.morgan@dms.myflorida.com

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**From:** Finance Director [mailto:FD@lauderdalebythesea-fl.gov]

**Sent:** Wednesday, July 28, 2010 11:36 AM

**To:** Morgan, Joyce

**Cc:** Connie Hoffmann; Tucker, Apollonia

**Subject:** RE: Town of Lauderdale-by-the-Sea - FRS Membership Requirements - with attachment

Joyce - Thanks again for the information. We relayed it to the town commission at last night's meeting and they asked me to request the following additional information:

1) What would it take to revise the town's FRS agreement such that membership for the manager is optional instead of compulsory (i.e. the same as the assistant manager and finance director)

2) What would it take to make it retroactive for Interim Town Manager Connie Hoffmann so that the town could be reimbursed for payments made to date on her behalf.

Also, please be aware that this request is based on the contractual arrangement the town has with Connie Hoffmann and is not for cost cutting purposes.

Thanks again for your consideration.

Doug Haag  
Acting Finance Director  
Town of Lauderdale-By-The-Sea  
4501 Ocean Drive  
Lauderdale-By-The-Sea, FL 33308  
Phone: 954-776-0576  
Email: [FD@lauderdalebythesea-fl.gov](mailto:FD@lauderdalebythesea-fl.gov)

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**From:** Morgan, Joyce  
**Sent:** Thursday, July 22, 2010 2:06 PM  
**To:** 'Finance Director'  
**Cc:** 'Connie Hoffmann'; Tucker, Apollonia  
**Subject:** RE: Town of Lauderdale-by-the-Sea - FRS Membership Requirements

Dear Mr. Haag,

Thank you for your email; I have researched your agency's coverage information and will try to address each concern.

All of your part-time and full-time employees filling regularly established positions are compulsory members of the FRS. Please see your agency's State-Municipal Agreement signed in 1971 (see attachment). The references to Chapter 70-112 are references to the law that established the FRS effective December 1, 1970, and your town does not have any exceptions to the covered groups (officers and employees).

Our records also indicate that your agency designated elected positions effective 8/1/01 by resolution 2001/1502. All elected positions should be reported for retirement coverage unless the individual elects to withdraw from the FRS in writing (please see Section 121.052(3)).

Town Managers are compulsory members of the FRS and cannot withdraw (please see Section 121.055(1)(b)1).

Please see Section 121.055(1)(b)2. for the laws govern ring Senior Management Service Class withdrawals of non-compulsory members. If any of your designated SMSC members would like to withdraw from the FRS the statutes provide for service earned in the SMSC to be retained under the FRS, and therefore no refunds will be due.

Link to Chapter 121  
[http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0121/tit10121.htm](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=Ch0121/tit10121.htm)

Please let me know if you have any additional questions.

If you have any additional questions or concerns, please contact me.

Joyce W. Morgan, MBA

Administrator, Enrollment Section

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**From:** Finance Director [mailto:FD@lauderdalebythesea-fl.gov]  
**Sent:** Thursday, July 22, 2010 10:50 AM  
**To:** Morgan, Joyce  
**Cc:** Connie Hoffmann  
**Subject:** Town of Lauderdale-by-the-Sea - FRS Membership Requirements

Joyce - I'm following up on our recent conversation in regards to whether or not it is mandatory that the town manager (who is currently in an interim position) participate in FRS. Following is an email that outlines that it was not the town's intention to have the interim town manager be a covered position for FRS purposes.

Please advise if it is feasible to 'unenroll' Ms. Hoffmann from the plan at this time and return the contributions-to-date to the town. Thanks again for your assistance.

Doug Haag  
Acting Finance Director  
Town of Lauderdale-By-The-Sea  
4501 Ocean Drive  
Lauderdale-By-The-Sea, FL 33308  
Phone: 954-776-0576  
Email: [FD@lauderdalebythesea-fl.gov](mailto:FD@lauderdalebythesea-fl.gov)

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**From:** Connie Hoffmann  
**Sent:** Thu 7/22/2010 10:15 AM  
**To:** Birute Ann Clotey; Chris Vincent; Roseann Minnet; Scot Sasser; Stuart Dodd  
**Cc:** Finance Director  
**Subject:** Benefits

Two weeks ago I received at my home address a letter from the Florida retirement system advising me I had until October to decide which participation option I was going to select with them. I do have some time in FRS from a former employer, so I have received mail from them before but I was perplexed by the October deadline and set it aside to make a call about it when I had some time to do so. This week while researching a former employer's contention that the Town had not sent the Florida Retirement System the correct contribution for her, I was surprised to see my name

on the list of employees for whom the Town is making contributions to the FRS. As you know, when the Commission appointed me it was without benefits except for health insurance and sick leave. By copy of this email, I am asking the Finance Director to find out how to pull me from the list of enrolled employees and see what it will take to get the Town's contribution for me back.

There also has been some vacation time accrued in my "account" in error. I directed the Finance Director the first time I saw it to reverse it. I know that she spent an hour on the phone with our payroll service trying to figure out how to do that, and I believe she told me they'd have to do a manual override, but I see from my last paystub that it is continuing to accrue. Please know that I am well aware that I am not supposed to accrue vacation time and will ask the new Finance Director to get this corrected.

I also want to advise you, although I am not required to, that I intend to change the appointment terms for Bud Bentley, to provide normal employee benefits to him. As you know, he is working very long hours and has tackled a number of complicated issues for us. Soon he will begin his fourth month of employment with the Town and I do not think it fair that he does not receive the same benefits that other employees do. Bud's appointment will still be of an interim nature, though.

Connie