



To: Diana M. Gomez

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in blue ink, appearing to be "CL", is written over the name "Craig E. Leen".

RE: Legal Opinion Regarding Pension Contribution

Date: September 25, 2015

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My opinion is that you can start on the first pay period that includes the fiscal year, and that this is within your lawful administrative discretion. The purpose of the ordinance is met with your proposed action. It is also a reasonable interpretation of the ordinance, as nothing in the ordinance requires the City to modify its payroll process. Indeed, you are applying the change to the first pay period where it is applicable. In addition, your proposed action (1) will not cause any harm to the pension, as it will remain whole, (2) will provide a slight benefit to the employees affected, and (3) will benefit the City administratively. I would note that the amount at issue is also de minimis, and the City is bearing the de minimis expense. In such circumstances, you may proceed.

This opinion is issued pursuant to sections 2-201(e)(1) and (8) of the City Code.

**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Subject:** FW: opinion needed on pension contributions  
**Date:** Friday, September 25, 2015 9:35:30 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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Please publish.

**Craig E. Leen, City Attorney**

*Board Certified by the Florida Bar in  
City, County and Local Government Law*  
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THE CITY BEAUTIFUL

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**From:** Leen, Craig  
**Sent:** Friday, September 25, 2015 9:35 AM  
**To:** Gomez, Diana  
**Cc:** Ramos, Miriam  
**Subject:** RE: opinion needed on pension contributions

Good morning, Diana,

My opinion is that you can start on the first pay period that includes the fiscal year, and that this is within your lawful administrative discretion. The purpose of the ordinance is met with your proposed action. It is also a reasonable interpretation of the ordinance, as nothing in the ordinance requires the City to modify its payroll process. Indeed, you are applying the change to the first pay period where it is applicable. In addition, your proposed action (1) will not cause any harm to the pension, as it will remain whole, (2) will provide a slight benefit to the employees affected, and (3) will benefit the City administratively. I would note that the amount at issue is also de minimis, and the City is bearing the de minimis expense. In such circumstances, you may proceed.

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**From:** Gomez, Diana  
**Sent:** Wednesday, September 23, 2015 10:19 AM  
**To:** Leen, Craig  
**Cc:** Ramos, Miriam  
**Subject:** opinion needed on pension contributions

Hi Craig,

Could you provide me an opinion as to whether or not the following is in accordance with the Pension Ordinance:

Can the City change the employee contribution rate for Excluded Employees from 14.63% to 10.85% - per the latest actuarial report, on September 20, 2015 instead of October 1, 2015?

Background information:

Each year when the actuarial valuation is prepared for the City's pension contribution, a cost sharing percentage that Teamster and Excluded employees must pay is also calculated. In the past, we had always interpreted that the new contribution rate had to be effective exactly on either 9/30 or 10/1 depending on how the ordinance was written, Therefore we have had to manually input and separate the new contribution rate in the city's payroll system because the system does not allow us to automatically change the rate in the middle of the payperiod. This causes a lot of extra manual work and is subject to human error. For the upcoming fiscal year, The only rate that is changing is the Excluded's contribution rate; the Teamsters' rate is staying at 15%.

Per section 50-29 of the pension ordinance (latest change attached), for the Excluded employees it says "Effective October 1, 2014, excluded employees shall contribute in accordance with the cost-sharing provisions of subsection (b) of this section and section 50-34." (sections attached). I have spoken to the Pension Actuary (Pete Strong, GRS) and he advised that it makes no difference to the actuarial calculation... any difference, which would be immaterial (I estimated at \$6,000), would be included in the City's annual required contribution so the pension system would be whole. I also spoke to the City Manager who said that she was ok with making this change. Please let me know if

there is anything in the code that requires me to make the change take effect on the actual date (either 9/30 or 10/1). I am asking this for all employee group contributions, because in the future, employee contribution rates may change... are we allowed to start charging the new contribution rate as of the start of the first payperiod of the new fiscal year (9/20/15 in this case) rather than on the actual date of start of the new fiscal year (10/1/15)?

If you need any additional information or clarification, please let me know. I would need to know by Friday the latest so that I would have time to manually calculate should the opinion direct me to do so.

Thanks.

Diana M. Gomez  
*Finance Director*  
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