

February 7, 2023

Via E-mail: [Steve.Chaipel@mysanibel.com](mailto:Steve.Chaipel@mysanibel.com)  
Chairman and Members of the Board of Trustees  
c/o Steven Chaipel  
City of Sanibel General Employees Retirement Plan  
800 Dunlop Road  
Sanibel, FL 33937

Re: Member Contribution Question

Dear Mr. Chairman and Members of the Board of Trustees:

Steve Chaipel brought to our attention that during the emergency recovery after Hurricane Ian, the City of Sanibel paid their general employees at twice their normal hourly rate. The double pay of their hourly rate lasted from on or about September 28, 2022 until on or about November 6, 2022.

Steve asked us the following question: Should the City of Sanibel still be computing the 5% member contribution rate on their regular hourly rate of pay or should it be for the adjusted double hourly rate of pay during the Hurricane Ian emergency recovery period?

We have reviewed this matter and consulted with the Plan Actuary and Steve Chaipel. After reviewing the matter, we advise that the City should calculate the 5% member contribution on the regular hourly rate of pay and not on the double hourly rate of pay during the Hurricane Ian emergency recovery period. The final decision, however, rests with the Board of Trustees because it involves an interpretation of the ordinances that determine the terms of the Plan.

The amount of employee contributions for a Plan A member is five percent (5%) of *base pay*. There is no contribution for a Plan B member.

**Sec. 50-478. Contributions.**

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(b) Employee contributions.

(1) There will be no employee contributions for members of plan B.

(2) *Members of plan A will contribute five percent of base pay.* The city shall pick up, rather than deduct, all regular contributions of members. The city shall derive pickup amounts from the same source of funds which is

used in compensating members of the plan and shall do so by reducing the earnable compensation of each member. All pick up amounts shall be treated as employer contributions for the purposes of determining tax treatment under the Internal Revenue Code.

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Unfortunately, the phrase “base pay” is not defined in our Code of Ordinances. In order to determine its meaning, we will refer to what we understand to be its customary meaning, and we will also refer to other sections of the Code of Ordinances.

In a very roundabout way, the Code of Ordinances bases the benefit that is paid on the “*fixed rate of pay*.” First, the amount of the retirement benefit *is based on “average compensation.”* **Sec. 50-479. - Retirement dates and benefits**, states the amount of normal pension benefits is: “three percent of *average compensation* (as defined for plan A and plan B members...)” *Average compensation* is defined in Sec. 50-476 as “*Average compensation* means the average of an employee's *monthly compensation* for all periods of employment as an employee with the city for plan B members and the monthly average of the highest consecutive five years of compensation for plan A members.” “*Monthly compensation*” is not defined. But all these provisions use the word *Compensation*, which is defined in Sec. 50-476 as:

*Compensation* means an employee's *fixed rate of pay* from the City of Sanibel as determined on June 1st immediately after an employee's hire date and on June 1st of each following year during which he/she is an employee. Effective on the effective date of the ordinance from which this article derives, compensation for employees who are not included in any bargaining unit means fixed rate of pay. Notwithstanding the preceding sentence, effective May 1, 2011 compensation for employees (other than police dispatchers) who are included in a bargaining unit shall mean fixed rate of pay if the union representing such employees agrees to this definition in writing on or before that date. Effective on November 1, 2011 compensation for police dispatchers shall mean fixed rate of pay.

We spoke with Steve Chaipel as well as Sara Carlson about the method they use for determining *compensation* (i.e. fixed rate of pay) for calculating pension benefits. The Plan Actuary informed us that they receive a fixed number for each member of the Plan from the City annually, which they then use as the “compensation” earned for each member of the Plan for calculating pension benefits. Steve stated that the amounts he sends to the Actuary for calculation of pension benefit purposes is the fixed rate of hourly pay for each member of the Plan and nothing additionally (i.e. overtime, double pay, bonus pay, holiday pay etc...) Simply put, the “fixed rate of pay” for each employee as referenced in the definition of “Compensation” in Sec. 50-476 is only what the member’s hourly rate of pay is for that position each year, with no extras. In other words, the benefit is based on the member’s hourly rate.

We then asked Steve how he customarily calculates the 5% members' contribution. He informed us that plan A member contributions are only deducted from the "fixed rate of pay" for each employee as described above. Lastly, Steve confirmed that the City is treating the fixed rate of pay (for benefit purposes) the same as "base pay" for contribution purposes.

This is as it should be. The pension benefits that the employees have been receiving are based only on their regular hourly rate with no extras. Employee contributions are based on the regular hourly rate with no extras. It would not make any sense to make the employees contribute on the extra pay and not receive any extra benefit for that.

As discussed, "Compensation" for benefit purposes is "fixed rate of pay." We understand fixed rate of pay to normally exclude such things as overtime, car allowances, uniform allowances and the like and it appears that the City has taken this same approach.

Therefore, we think that the best interpretation would mean that the double hourly rate of pay would not apply here for "Compensation" purposes or for member contribution purposes. This interpretation would result in the double hourly pay earned by each employee during the Hurricane Ian emergency relief period not having the 5% member contribution taken from it nor would it result in the double hourly pay being included in the "Compensation" for benefit calculation purposes. We hope this assists you in your interpretation.

Very truly yours,

*Ronald Cohen*

Ronald J. Cohen

BJC