Agenda Item 20150770
Ordinance No. 7836

AN ORDINANCE

AMENDING Section 4-12-6-010 (Exhibit B to Chapter 4-12), Ordinance 4532, An Ordinance Adopting a Consolidated Retirement plan for the employees of the City of Marietta, Georgia.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA:

Section 1: Article IV (Contributions), Section 3 Participant contributions shall read as follows:

(2) Refund of participant contributions. If a participant has a termination of employment and is not eligible for any retirement benefit under this plan, or if the participant dies before his benefits have commenced and no death benefit is payable to a spouse or child of the participant, the participant (or the beneficiary, if the participant dies) shall receive the balance of his participant contribution account. A participant who is vested and eligible to receive his benefit under this plan is not eligible for a refund of participant contributions pursuant to this paragraph (2).

If the participant, a contingent annuitant, a spouse or child is receiving benefits under the plan and dies before payments from the plan to the participant, contingent annuitant, spouse or child have been made in an amount equal to or greater than the total of the participant contribution account, and no additional benefits are due from this plan, then the beneficiary shall receive the amount by which the participant contribution account (as of the date benefits commenced) exceeds such amount. If the beneficiary receives such a refund, no additional death benefits will be paid from the plan.

A refund of a participant contribution account shall not include interest.

"Beneficiary" for purposes of this section 3 shall mean the individual, trust or other entity designated by the participant in accordance with procedures established by the pension board to receive a distribution of the participant's participant contribution account under the circumstances described above.

For the purposes of this section, revocation of prior beneficiary designations will occur when a participant files a new valid designation with the plan administrator.

Nothing in this definition of beneficiary shall be deemed to provide death benefits that are not otherwise provided in this plan.

* If the participant does not designate a beneficiary, or the beneficiary so designated does not survive the participant, the participant's beneficiary for purposes of receiving any refund of participant contributions shall be his spouse, if the participant is survived by a spouse, or the participant's estate if he is not survived by a spouse.

* Any refund of the participant contribution account shall be made in a lump sum after the later of (i) the participant's termination of employment and (ii) the date that the participant requests a distribution and completes any forms required by the pension board as a condition of his receiving a refund.

Article IX (Application, Benefit Payments and Claim Procedures), Section 1 Benefits payments generally shall read as follows:

A. A participant who is eligible to receive benefits under this plan and makes application in accordance with the rules of this retirement plan shall be entitled upon retirement to receive the monthly benefits provided for the remainder of his life, subject to the provisions of this plan. Benefit payments shall be payable commencing with the first full calendar month in which the participant has fulfilled all the conditions for entitlement to benefits.

B. However, in no event shall deferral of commencement of benefits be allowed whereby it can be reasonably anticipated (except on account of premature death) that benefits will inure primarily to a beneficiary rather than to the employee.

C. Pension payment shall end with the payment for the month in which the death of the pensioner occurs, except as provided in accordance with a joint and survivor benefit.

D. Pension benefits shall be payable commencing with the month following the month in which the claimant has fulfilled all the conditions for entitlement to benefits, including the requirement of section 2 of the filing of an application and notice of retirement with the pension board. The first day of such first month is what is meant by the "effective date" of the pension.

An employee may elect, in writing filed with the pension board, to receive benefits first payable for a later month, provided that no such election may postpone the commencement of benefits to a date later than April 1 following the calendar year in which the employee will reach age 70½, or, if later, retires.

E. In order to properly calculate all duty performed, the issuance of the first pension check will occur no later than the fifteenth day of the month in which benefits are payable. Subsequent pension checks will be issued on or before the first day of the month in which benefits are payable.

F. If a participant's beneficiary is not his surviving spouse, the payment of any benefits under the plan that become payable on account of the participant's death shall begin no later than one year from the date of death and shall be distributed over the life of the beneficiary (or a period not extending beyond the life expectancy of such beneficiary).

Section 2: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

Section 3: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 4: This Ordinance shall take effect on **September 9, 2015**.

DATE: **September 9, 2015** **APPROVED:** R. Steve Tumlin Jr.

R. Steve Tumlin, Mayor

ATTEST: Stephanie Guy

Stephanie Guy, City Clerk

Approved as to form: D. R. Haynie

Douglas R. Haynie, City Attorney