LEGISTAR#: 20160159
ORDINANCE NO: 7871

AN ORDINANCE

To amend Section 4-12-4-010, the Retirement Plan for the City of Marietta passed under Ordinance 4022, by clarifying language regarding the definition of a physician used for disability benefits and recertification, and updating language regarding pension board election procedures.

NOW THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, HEREBY ORDAINS:

Section 1. Article VIII (Disability Benefits) Section 7 (Definition of physician) of the City of Marietta, Georgia, Code of Ordinances is hereby amended so that it shall read as follows:

"The term "physician" means a legally qualified physician, except that with respect to a period of total disability, or any portion thereof, during which total disability is caused by any condition other than a medically determinable physical impairment, "physician" shall mean a legally qualified physician who either specializes in the practice of psychiatric medicine or has by reason of training or experience, a specialized competency in the field of psychiatric medicine sufficient to render the necessary evaluation and treatment of mental illness. To be "legally qualified," an individual must be licensed to practice medicine as a physician under the governing law of his state, territory, or foreign country, and said license must be issued by the respective medical board. In Georgia, the physician must be licensed to practice in accordance with O.C.G.A. § 43-34-1 et. seq., as amended."

Article X (Pension Board) Section 5 (Membership and operation of pension board) of the City of Marietta, Georgia, Code of Ordinances is hereby amended so that it shall read as follows:

"The pension board shall consist of nine members elected from posts as follows:

Post 1: City manager or his designee

Post 2: Council member

Post 3: Council member

Post 4: General employee representative

Post 5: General employee representative

Post 6: General employee representative

Post 7: General employee representative

Post 8: Police department representative

Post 9: Fire department representative

The police chief and fire chief shall be ex officio members of the pension board and shall only vote in the absence of the police and fire representatives.

Terms. All members shall be elected as hereinafter provided in November and shall begin service on January 1 for a term of three years.

Selection of council, police, fire and general employee members:

Council representative. Two members of the council shall serve on the pension board. They shall be appointed by the mayor with consent of the council and shall serve for their duly elected term. If for some reason a duly appointed member cannot fulfill his or her term on the board, he or she shall be replaced by a member of the council appointed by the mayor with consent of the council.

Police representative. One member of the pension board shall be a representative of the police department. The senior officer in each of the ranks of police deputy chief, police major, police lieutenant, police sergeant, detective and police officer shall serve as a nominating committee for the police department. The highest ranking officer shall serve as chairperson of the nominating committee.

Fire representative. One member of the pension board shall be a representative of the fire department. The senior officer in each of the ranks of deputy chief, assistant chief, commander, lieutenant, firefighter engineer, and firefighter shall serve as a nominating committee for the fire department. The highest ranking officer shall serve as chairperson of the nominating committee.

Election of police and fire representatives. The chairperson of each respective nominating committee of police and fire shall call a meeting of the committee in November of the year immediately preceding the termination of the police and fire representatives on January 1 of the next year. The purpose of this meeting will be to nominate three employees from each of the departments of fire and police. The names of the three employees nominated shall be placed on a ballot with space provided for write-ins. The duration of the election period will not exceed ten business days, including periods of early voting. Ballots shall be distributed by the nominating committees to all of the employees in the respective departments of police and fire. When used, paper ballots shall be marked in secret and returned to the nominating committee the same day they are distributed. If electronic voting is used, the method must be certified by the Director of Information Technology as maintaining anonymity. Each employee will vote for one candidate and the candidate receiving a plurality of votes shall be the representative of their respective departments to the pension board. If for any reason the duly elected representative of the police or fire departments cannot fulfill his or her

office, the respective nominating committee shall call a meeting to designate a replacement for the duration of the vacated membership.

General employees. Four members of the pension board shall be representatives of the general employees. A nominating committee consisting of the director of personnel, or a designee thereof; two person(s) appointed by the director of public works, one of whom cannot be in a supervisory position; three persons appointed by the BLW general manager, one of whom cannot be in a supervisory position; two persons appointed by the city manager, one of whom cannot be in a supervisory position; and one person appointed by the director of parks and recreation shall nominate the candidates for membership on the pension board. The director of human resources, or the designee thereof, shall act as presiding officer of the nominating committee and call a meeting of the committee in the month of November in the year immediately preceding the end of the current member's term. The purpose of this meeting shall be to nominate two candidates for each expiring term of a member of the pension board represented by the general employees. The names of such employees nominated shall be placed on a ballot with space provided for write-ins. The duration of the election period will not exceed ten business days, including periods of early voting. Ballots shall be distributed to all general employees. When used, paper ballots shall be marked in secret and returned to the nominating committee the same day they are distributed. If electronic voting is used, the method must be certified by the Director of Information Technology as maintaining anonymity. Each employee will vote for as many candidates as there are representative seats of the general employees expiring on January 1. The candidates receiving the highest plurality votes for such seats shall be selected as the representatives of the general employees to the pension board. If for any reason a duly elected representative of the general employees cannot fulfill his or her office, the nominating committee shall call a meeting to designate a replacement for the duration of vacated membership.

Officers. The pension board may elect such officers as it deems necessary. The board shall elect a chairperson and a secretary.

The chairperson shall preside at meetings of the board, cast a vote on any issue, call meetings as may be necessary, and do all things necessary to carry on the orderly affairs of the board. The chairperson shall be selected by a majority vote of the board for a one-year term. The board shall designate, in writing, a secretary or other representative who shall have full authority to represent the board in all communications with any provider and the city's employees, including elected and appointed members of the governing authority. The secretary shall keep accurate minutes of all meetings of the board, recording those voting for and against any issue. Minutes shall be distributed to each member of the board, the council of the City of Marietta and shall be posted in a prominent place(s) within the City Government Complex.

Legal assistance. The city attorney or other attorney appointed by the governing authority shall furnish legal advice to the pension board on any issue before it upon which legal advice is sought.

Meetings. The pension board shall meet at least quarterly. Five members of the board (including the chairperson) shall constitute a quorum. The city manager or his designee shall have authority to approve pension, retirement and disability payments pending a meeting of the board.

Rules of procedure. The pension board shall have the authority to promulgate rules and regulations for its internal operation, as well as the approval of payments within its jurisdiction."

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 Ordinance or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 4. This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

DATE: March 9, 2016

APPROVED:

R. Steve Tumlin, Mayor

ATTEST:

Stephanie Guy, City Clerk

Approved as to Form:

Douglas R. Haynie, City Attorney