

AN ORDINANCE TO COMPLETELY AND EXHAUSTIVELY REVISE THE ORDINANCES CREATING A PENSION COMMITTEE OF THE CITY OF MARIETTA SO AS TO CREATE A PENSION BOARD AND COMBINE INTO A SINGLE BOARD ALL PENSION, RETIREMENT AND DISABILITY FUNCTIONS; TO DEFINE TERMS; TO PRESCRIBE FUNCTIONS AND POWERS; TO PROVIDE PROCEDURES AND APPEAL FROM THE DECISION OF THE PENSION BOARD; TO PROVIDE MEMBERSHIP AND ELECTION TO THE BOARD; TO PROVIDE TERMS FOR MEMBERS; TO PROVIDE OFFICERS OF THE BOARD AND LEGAL ADVICE TO THE BOARD; TO PROVIDE MEETINGS; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES.

SECTION I: Repeal and Intent. This Ordinance shall replace all boards, bureaus or commissions in the City of Marietta which have jurisdiction of pensions, retirement or disability payments. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. Specifically, Ordinance No. 3075 adopted December 21, 1973 and any provision of Ordinance No. 3042 adopted September 20, 1973, creating a Pension Committee and delegating its functions, powers, terms of members and selection of members, and any part of Ordinance No. 3662 adopted February 13, 1980, defining voting rights of the Pension Committee, are repealed. It is the intention of the Council to provide by this ordinance a comprehensive and inclusive ordinance creating a Pension Board (previously denominated a Pension Committee) and to provide by this ordinance a single grant of authority and denomination of powers for a Pension Board.

SECTION II. Definitions and Rules of Construction.

- A. Board shall mean the Pension Board created by this ordinance.
- B. Police and Fire employees shall mean the sworn personnel of the police and fire departments.
- C. General Employees are personnel other than the sworn personnel of the police and fire departments.

D. Provider shall mean any person, partnership, corporation or other legal entity which supplies or provides pension, retirement or disability payments to employees, including elected members of the Governing Authority of the City of Marietta.

E. Council shall mean the Governing Authority of the City of Marietta. which shall include the Mayor and members of the Council.

F. In computing time required under this ordinance, time shall be computed without exclusion of Sundays and holidays.

G. When used in this ordinance, the male gender shall include the female and neuter genders.

SECTION III. Creation. There is hereby created in the City of Marietta a Pension Board which shall consist of such members selected and having such duties, functions and powers as are hereinafter prescribed.

SECTION IV. Functions and Powers. The Pension Board shall have the following duties, functions and powers:

A. In its dealings with any provider, the Pension Board shall:

(1) Furnish all information with respect to enrollment of Employees, including elected and appointed members of the Governing Authority.

(2) Collect and remit to any provider all required contributions.

(3) Furnish any provider, in accordance with its rules and regulations, all reports, and other records required to administer this plan.

(4) Notify any provider, in accordance with its rules and regulations, of all benefit elections made by participants under any plan adopted and all matters regarding payment of benefits.

(5) Notify any provider of the termination of participating employees in any plan adopted and the vacation of elective office by elected and appointed members of the Governing Authority.

B. In dealing with those persons participating or eligible to participate in any pension, retirement or disability program, the Pension Board shall:

(1) Be responsible for the enrollment of eligible employees and elected and appointed members of the Governing Authority.

(2) Handle distribution of all reports to participants.

(3) Handle arbitration between the City and participants in all matters regarding the plan.

(4) Handle any notices of eligibility, benefits, available options, and any other notices required by this plan, contract or rules and regulations of any provider.

(5) Decide all questions and disputes on the interpretation and eligibility of persons for payment under any pension, retirement and disability ordinance of the City of Marietta.

C. In performance of its duties, the Pension Board shall have the following powers:

- (1) Recommend to the Council the awarding of contract(s) for provider(s) of pension, retirement or disability benefits;
- (2) Adopt rules and regulations providing procedures for the granting of pension, retirement and disability benefits and to approve payments for such persons entitled to payment;
- (3) Adopt investment programs and procedures for funds held by any provider of pension, retirement and disability payments;
- (4) Adopt and use a seal on all documents issued by the Board;
- (5) Review and recommend changes in the pension, retirement and disability program;
- (6) When requested by the City Manager, to advise the City Manager on all pension, retirement or disability payment matters; and
- (7) To do all other things necessary and proper to carry out the duties required of it as the Pension Board of the City of Marietta.

SECTION V. Appeal and Procedure. Any person dissatisfied with any decision of the Pension Board shall have the right to appeal the decision to the Council by delivering to the City Manager a written notice within ten (10) days of the decision complained of. The City Manager shall cause the secretary of the Pension Board, within ten (10) days after such receipt, to provide to the Clerk of the Council all documents relied upon by the Pension Board in reaching its decision. The Council shall decide the appeal within seventy-five (75) days of receipt of the appeal documents from the

secretary of the Pension Board. Should the Council fail to act within seventy-five (75) days of the decision of the Pension Board, the decision of the Pension Board shall be affirmed. In ruling on any appeal from the Pension Board, the decision of the Pension Board shall be presumed correct and based upon sufficient facts to sustain it.

SECTION VI. Membership and Operation of Pension Board.

The Pension Board shall consist of nine (9) 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 vote in the absence of the police and fire representatives.

Terms. All members shall be elected as hereinafter provided in December and shall begin service on January 1 for a term of two (2) years.

All members now serving on the present Pension Committee shall continue to serve until January 1, 1982. Thereafter, the representatives replacing such present members shall be selected for two year terms.

The additional members provided on the Pension Board shall be elected within thirty (30) days after the adoption of this ordinance and shall hold office until January 1, 1983.

Selection of Council, Police, Fire and General Employee Members

Council Representatives - Two (2) 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 captain, 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 chairman 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 assistant fire chief, fire captain, fire lieutenant, firefighter engineer, and firefighter shall serve as a nominating committee for the fire department. The highest ranking officer shall serve as chairman of the nominating committee.

Election of Police and Fire Representatives.
The chairman of each respective nominating committee of police and fire shall call a meeting of the committee

in December 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 (3) employees from each of the departments of fire and police. The names of the three (3) employees nominated shall be placed on a ballot with space provided for write-ins. Ballots shall be distributed by the nominating committees to all of the employees in the respective departments of police and fire. Ballots shall be marked in secret and returned to the nominating committee the same day they are distributed. Each employee will vote for one (1) 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 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 (2) persons appointed by the director of public works, one (1) of which cannot be in a supervisory position; two (2) persons appointed by the director of electrical affairs, one (1) of which cannot be in a supervisory position; two (2) persons appointed by the city manager, one (1) of which cannot be in a supervisory position; and two (2) persons appointed by the

director of parks and recreation, one (1) of which cannot be in a supervisory position, shall nominate the candidates for membership on the Pension Board. The director of personnel, or the designee thereof, shall act as presiding officer of the nominating committee and call a meeting of the committee the last week of December in the year immediately preceding the end of the respective General Employees members of the Pension Board on January 1 of the next year. The purpose of this meeting shall be to nominate two (2) 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. Ballots shall be distributed to all general employees. Ballots shall be marked in secret and returned to the nominating committee the same day they are distributed. 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 the duly elected representative of the General Employees cannot fulfill his or her office, the nominating committee shall 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 chairman and a secretary.

The chairman shall preside at meetings of the Board, cast a vote on any issue, call meetings as may be necessary, and do all things as may be necessary to carry on the orderly affairs of the Board. The chairman 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 (5) members of the Board (including the chairman) 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 VII. Effective Date. This ordinance shall be effective upon its passage by the Council of the City of Marietta.

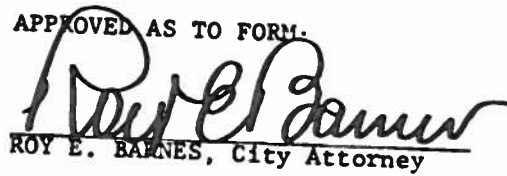
ORDAINED this 30th day of December, 1980.


J. DANA EASTHAM, Mayor

ATTEST:


BARBARA GOSCHA, City Clerk

APPROVED AS TO FORM.


ROY E. BARNES, City Attorney