

STATE OF GEORGIA
COUNTY OF CLAYTON

ORDINANCE NO. 2010- 49

AN ORDINANCE ADOPTED UNDER THE HOME RULE POWERS GRANTED TO CLAYTON COUNTY PURSUANT TO ARTICLE IX, SECTION II, PARAGRAPH I OF THE CONSTITUTION OF THE STATE OF GEORGIA OF 1983, AMENDING THE CLAYTON COUNTY CODE OF ORDINANCES, SPECIFICALLY RELEVANT SECTIONS OF THE CLAYTON COUNTY, GEORGIA PUBLIC EMPLOYEE RETIREMENT SYSTEM TO ALLOW MARRIED PARTICIPANTS TO NAME A BENEFICIARY OTHER THAN THE PARTICIPANT'S SPOUSE FOR DEATH BENEFITS UNDER THE PLAN; TO REPEAL CONFLICTING LAWS, ORDINANCES AND RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

WHEREAS, Clayton County and the Clayton County Water Authority maintain the Clayton County, Georgia Public Employee Retirement System (Pension Plan) (the "Plan") by an Act of the General Assembly of the State of Georgia, which originally became effective as of July 1, 1971;

WHEREAS, the Plan was amended and restated by Ordinance No. 2009-33 of the Clayton County Code of Ordinances; and

WHEREAS, the Board of Commissioners now desires to amend the Plan to allow married participants to name a beneficiary other than the participant's spouse for death benefits under the Plan;

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY

AND IT IS HEREBY ORDAINED:

Section I. By the authority granted to Clayton County pursuant to Article IX, Section II, Paragraph I of the Constitution of the State of Georgia of 1983, the Board of

Commissioners hereby amends the Clayton County Code of Ordinances, as amended, by amending the Plan effective as of March 1, 2010, except as otherwise provided herein, in the following particulars:

1. By deleting the existing Section 4.2 and substituting therefor the following:

“4.2 (a) If a Participant dies while employed by a Plan Sponsor (i) after reaching Normal Retirement Age or (ii) prior to reaching Normal Retirement Age, but either (A) in the performance of his duties for a Plan Sponsor or (B) on or after attaining age 50 and completing at least seven (7) years of Vesting Service, the Participant’s Beneficiary shall receive a death benefit commencing as of the first day of the month immediately following the date of the Participant’s death in the form which would have been payable to the Beneficiary if the Participant had:

- (1) separated from service immediately prior to his date of death;

- (2) if the Participant was married at the time of his death and the Participant’s Beneficiary is his spouse, elected to receive a distribution in the form of a contingent annuity under which the reduced monthly benefit payments are made to the Participant during his lifetime and following his death are continued to his spouse in an amount equal to fifty percent (50%) of the monthly payments to the Participant or, if the Participant was not then married or the Participant’s Beneficiary is not his spouse, elected to receive a Normal Fund Payment; and

- (3) died immediately thereafter.

Any death benefits payable under this Section 4.2(a) shall not be actuarially reduced for their commencement prior to the Participant’s Normal Retirement Age. In addition, the Beneficiary of a Participant eligible for death benefits under this Section 4.2(a) may elect, in lieu of the form of death benefit payment described in Clause (2) of this Section 4.2(a), to receive the Actuarial Equivalent of such death benefits in a lump sum payment in cash;

(b) if a Participant dies while employed by a Plan Sponsor, other than in the performance of his duties for a Plan Sponsor and prior to attaining age fifty (50), but after completing at least seven (7) years of Vesting Service, the Participant’s Beneficiary shall receive a death benefit in the form set forth below commencing as of the first day of the month following the date on which the Participant would have first attained Normal Retirement Age or Early Retirement Age, if otherwise eligible, if the Participant had:

- (1) separated from service immediately prior to his date of death;

(2) survived until his Normal Retirement Age or Early Retirement Age, whichever date would have been the first to occur;

(3) if the Participant was married at the time of his death and the Participant's Beneficiary is his spouse, elected to receive a distribution in the form of a contingent annuity under which the reduced monthly benefits payments are made to the Participant during his lifetime and following his death are continued to his spouse in an amount equal to fifty percent (50%) of the monthly payments to the Participant or, if the Participant was not then married or the Participant's Beneficiary is not his spouse, elected to receive a Normal Fund Payment; and

(4) died immediately thereafter; or

(c) if a Participant terminates employment after completing at least seven (7) years of Vesting Service, but prior to age 50, and subsequently dies prior to commencement of payment of benefits under the Plan, the Participant's Beneficiary shall receive a death benefit in the form set forth below, commencing as of the first day of the month following the date on which the Participant would have first attained Normal Retirement Age or Early Retirement Age, if otherwise eligible, if the Participant had:

(1) retired immediately prior to his date of death;

(2) survived until his Normal Retirement Age or Early Retirement Age, whichever date would have been the first to occur;

(3) if the Participant was married at the time of his death and the Participant's Beneficiary is his spouse, elected to receive a distribution in the form of a contingent annuity under which the reduced monthly benefit payments are made to the Participant during his lifetime and, following his death, are continued to his spouse in an amount equal to fifty percent (50%) of the monthly payments to the Participant or, if the Participant was not then married or the Participant's Beneficiary is not his spouse, elected to receive a Normal Fund Payment; and

(4) died immediately thereafter."

2. By deleting the existing Section 4.5 and substituting therefor the following:

"4.5 Notwithstanding anything to the contrary in this Section 4, if the Participant's vested Accrued Benefit has a present value Actuarial Equivalent of \$5,000 or less, any benefits payable to a Beneficiary described in this Section shall be paid in the form of a lump sum payment in cash."

Section II. In the event any section, paragraph, subpart, sentence, clause, phrase or word of this Ordinance shall be declared or adjudged unconstitutional or invalid by any Court, such declaration or adjudication shall not affect the remaining portions of this

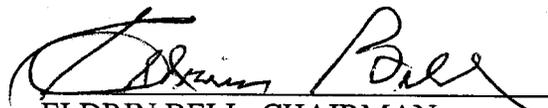
Ordinance which shall remain in full force and effect as if the portions declared invalid or unconstitutional had never been enacted into law.

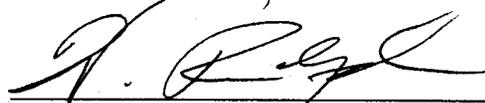
Section III. All laws, ordinances or resolutions, or parts thereof, in conflict with provisions of this Ordinance are hereby repealed.

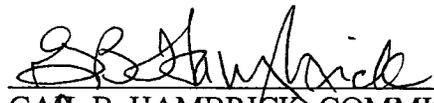
Section IV. This Ordinance shall become generally effective as of the dates provided herein upon its approval by the Board of Commissioners after the second reading of the Ordinance, provided the same receives an affirmative vote of three or more members, and provided further that a copy of the Ordinance has been published in the official organ of Clayton County and filed with the Secretary of the State of Georgia as required by law.

SO ORDAINED, this 2nd day of March, 2010.

CLAYTON COUNTY BOARD OF COMMISSIONERS


ELDRIN BELL, CHAIRMAN

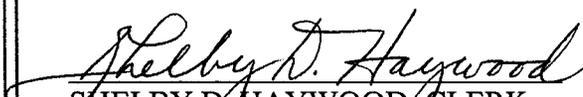

WOLE RALPH, COMMISSIONER


GAIL B. HAMBRICK, COMMISSIONER


SONNA SINGLETON, COMMISSIONER

(Absent)
MICHAEL EDMONDSON, COMMISSIONER

ATTEST:


SHELBY D. HAYWOOD, CLERK