

980761

CITY OF GAINESVILLE  
Office of the City Attorney

Memorandum

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commissioners

DATE: February 22, 1999

FROM: City Attorney

FIRST READING

SUBJECT: Ordinance No. 0-99-31

An ordinance of the City of Gainesville, Florida, relating to the General Employees Pension Plan, amending Section 2-523(c)(2) of the Code of Ordinances relating to members of the plan; creating Section 2-523(i) of the Code of Ordinances providing for limited participant re-entry or transfer of vested accrued benefit; amending Section 2-526(a)(3) of the Code of Ordinances to provide an optional form of benefit; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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Recommendation: The City Commission adopt the proposed ordinance.

Late last year, the City Commission authorized the preparation and advertisement of the attached ordinance. The City Manager's communication to employees distributed in the last City Highlights (copy attached) discusses the salient points of the proposed ordinance. An actuarial impact statement concerning the effect of the proposed ordinance on the pension plan will be presented by management prior to adoption on second reading.

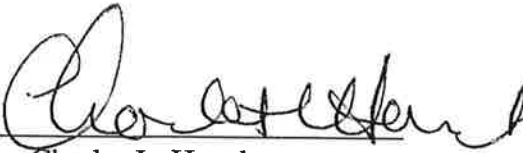
A section by section analysis of the ordinance follows.

Section 1 conforms plan language to current practice regarding allowing high level employees the option of entering the General Employees Pension Plan or selecting participation in the Defined Contribution Plan.

Section 2 of the ordinance allows limited participants, who are not currently eligible members of the General Employees Pension Plan, the opportunity to re-enter the plan as eligible members or to transfer the value of their vested accrued benefit to the 401 Defined Contribution Plan. A limited participant who elects to re-enter the General Employees Pension Plan will also have the option of "purchasing" all of their years of service as an ineligible member upon the payment of the projected actuarial present value of the benefits associated with such additional years of service.

Section 3 allows an employee who terminates with a vested benefit to receive a lump sum cash equivalent of that benefit upon termination, if the benefit has an actuarial present value of less than \$5,000, rather than having to wait until attaining age 65 to apply for a termination benefit.

Prepared by:



Charles L. Hauck  
Sr. Assistant City Attorney

Approved and  
Submitted by:



Marion J. Radson  
City Attorney

MJR:CLH:sw

Ordinance No. \_\_\_\_\_  
0-99-31

An ordinance of the City of Gainesville, Florida, relating to the General Employees Pension Plan, amending Section 2-523(c)(2) of the Code of Ordinances relating to members of the plan; creating Section 2-523(i) of the Code of Ordinances providing for limited participant re-entry or transfer of vested accrued benefit; amending Section 2-526(a)(3) of the Code of Ordinances to provide an optional form of benefit; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

**Section 1.** Section 2-523(c)(2) is hereby amended to read as follows:

(2) Regular ~~Permanent~~ employees who elected/requested prior to April 23, 1996, or who were given a written job offer prior to April 23, 1996, and upon commencing employment elected/requested in accordance with section 2-579 of the City of Gainesville Code of Ordinances or the provisions of the city's §401(a) Plan, to have future employer contributions made to the Deferred Compensation Plan (§457) or the §401(a) Defined Contribution Plan in lieu of this plan ~~or are ineligible members of this plan.~~ Regular permanent employees who are eligible employees as defined in section 2-596 of the City of Gainesville Code of Ordinances are ineligible members of this plan. ~~and Regular permanent,~~ employees first employed after April 23, 1996 in the position of Charter Officer or a position designated by the city manager and who at the time of initial employment elected/requested to have employer contributions made to the §401(a) Defined Contribution Plan or §457 Deferred Compensation Plan in lieu of this plan are ineligible members of this plan.

**Section 2.** Section 2-523(i) is hereby created to read as follows:

1 (i) Limited participant re-entry, transfer of vested accrued benefit. Actively  
2 employed, regular employees who elected/requested to have future employer  
3 contributions made to the Deferred Compensation Plan (§457) or the §401(a)  
4 Defined Contribution Plan in lieu of this Plan, thereby becoming limited  
5 participants, may elect during the one-time election period described below to re-  
6 enter this Plan as eligible members, and to cease employer contributions to the  
7 §457 Deferred Compensation Plan or the §401(a) Defined Contribution Plan, or  
8 may elect during the one-time election period described below to not re-enter but  
9 instead transfer the value of their vested accrued benefit, in accordance with the  
10 following provisions:

11 (1) The election period shall begin on March 15, 1999, and shall end on June  
12 15, 1999.

13 (2) If elected by the limited participant, resumption of participation in this  
14 Plan and cessation of employer contributions to the §457 Deferred  
15 Compensation Plan or the §401(a) Defined Contribution Plan shall be  
16 effective commencing with the first administratively feasible pay period  
17 following execution and submission by the participant of an election form.

18 (3) A limited participant who elects to re-enter this Plan as an eligible  
19 member, as provided in Section 2-523(i)(2), shall have the option to have  
20 all years of limited participant service count as eligible service by  
21 contributing to the Plan the actuarial present value of benefits that are  
22 projected to be applicable for all the years of service as an ineligible  
23 member. Such present value shall be determined by the Plan Actuary

1 using the 1983 Group Annuity Mortality Table-Unisex 50/50 and an  
2 interest rate of 9.5%. This option may be elected by the participant at any  
3 time while actively employed as an eligible member. Amounts  
4 contributed pursuant to this subparagraph 3 shall be considered employee  
5 contributions for the purpose of Section 2-526(a)(3) and (e), (f), (g), and  
6 (h).

7 (4) A limited participant who is a participant in the §401(a) Defined  
8 Contribution Plan and who elects not to re-enter the Plan as an eligible  
9 member shall have the option to elect during the election period described  
10 in paragraph (1), to transfer the actuarial present value as of June 30, 1999,  
11 of his/her vested accrued benefit under this Plan to the §401(a) Defined  
12 Contribution Plan. Such present value shall be determined by the Plan  
13 Actuary on an actuarial equivalent basis as defined in Section 2-521.  
14 Upon such transfer the employee shall forfeit all benefits previously  
15 accrued in the Plan.

16 **Section 3.** Section 2-526(a)(3) is hereby amended to read as follows:

17 **Sec. 2-526. Benefits.**

18 (a) *Eligibility for service retirement.*

19 (3) *Termination of employment.* A member whose employment with the city terminates prior  
20 to the completion of at least five years of credited service, for any reason, shall not be entitled to  
21 any benefits under the plan; provided however, that amounts contributed by members shall be  
22 paid without interest to the member or, as applicable, the member's beneficiary. A member  
23 whose employment with the city terminates after the completion of at least five years of credited

1 service, but prior to retirement, shall be entitled to a termination benefit, or, if applicable, return  
2 of contributions in accordance with subsections (e) and (f). Payment of the termination benefit  
3 shall be governed by the following provisions of this section.

4 a. Benefit amount. A member who is entitled to a termination benefit shall receive a  
5 monthly annuity equal to his/her accrued benefit, except as provided in subparagraph e. below or  
6 in subsection (j), determined as of his/her date of termination.

7 b. Benefit commencement date. The benefit commencement date of a member with at  
8 least five years' credited service but less than 20 years' credited service shall be the first day of  
9 the month after the member has attained age 65.

10 c. Benefit payments. Except as provided in subparagraph e. below, the termination  
11 benefits shall be payable on the first day of each month. The first payment shall be made on the  
12 benefit commencement date, and benefits shall be payable thereafter according to the terms of the  
13 accrued benefit for the member's lifetime. A member may modify the amount and conditions of  
14 payment described in this section by electing an annuity option in accordance with the optional  
15 forms of benefit section, or, if eligible, a single sum in accordance with subparagraph e. below, in  
16 which event the termination benefit shall be paid in accordance with the terms of such option.

17 d. Benefit forfeitures. That portion of a terminated member's benefit that is not vested  
18 shall be forfeited and used only to reduce future costs of the plan, provided, however, that  
19 amounts contributed by such a terminated member shall be paid without interest to the member  
20 or, as applicable, the member's beneficiary.

21 e. A member whose employment with the City terminates after the completion of at least  
22 five years of credited service, and whose accrued benefit has an actuarial present value of \$5,000  
23 or less, as determined by the Plan Actuary, may elect, within 30 days after termination of

employment, to receive a single-sum payment of the entire actuarial present value of the vested accrued benefit.

**Section 4.** It is the intention of the City Commission that the provisions of Section 1 of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

**Section 5.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**Section 6.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

**Section 7.** This ordinance shall be effective immediately upon final adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
PAULA M. DeLANEY, MAYOR

ATTEST:

Approved as to form and legality

\_\_\_\_\_  
KURT M. LANNON  
CLERK OF THE COMMISSION

\_\_\_\_\_  
MARION J. RADSON  
CITY ATTORNEY

This Ordinance passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

This Ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 1999.





**A Letter from the City Manager  
Concerning Limited Participants Re-entry  
Into the General Employees' Pension Plan**

Dear City Employees:

The City Commission recently authorized the City Attorney to draft an ordinance related to certain "limited participants" re-entry into the General Employees' Pension Plan. Limited participants are those employees who at one point participated in the General Plan but elected to begin participation in another plan at some point in the past. This authorization represented a major step in a process that was requested by the limited participants many years ago. Since there may have been some misunderstanding and/or misinformation about exactly what changes are being proposed, I wanted to take this opportunity to outline my recommendations and address some of the concerns that have been voiced regarding this proposal.

I would like to begin with a review of the four (4) components of my recommendation which are to be included in the proposed ordinance revision:

1. **Re-entry into the General Plan** - This provision would allow limited participants to re-enter the General Plan. Individuals electing this option would once again earn eligible service in the General Plan in lieu of receiving City contributions into a defined contribution or deferred compensation plan. From the effective date of their election these individuals would resume accruing credited service in the General Plan which would factor into the calculation of their monthly benefit at the time of their retirement. What merely electing this option will not do for these employees is purchase non-plan service in the employ of the City where the individual was not a member of the General Plan. As an example, let's look at an individual who had nine years of prior service as a member of the General Plan when that employee elected to transfer to another plan and, to date, has seven years of service under the other plan for a total of sixteen years of service with the City. If this individual were to elect this re-entry option and work five more years with the City, this employee would have a total of twenty-one years of service with the City. The employee's General Plan benefit, however, would be based on fourteen years of service; the initial nine years and the five earned after re-entry into the plan. This individual would not be receiving a benefit from the General Plan for the years in which he/she was not a General Plan member but would receive a separate benefit resulting from participation in the other plan. **It is important to note that this proposal is providing an option to limited participants that is no different from that already provided to individuals who leave the employ of the City and then return and rejoin the General Plan upon their rehire.**
2. **Purchase of Non-plan Service** - This provision would allow those limited participants who have elected to re-enter the Plan under revision one the further option to purchase the above-mentioned service in the employ of the City, but not as a member of the Plan. These non-plan service years would be purchased at their actuarial present value; therefore, any exercise of this option would result in no net fiscal impact to the Plan. The full cost of the purchase would be paid by the limited participant.
3. **Cash out** - This option is open to limited participants who elect not to re-enter the Plan. It provides for the Plan to pay to these limited participants upon separation of employment a one-time lump sum amount representing their accrued values when less than \$5,000. Each of the current limited participants has to date earned a monthly benefit from the Plan, payable upon retirement. Over 40% of these monthly benefit amounts are less than \$100.00. From a plan administration standpoint, it certainly is not cost-effective to retain such members in the Plan through the course of their retirement years. This option reduces Plan administration costs while providing those limited participants who so elect the accrued value of their future monthly benefit in a lump sum payment.
4. **Transfer of accrued values** - Once again, this option is open to those limited participants who elect not to re-enter the Plan. It provides for individuals who so elect to transfer their accrued values from the Plan to a 401(a) qualified plan or IRA. As with the cash out option, this accomplishes the goal of reducing future Plan administration costs while providing another avenue for limited participants to receive the accrued value of the future monthly benefit.

Now that I have outlined the four (4) elements of my recommendation, I will address some of the specific concerns that I have heard regarding this proposal.

First, any potential impact to the Plan resulting from this proposal has been thoroughly assessed. An actuarial impact statement has been prepared and the necessary changes to the City's contribution rate will be made. **There will be no impact to the employee contribution rate as a result of these changes.** The impact to the City's overall finances has also been reviewed. The impact statement prepared by the City's actuary under the assumption that all of the limited participants chose to re-enter the Plan, showed a maximum increase in the City's contribution rate of 0.24%. Over time, this increase should be more than offset by the reduction in the required City contribution for those limited participants electing to re-enter the Plan. This difference between the City contribution to the defined contribution plan and the General Employees' Pension Plan is currently 7.10% (10% vs. 2.90%).

Secondly, the issue has been raised that the proposed ordinance revision is designed to benefit only managerial employees. Just over half (18 of 34) of the limited participant group are managers. Fifteen are professionals, and one is a bargaining unit employee. Although the composition of the limited participant group was not germane to the decision making process, since the issue has been raised, I feel it is important to reflect that the group is more diverse than some may believe.

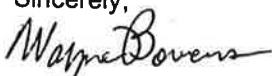
One additional concern that has been voiced is that the proposed ordinance revision will create inequities between re-entering limited participants and Plan members who stayed in the Plan and have contributed to the Plan all along. This issue is generated from the following scenario. Limited participants could potentially re-enter the Plan, work only three more years at markedly higher salaries than they earned when they originally left the Plan, and leave with a dramatically higher retirement benefit than they would have earned at the point of their original departure from the Plan. It is indeed true that the limited participants who choose to re-enter the plan will do so at higher salaries than they were earning when they originally left the General Plan. It is almost always the case for any employee that the final 36 months of their employment represents the highest 36 months of earnings. What is important to recognize is that as mentioned above in the detail on the re-entry option, the limited participants will receive no credit in their monthly benefit calculation for any years not in the Plan. In other words, the credit service portion of the benefit calculation formula (credit service years X 2% X final average earnings) will reflect only their time as Plan members. The limited participants will not receive two pensions for the same period of time.

To illustrate this point the Finance Department selected three individuals from the limited participant group – one employee making one of the highest salaries, another making approximately the average salary of the group, and another making one of the lowest salaries of the group. For each of these individuals a comparison was made of what their final monthly benefit from the General Plan would have been had they stayed in the General Plan throughout their career (assuming they work three more years) versus the combination of what their monthly benefit from the General Plan would be if they re-enter and work three more years plus the value of the annuity from their defined contribution plan. In each of the comparisons, the value of the benefit from the General Plan assuming the employee had remained in the General Plan for his/her entire career exceeded the combined value of the General Plan benefit under re-entry and the defined contribution annuity. Obviously, the value of re-entering the General Plan and also being able to retain the defined contribution does not exceed the value these individuals would have received had they remained in the plan. In summary, time has proven that the City did not provide a better benefit when these employees were allowed to leave the General Plan and join a defined contribution plan. In fact, the exercise of this option in every example resulted in a reduction of the total retirement benefits of the employee. Under these circumstances, I felt that it was only fair to these long time employees to allow re-entry to the General Plan in order that they could have an opportunity to increase their final retirement benefit during their remaining years with the City. My recommendations to accomplish this objective were qualified by the requirement that this benefit for the limited participants would be at no cost to any other City employee.

I hope this letter has given you the details of the upcoming proposal, as well as mitigated some of the concerns you have or may have heard others express. The City of Gainesville has successfully endeavored to construct and maintain a solid and fiscally sound pension plan in order to provide City employees the retirement benefits they deserve. I take my fiduciary responsibilities as Plan Administrator very seriously; the decision to put forth these ordinance revisions was not made lightly, but only after considerable deliberation. It is my belief that the proposed changes are in the long-term best interest of the Plan, its members, and the City.

Should you have any questions concerning this issue, please feel free to contact Administrative Services Director Glenda Currie at extension 5013 or Finance Director Mark Benton at extension 5767.

Sincerely,



Wayne Bowers  
City Manager