Taxation, Revenue and Utilization of Expenditures (TRUE) Commission

Marc El Hassan, Chair
Mike McCollum, Vice Chair
Joe Andrews, Secretary

RESOLUTION 2011-4

A RESOLUTION IN OPPOSITION TO ORDINANCE 2011-400

WHEREAS, the TRUE Commission has the authority and responsibility to gather information on the soundness of the City's current and long-term financial status including long range projections and unfunded liabilities; and

WHEREAS, it is the responsibility of the Commission to provide important information on and raise public awareness of public finance issues by encouraging in-depth media coverage of these issues and by meeting with community, neighborhood, and civic organizations; and

WHEREAS, the Commission may choose to review any aspect of fiscal policy within the consolidated government, including without limitation, the pre- and post-retirement benefit structure for City employees and the potential impact on the financial status of the City; and

WHEREAS, the proposed ordinance modifies the Restated Agreement of March 5, 2001 which has a term of 30 years; and

WHEREAS, Sec. 447.309 of the Florida Statues – Collective bargaining; approval or rejection – provides in subsection (5) "Any collective bargaining agreement shall not provide for a term of existence of more than 3 years and shall contain all of the terms and conditions of employment of the employees in the bargaining unit during such term except those terms and conditions provided for in applicable merit and civil service rules and regulations; and

WHEREAS, the Office of General Counsel states the position of the City regarding the 30 year agreement regarding pension benefits includes but is not limited to the following points: 1.) The agreement between the City and the P&FPF was not intended to and did not bind the City regarding benefits; 2.) According to the Charter - only the Council can establish benefits - not the PFPF; absent waiver, that can only be accomplished through collective bargaining; 3.) The P&FPF has acknowledged it has no power to set benefits; 4.) Chapter 447 establishes that all benefits are binding for no more than 3 years; 5.) It would be in violation of public policy - and therefore unenforceable - for any Council to commit to benefits for more than 3 years.

WHEREAS, the Council Auditor has stated the City's actuary's estimated future savings within a wide range of precision do not appear unreasonable. Most of the projected savings occur far in the future as the changes apply only to employees hired on or after October 1. This will not provide material relief to the City budget for many years. Estimated future savings of $790 million for Police and Fire Pension Fund - The net present value of these savings discounted 8% annually is $115 million. The savings calculations are based on several assumptions. A change in any assumption can result in a material change in projected savings. These assumptions include: Growth in payroll, COLAs, promotions and step increases, changes in number of covered employees, projected earnings of pension plan investments, retirement and termination patterns and mortality tables.

WHEREAS, the City's Comprehensive Annual Financial Report of September 30, 2010 stated the Police and Fire Pension Fund (PFPF) was 46.79 % funded; and this calls into question the ability of the City to pay the pension benefits of current and retired employees in the future; and

WHEREAS, the Comprehensive Annual Financial Report of September 30, 2010 states the combined Unfunded Actuarial Accrued Liabilities (UAAL) of the PFPF pension plan is nearly $1 billion dollars and is expected to continue to increase; and

WHEREAS, after considering recent substantial market investment gains, the unfunded liability (UAAL) of the PFPF increased by $ 81,560,532 for the year ended September 30, 2010. The recent gains have only restored the pension fund to less than the level of September 30, 2007. The assumed annual rate of return for the PFPF is 8.5%; the average gains for 1 year was 9.33%; for 3 years was -1.81%; for 5 years was 3.45%, and for 10 years, 3.93%. The pension fund has lost four years of assumed compounded investment growth; and

WHEREAS, only defined benefit pension plans can have an unfunded liability where the taxpayers are required to provide for any shortage of funds. The taxpayers' obligation ends when the required contribution is made to defined contribution plans; now therefore

BE IT RESOLVED, that the TRUE Commission hereby recommends that the City Council not pass Ordinance 2011-400 and that a defined-contribution plan be considered for any future changes to pensions for new employees.

Adopted by a 6-2 vote of the Commission this 4th day of August, 2011.

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Marc Majed El Hassan
Chairman