



# Taxation, Revenue and Utilization of Expenditures (TRUE) Commission

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

## **RESOLUTION 2011-5**

**A RESOLUTION REQUESTING THAT CITY COUNCIL DEFER ACTION ON PENDING ORDINANCE 2011-455 UNTIL THE TRUE COMMISSION HAS AN OPPORTUNITY TO CONDUCT FURTHER RESEARCH AND MAKE A RECOMMENDATION TO THE COUNCIL; ALTERNATIVELY, EXPRESSING CONDITIONAL OPPOSITION TO PASSAGE OF 2011-455 UNLESS THE CITY COUNCIL FIRST RECEIVES SATISFACTORY ANSWERS TO SEVERAL QUESTIONS REGARDING PROTECTION OF THE TAXPAYERS' INTERESTS.**

**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**, pending Ordinance 2011-455 proposes to authorize a settlement agreement between the City and Pavelka Properties, LLC which would forgive nearly \$51,000 in unpaid rent by Pavelka for past use of the City-owned parking lot at the corner of Market and Forsyth Streets and would authorize the execution of a new lease between the City and Churchwell Lofts at East Bay Condominium Association, Inc. to take control of the parking lot and to use it rent-free for five additional years (foregoing total rental payments of \$163,200 at the current lease rate) before beginning to pay a market-based rental fee in the sixth year of the agreement; and

**WHEREAS**, the TRUE Commission has serious reservations about the proposed settlement agreement with Pavelka Properties and the precedent it may set for dealing with failures of other downtown development projects to meet their contractual obligations and transferring costs from development projects to the taxpayers, and has compiled a list of questions which the Commission believes should be answered with regard to details of the settlement and protection of the taxpayers' interests before the Council considers adopting the pending ordinance; and

**WHEREAS**, given the timing of the City Council legislative cycle and the TRUE Commission meeting cycle, the Commission is unable to fully investigate this matter itself and present full findings and a recommendation to the Council in a timely manner, and therefore desires that the Council defer action on the bill until the Commission can conduct further research and adopt a recommendation at its next monthly meeting on September 1<sup>st</sup>; and

**WHEREAS**, City Council choose not to defer action on the bill until after the TRUE Commission's September 1<sup>st</sup> meeting, the Commission chooses to present its list of questions to the Council for its use in investigating this matter and will adopt a statement of *conditional opposition* to passage of the bill until all the questions are answered to City Council's satisfaction with regard to protection of the taxpayers' interests; now therefore

**BE IT RESOLVED**, that the TRUE Commission hereby requests that the City Council defer action on pending Ordinance 2011-455 until the Commission can conduct further research, obtain additional information and adopt a recommendation at its next meeting on September 1, 2011.

**BE IT FURTHER RESOLVED** that, should the City Council choose not to defer action on the bill in committee, the TRUE Commission hereby expresses *conditional opposition* to the passage of pending Ordinance 2011-455 (Churchwell Lofts parking agreement) unless and until the City Council obtains satisfactory answers to the following questions that clearly demonstrate the need for the settlement agreement and demonstrate that the taxpayers' interests in not subsidizing failing downtown developments are protected:

- Who are the parties involved (Pavelka Properties, Churchwell Lofts at East Bay Condominium Association, Inc., another entity) and is/are the part(y/ies) contracting with the City viable, incorporated entities capable of doing so?
- Has the Pavelka turned over the condominium association to the unit owners?
- Who requested the rent forgiveness – Pavelka, the Condominium Association, the JEDC, other?
- Who requested the new lease agreement – Pavelka, the Condominium Association, the JEDC, other?
- Is Pavelka Properties involved in a bankruptcy proceeding? If so, is the City a creditor petitioning for past-due rent?
- What City agency was responsible for overseeing the Pavelka Properties parking lot lease? What actions, if any, has that agency taken to collect the past-due rent?
- Have the owners/residents of the Churchwell Lofts been paying condominium association fees during any portion of the last five years? Did those association fees include an allocation for parking? If so, what happened to the parking fees paid by the owners/residents?
- What is the fair market value of the parking lot and has any consideration been given to selling the lot to the condominium association?
- What is the rationale behind proposing an additional five years of rent forgiveness?

Adopted by an 8-0 vote of the Commission this 4<sup>th</sup> day of August, 2011.

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Marc Majed El Hassan  
Chairman